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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TIM HUTCHINSON, a Senator from the State of Arkansas.

PRAYER

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

Gracious Father, thank You for the gifts of life, intellect, good memories, and daring dreams. We do not ask for challenges equal to our talent and training, education and experience; rather, we ask for opportunities equal to Your power and vision. Forgive us when we pare life down to what we could do on our own without Your power. Make us adventuresome, undaunted people who seek to know what You want done and attempt it because You will provide us with exactly what we need to accomplish it. We thank You that problems are nothing more than possibilities wrapped in negative attitudes. We commit the work of this day to You and will attempt great things for You because we know we will receive great strength from You. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TIM HUTCHINSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 9, 2001.

To the Senate:

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

STROM THURMOND,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished acting majority leader.

SCHEDULE

Mr. JEFFORDS. Mr. President, today the Senate will have 5 minutes to complete debate on a Mikulski amendment regarding community technology centers, with a vote to occur at approximately 9:35 a.m.

Following the vote, the Senate will continue to debate those amendments pending or any newly offered amendments to the education bill. The Senate will suspend debate on S. 1 as soon as the papers to the budget conference report are received from the House. Further votes will occur this morning on education amendments. It is expected that a vote on the budget conference report will occur either late this evening or tomorrow morning. As a reminder, all first-degree amendments to the education bill must be filed by 5 p.m. this evening.

I thank my colleagues for their attention.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

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

The legislative clerk read as follows:

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

Pending:

Jeffords amendment No. 358, in the nature of a substitute.

Kennedy (for Murray) amendment No. 378 (to amendment No. 358), to provide for class size reduction programs.

Kennedy (for Mikulski/Kennedy) amendment No. 379 (to amendment No. 358), to provide for the establishment of community technology centers.

Kennedy (for Dodd) amendment No. 382 (to amendment No. 358), to remove the 21st century community learning center program from the list of programs covered by performance agreements.

McConnell amendment No. 384 (to amendment No. 358), to provide for teacher liability protection.

Cleland amendment No. 376 (to amendment No. 358), to provide for school safety enhancement, including the establishment of the National Center for School and Youth Safety.

Biden amendment No. 386 (to amendment No. 358), to establish school-based partnerships between local law enforcement agencies and local school systems, by providing school resource officers who operate in and around elementary and secondary schools.

Specter modified amendment No. 388 (to amendment No. 378), to provide for class size reduction.

Voinovich amendment No. 389 (to amendment No. 358), to modify provisions relating to State applications and plans and school improvement to provide for the input of the Governor of the State involved.

Carnahan amendment No. 374 (to amendment No. 358), to improve the quality of education in our Nation's classrooms.

AMENDMENT NO. 379

The ACTING PRESIDENT pro tempore. We have 5 minutes equally divided on the Mikulski amendment.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to ask the support of my colleagues for my amendment to create 1,000 community tech-based centers around the country.

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

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The BEST Act creates a national goal to ensure that every child is computer literate by the 8th grade regardless of race, ethnicity, income, gender, geography, or disability.

My amendment will help make this goal a reality.

What does this amendment do? My amendment builds on the excellent work of Senator JEFFORDS, Senator KENNEDY, and Senator GREGG. It expands 21st Century Learning Centers by authorizing $100 million to create 1,000 community based technology centers around the country. The Department of Education would provide competitive grants to community based organizations such as a YMCA, the Urban League, or a public library.

Up to half the funds for these centers must come from the private sector, so we'll be helping to build public/private partnerships around the country.

What does this mean for local communities? It means a safe haven for children where they could learn how to use computers and use them to do homework or surf the web. It means job training for adults who could use the technology centers to sharpen their job skills or write their resumes.

Why is this amendment necessary? Because even with dot coms becoming dot bombs, we badly need high tech workers. In fact, we have a skill shortage, not a worker shortage.

Senators SPECTER and HARKIN have provided funds for Community Technology Centers in Appropriations but the program has never been authorized, so it has been skimpy. Only 90 centers were created last year, although over 700 applied.

We need to bring technology to where kids learn, not just where we want them to learn. They don't just learn in school, they learn in their communities.

Not every family has a computer in their home, but every American should have access to computers in their community.

My amendment is endorsed by: the NAACP, the American Library Association, the National Council of La Raza, the YMCA, the American Association of Community Colleges, and the Computer and Communications Industry Association.

I urge my colleagues to join me in ensuring that no child is left out or left behind in the technology revolution.

Mr. JEFFORDS. Mr. President, I regretfully rise to oppose the amendment of my colleague, although I agree with the program she is talking about, the community technology centers. On the other hand, this belongs with other programs such as the community block grants, not on the educational side.

I must say I admire what the Senator is doing. The programs themselves can be very useful, but I don't believe it belongs in this bill; rather, it belongs in other bills. For instance, the 21st century schools can provide similar programs. In a sense, it is duplication.

Regretfully, I must oppose the amendment, although I think it is only once or twice a century that I do that.

Ms. MIKULSKI. Mr. President, the cosponsors of my amendment are Senators KENNEDY, BINGAMAN, SARBANES, WELLSTONE, and REID.

Mr. JEFFORDS. I yield back the remaining time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a vote in relation to the Mikulski amendment numbered 379 to amendment No. 358.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—50

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Harkin	Reed
Byrd	Hollings	Reid
Cantwell	Inouye	Rockefeller
Carnahan	Johnson	Sarbanes
Carper	Kennedy	Schumer
Cleland	Kerry	Snowe
Clinton	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	

NAYS—49

Allard	Fitzgerald	Murkowski
Allen	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Specter
Cochran	Hutchison	Stevens
Collins	Inhofe	Thomas
Craig	Jeffords	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	
Enzi	McConnell	

NOT VOTING—1

Dodd

The amendment (No. 379) was agreed to.

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

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, would the Chair inform the Senate how long it took for that vote to be completed?

The PRESIDING OFFICER. Thirty-one minutes.

The Senator from Minnesota.

AMENDMENT NO. 403 TO AMENDMENT NO. 358

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 403 to amendment No. 358.

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

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

The amendment is as follows:

(Purpose: To modify provisions relating to State assessments)

On page 46, strike line 19 and replace with the following:

''sessments 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 for which the assessment is used, such evidence to be made public by the Secretary upon request;''.

On page 51, between lines 15 and 16, insert the following:

''(K) 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.''

On page 125, between lines 4 and 5, insert the following:

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).''.

Mr. WELLSTONE. Mr. President, this amendment greatly strengthens this legislation. It focuses on an issue that we haven't really spent a lot of time on yet. This has to do with how we make sure we have the very highest quality of testing and how we make sure we give our States and school districts the flexibility to do the very best job.

There has been a rush to expand testing without stepping back to determine whether the testing system we have is working. It is only common sense—I believe we have worked hard on this amendment, and there will be strong support for it—to assume that if you want the tests to be effective, they have to be of high quality.

This goes back to why we are measuring student achievement in the first place and what our goals are if we are going to set up these accountability systems. Are we measuring for the sake of measuring only or are we measuring to get the best picture of how our children are doing? That is what we are all about or should be all about.

If we want to get the best picture of how our students are doing and how effective the schools are in teaching, we need to have the best possible assessments. That is what this amendment seeks. These assessments need to be aligned with standards, local curriculum, and classroom instruction. These assessments need to be free from bias. They need to reflect both the range and depth of student knowledge, and they need to assess not just memorized responses but student reasoning and understanding. They need to be used only for the purposes for which they are valid and reliable. This is important.

Holding States and school districts and teachers accountable to the wrong test can, in fact, be more harmful than helpful. Using low-level national tests to measure performance within a State shows us little of how the States, the school districts, the schools, and the students are doing in achieving their State and local educational goals.

This amendment seeks to allow States to develop tests that are of higher quality and better meet the localized needs of their students, their parents, and their teachers.

I will repeat these words again. They should be important to Senators and staff. This amendment allows States to develop tests that are of higher quality and better meet the localized needs of their students, teachers, and parents.

To ensure that the assessments are of high quality, this amendment says the assessments under title I have to meet relevant national standards developed by the American Educational Research Association, the American Psychological Association and the National Council of Measurement in Education. These standards are the standards from everyone in the testing field—I say to the Senator from Vermont and the Senator from Massachusetts, these are the standards that have been used as guides for testmakers and test users for decades, and they are implied but they are not specifically referenced in the current law.

Secondly, it says that States have to provide evidence to the Secretary that the tests they use are of adequate technical quality for each purpose for which they are used.

Third, it says that itemized score analyses should be provided to districts and schools so the tests can meet their intended purpose, which is to help the people on the ground, the teachers and the parents, to know specifically what their children are struggling with and how they can help them do better.

Finally, the amendment provides grants to States to enter into partnerships to research and develop the highest quality assessments possible so they can most accurately and fairly measure student achievement.

I will go into this later on, but I say to the Senate: My background is education. I was a teacher for 20 years. I don't want to give any ground on rigor or accountability, but I don't want us to do this the wrong way. I want to make sure our States and school districts can design the kinds of tests that are comprehensive, that have multiple measures, that are coherent, that we are actually measuring what is being taught, and also to make sure they assess progress over time.

This is so important because we don't want to put our teachers and school districts in a position of having to teach to tests. We don't want to drive out our best teachers. We want to have the best teachers in our schools. We don't want teachers to be drill sergeants. There is a distinction between training and education.

The need for this amendment is clear. The Independent Review Panel on title I, which was mandated in the 1994 reauthorization, issued its report ''Improving the Odds'' this January. The report concluded:

Many States use assessment results from a single test—often traditional multiple choice tests. Although the tests may have an important place in state assessment systems, they rarely capture the depth and breadth of knowledge reflected in State content standards.

The panel went on to make a strong recommendation. It said:

Better assessments for instructional and accountability purposes are urgently needed.

The link between better assessments and better accountability was made by Robert Schwartz, president of Achieve, Inc., the nonprofit arm of the standards-based reform movement. He recently said:

You simply can't accomplish the goals of this movement if you're using off-the-shelf, relatively low-level tests . . . Tests have taken on too prominent of a role in these reforms and that's in part because of people rushing to attach consequences to them before, in a lot of places, we have really gotten the tests right.

This amendment is about making sure we get the tests right. That is what this amendment is about.

This is exactly my point. We need to get the tests right. Research shows that low-quality assessments can actually do more harm than good. The Standards on Educational and Psychological Testing clearly indicate this. The standards state:

The proper use of tests can result in wiser decisions about individuals and programs than would be the case without their use and also can provide a route to broader and more equitable access to education and employment.

That is if it is done the right way.

The improper use of tests, however, can cause considerable harm to test takers and other parties affected by test-based decisions.

It is our obligation to help States and districts ensure that tests are done right so they can achieve the best effect.

The standards go on to say:

Beyond any intended policy goals, it is important to consider any potential unintended effects that may result from large scale testing programs. Concerns have been raised, for instance, about narrowing the curriculum to focus only on the objectives tested, restricting the range of instructional approaches to correspond to testing format, increasing the number of drop-outs among students who do not pass the test, and encouraging other instructional or administrative practices that may raise test scores without affecting the quality of education. It is important for those who mandate tests to consider and monitor their consequences and to identify and minimize the potential of negative consequences.

With my colleagues' support, we want to make sure the testing is done the right way, and that is what we will do if we adopt this amendment.

One of the key problems with low-quality tests and accountability systems that rely too heavily on a single measure of student progress is in producing very counterproductive educational effects. There is too much teaching to the test, leading to drill instruction which does not reflect real learning and which excludes key components of education that are not covered by the tests. Further, the over-reliance on tests could cause teachers to leave the profession at a time when

good teachers are what our country needs the most.

Again, I am going to talk about this more, but if we do not get this right, we will rue the day that we have set up a system that basically creates a situation where your very best teachers are going to leave the profession, and we are not going to attract the best teachers.

The first concern has to do with teaching to the test. Let me cite for my colleagues the Committee for Economic Development, which is a strongly pro-testing coalition of business leaders which warns against test-based accountability systems that ''lead to narrow test based coaching rather than rich instruction.''

Test preparation is not necessarily bad, but if it comes at the expense of real learning, it becomes a major problem. Many will say that teaching to tests can be good, but if the tests are of low quality, which too many are, then it most certainly is not for the good.

The recent Education Week/Pew Charitable Trust study, ''Quality Counts,'' found that nearly 70 percent of the teachers said that instruction stresses tests ''far'' or ''somewhat'' too much. Sixty-six percent of the teachers also said that State assessments were forcing them to concentrate too much on what is tested to the detriment of other report topics.

I will tell you what topics are neglected: social studies, arts, science, technology, all of which are integral to good education.

For example, in Washington State, a recent analysis by the Rand Corporation showed that fourth grade teachers shifted significant time away from the arts, science, health and fitness, social studies, and communication and listening skills because none of these areas were measured by the tests. Is that what we want to do? We do not want to end up undercutting the quality of education of children in this country.

''Quality Counts'' goes on to say:

> Any one test samples only a narrow range of what students should be learning. If teachers concentrate on the test—rather than the broader content undergirding the exams—it could lead to a bump in test results that does not lead or does not reflect real learning gains.

In fact, 45 percent of the teachers surveyed said they spent a great deal of time teaching students how to take tests, doing activities such as learning to fill in bubbles correctly.

Another recent survey of Texas teachers indicated that only 27 percent of the teachers believe that increases in the TAAS scores reflect an increase in the quality of learning and teaching, rather than teaching to the test.

A 1998 study of the Chicago public schools concluded that the demand for high test scores had actually slowed down instruction as teachers stopped introducing new material to review and practice for upcoming exams.

The most egregious examples of teaching to the test are schools such as the Stevenson Elementary School in Houston that pays as much as $10,000 per year to hire the Stanley Kaplan Test Preparation Company to teach teachers how to teach kids to take tests.

According to the San Jose Mercury News, schools in East Palo Alto, which is one of the poorest districts in California, also paid Stanley Kaplan $10,000 each to consult with them on test-taking strategies.

According to the same article:

> Schools across California are spending thousands to buy computer programs, hire consultants, and purchase workbooks and materials. They're redesigning spelling tests and math lessons, all in an effort to help students become better test takers.

Sadly, it is the low-income schools that are affected the most. The National Science Foundation found that teachers with more than 60 percent minority students in their classes reported more test preparation and more test-altered instruction than those with fewer minority students in their class. This research is confirmed by the Harvard Civil Rights Project and several other studies.

The reason I believe the vote on this amendment will be one of the most important votes on this bill is that this amendment speaks directly to whether or not we are going to have the best teachers. I am very concerned that drill education and an increasing emphasis on scores is going to cause the best teachers to leave the profession, to leave the schools where they are needed the most. This is tragic at the very time we face an acute teacher shortage. We know that the single most important factor in closing the achievement gap between students is the quality of the teachers the students have. We will see teachers leaving the profession.

Linda Darling Hammond, who is a renowned educator at Stanford University, and Jonathan Kozol, who has written some of the most powerful books about poor children and education in America, have both addressed this issue. Jonathan Kozol said:

> Hundreds of the most exciting and beautifully educated teachers are already fleeing from inner city schools in order to escape what one brilliant young teacher calls ''examination hell.''

It is ironic because in our quest to close the achievement gap, Kozol finds that what we are actually doing is ''robbing urban and poor rural children of the opportunities Senators give their own kids.''

What is going on? We already know where all the pressure is. We already know where all the focus is on the drill education, the teaching to the tests. It is in inner-city, rural, small towns. What you are going to have, or what you have right now, is the teachers who know how to teach and are not involved in worksheet education are the very teachers who are going to leave. It is the teachers who are more robotic and are intent to do worksheet teaching and learning, which is educationally deadening—they are going to be the teachers who stay. We will be making a huge mistake if we don't make sure the testing is done in a comprehensive and coherent way.

There was an op-ed piece in the New York Times. It was written by a fifth-grade teacher who obviously had great passion for his work. Listen to his words:

> But as I teach from day to day . . . I no longer see the students in the way I once did—certainly not in the same exuberant light as when I first started teaching five years ago. Where once they were ''challenging'' or ''marginal'' students, I am now beginning to see ''liabilities.'' Where once there was a student of ''limited promise,'' there is now an inescapable deficit that all available efforts will only nominally affect.

One way to avoid such negative outcomes and ensure that tests do not inhibit real learning is to design higher quality tests that measure how children think rather than just what they can remember. The Standards for Educational and Psychological Testing asserts, for example, that:

> If a test is intended to measure mathematical reasoning, it becomes important to determine whether examinees are in fact reasoning about the material given instead of following just a standard algorithm.

Too often, today's tests are failing their mission. The Center for Education Policy's recent study on the state of education reform concludes:

> The tests commonly used for accountability purposes don't tell us how students reached an answer, why they are having difficulty, or how we can help them.

We therefore need to design assessments that are more closely linked to classroom instruction. That is what our school districts, schools, teachers, principals, school boards, and our PTAs at the local level are telling us. We need to reflect student learning over time so that schools are not judged in a single shot but, rather, are judged more deeply and comprehensively through multiple measures of achievement.

Such an approach would reward teachers who, as the Center for School Change in Minnesota recommends, are able to actually effect and improve children's analytic abilities and communications skills rather than teachers who drill the best. It would reward schools and teachers who ensure that day-to-day classroom instruction is high quality, not just those who have learned how best to game assessments. That is what this amendment seeks to do.

The Committee for Economic Development report urges this approach. It says:

> There is more work to do in designing assessment instruments that can measure a rich array of knowledge and skills embedded in rigorous and substantive standards.

Before we rush ahead, let's meet that challenge.

Beyond the effects in the classroom, higher quality tests and fairer use of tests are needed because low-quality

tests can lead to inaccurate assessments, which do not serve but, rather, subvert the efforts at true educational accountability. Nobody put it better than the strongly protesting Committee for Economic Development. These business leaders concluded in their report—there should be almost unanimous support for this amendment—entitled ''Measuring What Matters'' that:

> Tests that are not valid, reliable, and fair will obviously be inaccurate indicators of the academic achievement of students and can lead to wrong decisions being made about students and the schools.

We want to make sure these tests are accurate, reliable, and fair. I know the language I speak is technical, but the issue is of great import.

Let me just simply summarize my position. There is more to say, and perhaps we will listen to other colleagues as well, because there is much more than I can cite as evidence.

One of the things we have to make sure of is that we have comprehensive multiple measures that will measure schools and students. You have to do that; otherwise, you are abusing the tests. It is very dangerous to use a single measure to determine how well schools and students are doing. But beyond pure error, it is important to realize that even without technical error, tests tell only a part of the education story. They should be accompanied by other measures to ensure that we are getting the best picture possible of how these students and schools are doing. That is the way we can hold the schools truly and fairly accountable.

In his testimony before the House Education and Workforce Committee, Kurt M. Landgraf, president and CEO of the Educational Testing Service, which is one of the largest providers of K–12 testing services in the country, said:

> Scores from large scale assessments should not be used alone if other information will increase the validity of the decisions being made.

Riverside Publishing, another of the major test publishers in the country, in their Interpretive Guide For School Administrators for the Iowa Test of Basic Skills, said:

> Many of the common misuses (of standardized tests) stem from depending on a single test score to make a decision about a student or class of students.

The National Association of State Boards of Education also did a comprehensive study which indicated the same thing.

The study I mentioned before, ''Quality Counts,'' shows that we need to have multiple measures. In no area is this phenomenon more evident than in the use of a single standardized test to make a high-stakes decision about a student, as whether or not that student will be promoted from one grade to another or in what reading group that student will be placed.

Nearly everybody involved in the testing field, whether it is the groups that write the professional standards, the National Research Council, test publishers, the business community that invested so much in the testing movement—all agree that a single test should never be the sole determinant in making high-stakes educational decisions about individual students or, for that matter, about individual schools.

The Standards for Educational and Psychological Testing asserts that in educational settings, a decision or characterization that will have a major impact on a student should not be made on the basis of a single test score. The National Research Council—we commissioned this report—in 1999 concludes that:

> No single test score can be considered a definitive measure of a student's knowledge, and an educational decision that will have a major impact on a test taker should not be made solely or automatically on the basis of a single test score.

So we need multiple measures. Second, right now, too many of the tests are not aligned with the curriculum and standards. So another condition that has to be met, another problem that has to be met, is that current assessments all too often are not aligned with standards, curriculum, and instruction. That is what it has to be.

I am putting into the language what we have implied. Alignment is the cornerstone of accountability. If we don't have tests that are aligned with the standards and curriculum and the instruction, then we are not going to have real accountability.

Now, the Committee for Economic Development in their report makes the point that barriers to alignment are more serious when States use so-called off-the-shelf commercial tests rather than developing their own. The National Association of State Boards of Education confirms in their study and makes the point that norm reference tests are unable to measure the attainment of content and performance standards.

This amendment provides grants to States to better align their assessments, as well as to ensure that the tests validly assess the domain they are intended to measure. This is common sense, but it is so important.

This amendment seeks not to stop using tests but to ensure fairness and accuracy in the large-scale assessments that are used under title I. This amendment seeks not to stop using tests. I want to make sure this is done the right way. I want to make sure it is fair. I want to make sure the tests are accurate. I want to make sure we have real accountability. I want to make sure we are respectful of teachers. I want to make sure we are respectful of school boards. I want to make sure we are respectful of what goes on in our schools.

This call for fairness and accuracy is a call that has been made by business leaders, by educators, by government leaders, and by the most respected research institutes in the country. I rarely read text when I speak on the floor of the Senate. However, there are so many authorities and studies to cite, the evidence is irrefutable. We want to make sure we do this the right way and we must do it the right way.

This research and this call for accurate, fair testing has crossed party lines. I hope it will have bipartisan support in the Senate.

The most recent National Research Council report on testing, ''Knowing What Students Know,'' outlines the direction in which I think we as policymakers need to move to make sure the testing is done fairly and correctly. The report concludes that:

> . . . policymakers are urged to recognize the limits of current assessments and to support the development of new systems of multiple assessments that would improve their ability to make decisions about educational programs and allocation of resources.

It says:

> . . . needed are classroom and large-scale assessments that help all students succeed in school by making as clearly as possible to them, their teachers and other educational stakeholders the nature of their accomplishments and the progress of their learning.

We surely ought to be able to meet that condition.

Right now, the authors report:

> Assessment practices need to move beyond a focus on component skills and discrete bits of knowledge to encompass more complex aspects of student achievement.

The authors recommended that:

> Funding should be provided for a major program of research, guided by a synthesis of cognitive and measurement principles, that focus on the design of assessments that yield more valid and fair inferences about student achievement.

And key components are what? Multiple measures of student achievement and a move to more performance-based, curriculum-embedded assessment.

Doesn't that make sense, to have multiple measures, and to make sure what you are testing is aligned with the curriculum? The three principles of good assessment are laid out.

I conclude on the principles: Comprehensiveness, meaning you have a range of measurement approaches so that you have a variety of evidence to support educational decisionmaking; coherence, meaning that the assessment should be closely linked to curriculum and instruction; and continuity, meaning that the assessment should measure student progress over time.

I emphasize, this legislation, S. 1. is a major departure in public policy in the sense we are now calling on all of the school districts in all of the States in all of the schools in all of our States to test children as young as age 8 to age 13 every single year. There can be a philosophical discussion about whether we should be doing that. The only thing I am saying is, let's do it the right way.

I have been working on this amendment, using the best studies we have. I have been in touch with people all over

the country. Basically, I am saying, let's make sure there is comprehensiveness, which means multiple measures. Make sure there is coherence; that we actually measure the curriculum and instruction. Otherwise the teachers teach to the tests. We don't want that. We don't want drill education.

Finally, let's have continuity, which means that the assessment should measure student progress over time.

Jonathan Kozol is someone I think we all respect. He writes that it is the best teachers that hate testing agenda the most. They will not remain in public schools if they are forced to be drill sergeants for exams instead of being educators. Hundreds of the most exciting and beautifully educated teachers are already fleeing from inner-city schools in order to escape what one teacher, a graduate of Swarthmore calls ''examination hell.'' I don't know that we have been in the inner-city neighborhoods; I don't think we visit the inner-city neighborhoods that Jonathan Kozol does.

> The dreariest and most robotic teachers will remain, the flowing and passionate teachers will get out as fast as they can. They will be hired in exclusive prep schools to teach the children of the rich under ideal circumstances.

He goes on to say: Who will you find to replace these beautiful young teachers? This is another way of robbing the urban poor and rural children of the opportunities that we give to our own children.

I think he is right. I have been a college teacher for 20 years. I have been in a school almost all the time in Minnesota, about every 2 weeks for the last 10½ years. I desperately believe in the value of equal opportunity for every child. I absolutely believe education is the foundation of opportunity. I know from my 20 years as a college teacher that you can take a spark of learning in a child and if you ignite that spark of learning and you can take a child from any background to a lifetime of creativity and accomplishment. That is the best thing about the United States of America. I also know you can pour cold water on that spark of learning.

I have raised two objections to this piece of legislation, but I think this legislation can be improved upon and can end up being a good, strong, bipartisan effort. Maybe. One of those concerns is, for God's sake, if you are going to do the testing, you better give the children and the teachers and the schools the tools so they can do well. That is the Federal Government living up to our commitment by way of resources. That is holding us accountable.

The other issue I raise, which is what this amendment speaks to, is let's just do the testing the right way. There is a reaction all over the country about too much of a reliance on one single standardized test. You have to have multiple measures. Let's make sure the tests actually are connected to the curriculum and to the instruction that is taking place, that is respectful of our teachers and our local school districts. Let's make sure the tests assess the progress of a child over a period of time.

I have been taking all of the best research and all of what we have implied in this bill, language we already have in this bill, making it explicit that we are going to do this the right way; that we are going to make sure that States and school districts can do this the right way.

There could not be a more important amendment. I am sorry that some of my presentation was so technical and seemed so cut-and-dried. But if we do this the wrong way, we will have worksheet teaching and worksheet education. We will have drill education. It is going to be training, but it is not really going to be education. It is not going to fire the imagination. Then arts gets dropped and music gets dropped and social studies gets dropped and drama gets dropped—because none of it is tested in this drill education. My God, we do not want to do that. We do not want to channel schools down that direction. We do not want to force them to go in that direction.

This amendment makes sure that this testing—if this is the path we are going down, using this definition of accountability—is done the right way.

If my colleagues think about their own States, they will see what is happening. A lot of the teachers and kids around the country, actually mainly in the suburbs, are now rebelling against these standardized tests. They hate them. Some are refusing to take them, because the parents in the suburbs are saying we don't want one-third of the time of the teachers who could be involved in great education wasted just teaching to these tests. It is interesting from where the rebellion is coming.

Again, one more time: The very school districts which are the most underserved are the ones where you want to get the best teachers. I have two children in public education. One is in an inner-city school, the other isn't, but both hate this reliance on single standardized tests. You are not going to get the teachers. I would not teach under this kind of situation, and you would not.

If the Federal Government is going to have this mandate, for God's sake, let's do it the right way.

I yield the floor and reserve the remainder of my time. There is no time limit, I gather, on this amendment.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I am pleased today to discuss the Better Education for Students and Teachers Act, the BEST Act. We can never have too much debate on education. It is the future of our country.

This legislation achieves the simple yet powerful goal of ensuring no child is left behind. It does this by strengthening accountability for how Federal dollars are spent, by increasing students' access to technology, by improving teacher quality, and by making the schools safer for all students. It also fulfills an important commitment to States such as Wyoming that are already heavily invested in improving student achievement by allowing them the flexibility they need to continue to innovate.

I want to address a series of amendments we have and will be offering. I will be concentrating on quality of teachers, but I want to mention that yesterday we had two sense-of-the-Senate amendments. I am not going to go into what those amendments were about, but I do want to mention that I voted against both of them. It had nothing to do with the content of each of the sense-of-the-Senate amendments. It was because it was a sense-of-the-Senate amendment.

Sense-of-the-Senate amendments take a great deal of time, including if there are requested rollcall votes, which we know take 30 to 45 minutes. When we are done, they get discarded because the sense of the Senate doesn't have anything to do with the House. So they are just making a statement, and we have a lot of different ways we can make a statement. Since I have not seen any value to a sense-of-the-Senate amendment since I arrived in the Senate some 5 years ago, I will be voting against sense-of-the-Senate amendments.

Sense-of-the-Senate amendments are often agreed to. It is because of a mixture of approaches to sense-of-the-Senate amendments. A number of my colleagues say: They never go anywhere, they don't mean anything, so I'll vote for them. Then I will have a good recorded vote.

Some people turn in sense-of-the-Senate amendments so they can have a good recorded vote. I prefer to concentrate my efforts on those things that will wind up in a final bill, in final legislation that will affect the country, if we are going to have votes.

Today we had a technology amendment. It passed on a 50–49 vote. Something people might not be aware of is that technology is built into the bill, but it is built in with a great deal of flexibility. The $100 million to which we agreed pulled out money from the big technology pool and put it into a very specific area.

Let me tell you what happens when that gets down to Wyoming. We don't have enough money to do a project. But if it is left in the big pool and we can utilize the technology as the school districts see fit, with a bigger pool of money, it can make a difference to every kid in Wyoming.

We have to be very careful in this legislation that we do not put in little protections, because we were asked to, that destroy the flexibility of the bill. Flexibility is the key philosophy of this bill that allows the decisions to be made closest to the child and involve

the parent, the teacher, the school board, and the community. That is where education works best.

The amendment before us now is on testing. I am not sure what all the fuss is about having some testing required. When I was in grade school, we had annual testing. I know the kinds of tests we had were called into question because they were multiple choice, which doesn't allow people their full expression. It puts some limitation on the value of the test as it comes out. But let me tell you, my parents looked at those results. They expected to see my results. They expected to see how it fit in with the rest of the class and the other students in the district who were in my grade. They used that as a comparison. I can tell you, if everybody had been off the chart, they would not have been pleased. They wanted to know how I was doing. That resulted in parent involvement, which we have said is one of the big keys to education.

When I was in the Wyoming Legislature, I headed up an education task force at one point. It was interesting to hear teacher after teacher essentially say that the biggest problem they had in the classroom was getting kids to show up, do their work, and behave. That is basic education. The way it was handled when I was growing up was it was, again, parent involvement, discipline at home. If my teacher would have told my parents I did something wrong, the discipline would have happened first and then the explanation of why I felt justified. The teacher was right. I had an opportunity to appeal after the punishment because discipline in the classroom was important.

When I was in fourth grade, I had the unique experience of being in a class that was half fourth graders and half fifth graders. We do not have a lot of class size problems in Wyoming. We definitely did not at that time. To have about 15 students in the class, they combined the 2 classes. It gave those of us in the fourth grade a little added advantage because we were always hearing the things that the fifth graders were being taught at the point that their particular lessons were being taught.

But I also had the unfortunate situation of living about a half block from the school. I had this delightful teacher who said: As soon as you finish your work, you can go out to recess. My dad happened to notice I was out at recess a lot. I was a fast worker. So he asked to see some of my work. When he checked it, he found out it was not correct. So we did a little discipline at that point, too.

He found out I was writing extremely small and that made it difficult for the teacher to check my work. I do remember him saying I would never write small again. It embarrassed him. He could afford the paper, and it looked as if he could not, and he was not going to put up with that. And we moved. We moved to another school so I would not have the same opportunity for recess.

My parents always said ''when you go to college.'' They didn't say ''if you go to college.'' Parents make a huge impact on students by their faith in their child and their encouragement for their child.

My dad was a traveling shoe salesman most of his life, and I got to travel with him in the summer. When we were making those trips, people would say: Are you going to grow up and be a salesman like your dad? Before I could answer, my dad would always jump into the conversation and say: I don't care whether he is a doctor or a lawyer or a shoe salesman or a ditch digger. But what I always tell him is, if he is a ditch digger, I want that ditch to be so distinctive that anybody can look at it and say, ''That is a Mike Enzi ditch.''

Parental encouragement, parental faith—one of the unfortunate things for us around here is we can't legislate that. There are just some things that should not be legislated and can't be legislated. But they can be encouraged. Today we are talking about one of these things. We are talking about the subject of teachers, which we can do something about, and we are doing something about that in this bill.

Some of the most important provisions in this bill concern our Nation's teachers. As we all know, one of our Nation's greatest educational resources is our teachers. Quite often our teachers spend more time with our kids than we do. I say this not only because my daughter is a teacher but because research has found that with the exception of the involved parent, no other factor affects a child's academic achievement more than having knowledgeable, skillful teachers.

While I have been very interested in ongoing negotiations over some of the provisions in this bill, there is one area that is not negotiable, and that is ensuring that our children have high-quality teachers, especially when it comes to reading and math.

I would like everybody to think back through their past to people who influenced them the most. I suspect as you go through that little exercise—I hope you will spend some time doing that—that many of the people who will be on your list will be former teachers, ones who had some kind of an influence on your life. I hope you will not only list them, but I hope if there are any who are living, you will write them a little note and mention the effect they had on your life.

At this point I have to mention a couple that were my teachers.

When I was in eighth grade I had a home room teacher who made us concentrate on where we were going to go to college and what we would take, and even had us follow a curriculum and write to colleges, get their course book, and outline the exact courses we would take through a 4-year college education in the field of our choice. I learned a great deal about how to plan for college.

She also involved us in a lot of interesting discussions and later served in the State legislature with me. I have to mention that she quit teaching and became an administrator. After she retired, she ran for the State legislature. It was a great deal of fun to be in the State legislature with a former teacher, particularly one with a voice that attracts people's attention, gets their attention, and drives home a point. I always did like the way she started a speech just after I had spoken where she said: MIKE ENZI was a student of mine, and he knows what he is talking about. Do what he says.

You just can't have that kind of backing in legislation you are doing and with quite as much effect as she had.

I had a math teacher in eighth grade, Mr. Shovelin. He introduced us to slide rules. Kids today don't know what slide rules are. He helped us form a future engineers club so we would be able to compete in math. He did anything he could do to get us excited about math. Teachers do that.

Later I had Mr. Popovich in high school, another math teacher, who was probably the most enthusiastic teacher I ever had. He made sure that everybody in our math class understood each principle we covered, and he did that by asking questions. If you got it right, he was enthusiastic and jumped in the air. If we got it wrong, he was enthusiastic, and he would literally climb onto the chalk tray saying, No, that is not it, and giving another version of how it could be.

I also liked his explanation of geometry. He said that is really the only course that you get in high school that is logic. Today, I think there are some courses that are actually logic courses. But he pointed out how geometry is logic, and approached it as the old Greeks did, trying to prove verbally and through pictures very basic concepts by starting out with the most basic and building on it.

Mrs. Embry is a lady who is about 4-foot-nothing with bright red hair. She taught international affairs. I needed an elective, and I didn't think I would have any interest in it. Before I left high school, I applied for college at George Washington University and was planning to go into international affairs. She had a tremendous effect on my life. She also happened to be the lady who was part of the team that decoded the messages when Pearl Harbor was being bombed.

Mrs. Sprague, an English teacher, had an impact on me. She said, ''Why don't you use more humor in what you write? You do very well with humor.''

One little sentence such as that changes a student's perspective on themselves and their future.

There are thousands and thousands of teachers out there who are doing that every day.

I am pleased that title II of S. 1 addresses the issue of teacher quality. Unlike more restrictive proposals that

require States and local school districts to use Federal funds exclusively for the purpose of hiring new teachers, this legislation provides maximum flexibility to States. It will allow them to develop high-quality, professional development programs, provide incentives to retain quality teachers, fund innovative teacher programs such as teacher testing, merit-based teacher performance systems, or alternative routes of certification, or hire additional teachers if that is what they believe is necessary.

It would authorize a separate program to support math and science partnerships between State education agencies, higher education math and science departments and local school districts, and activities for these partnerships through the development of rigorous math and science curriculum; professional development activities specifically geared toward math and science teachers; recruitment efforts to encourage more college students majoring in math and science to enter the teaching profession and summer workshops; and follow-up training in the fields of math and science.

When I was in junior high, Russia set off Sputnik. It launched a whole new interest in science in the United States. A group of boys, who were my friends, and I formed a rocket explorer post. It was the flexibility in the Boy Scout Program that allowed us to do career investigation.

The reason I mention this is because I personally had a teacher named Tom Allen who was the biology teacher at the high school who worked with me on my special project. Many of us have seen the October Skies movie of young men who were encouraged by this great Russian event, and then the American challenge that was issued at that point. That is the group of people with whom I worked.

This biology teacher worked with me to design a nose cone for our rocket that would take a mouse up and safely return it. We never put a mouse in the nose cone, but I designed space capsules for them, put mice in the capsule, spun them on a centrifuge, and then had to evaluate the way they came out of it.

I learned a lot of math. I learned a lot of science. I learned a lot of biology. He was a special teacher.

There are two teachers in Gillette, who are retiring now—Nello and Rollo Williams. They are brothers. One runs the planetarium. One of them runs the adventurium. The adventurium is a science lab that invites kids from all over northern Wyoming to do actual experiments and special projects. They can see a series of events that give them a better understanding of science. Each of them taught during the summers for science camps, kids doing extra school work, learning through extra special teachers.

It isn't just limited to the generation that is retiring. My daughter is a teacher. She is part of the new generation. While she has been teaching, she has been working on two master's degrees so that she can be a better teacher, although one of those gets her a certificate in administration.

I mentioned Mrs. Wright, who went to administration, Mr. Shovelin, who went to administration, and Mr. Popovich, who went to administration. My daughter is looking to go to administration. Part of the reason is that that is where the money is. All of those people liked their classroom work better and believed they made more of an impact on the kids as a teacher.

My daughter emphasizes school-to-career. She does some of that summer teaching. When she finishes a major assignment, she calls the parents of the kids who did not turn in the assignment. That sounds fairly simple. Check and see how many teachers do that. If they don't, let me suggest to you the reason they don't. Her biggest discouragement was the first time she did it, and then she called us in tears. She called the parents, told them the assignment had not been turned in, and the parents said: So, what are you going to do about it?

Not a very good parental involvement activity. But she persists in it.

She also catches them doing things right, writes a note to their parents, and slips it in their book or their backpack, where sooner or later the child discovers it, and rather than delivering this missive to their parents, they open it first to see what it is, and find out that it is something good, and it does get delivered to the parents. But whatever she notes that they are doing well—better than anyone—they do the rest of the year, perhaps the rest of their life.

Teachers do have an impact. This bill will affect teachers. This bill does allow States to pursue alternative routes of certification, to encourage talented individuals from other fields to enter the teaching profession. There are many qualified individuals who might be willing to teach if it were easier to become certified.

Although the Federal Government should never dictate certification standards to individual States, we should make it as easy as possible for interested States to recruit midcareer professionals, and perhaps retired members of the military, into the teaching profession. Title II of S. 1 goes a long way toward achieving that goal.

Of course, it has some very good rural possibilities, too. I know of one very small community in Wyoming where there was a lady who grew up in France who had a good command of the French language. She wanted to teach French to the very few students—fewer than 15—who were in the school district. Sometimes certification can get in the way of that.

I think we also need to bring professionals from all careers into the schools to help the kids understand that what they are learning will be valuable later in their life. I do not think I have ever learned anything that did not turn out to be valuable sometime later. Good teachers encourage that kind of participation.

Despite all these efforts to improve teacher quality, there are some who say: All we really need to do to improve student achievement is to hire more teachers. I have to tell you, for small rural States such as Wyoming, that is not the answer. While I certainly recognize that our Nation is facing a teacher shortage in the coming years, Wyoming currently has a declining student enrollment which is forcing some districts to eliminate teaching positions. More money specifically earmarked for hiring new teachers will be of little help to the schools in those areas with declining enrollment.

In addition, rural States such as Wyoming often have difficulty recruiting and retaining teachers, especially highly qualified teachers. Money that is earmarked for hiring new teachers will not help Wyoming keep our best teachers from leaving the State.

Congress must provide States and local school districts the flexibility to pay good teachers more money or to provide them with other incentives in order to get them to continue teaching. This bill provides flexibility.

I think it may be helpful to provide my colleagues with some hard data on Wyoming to illustrate that this is not simply lip service to a particular philosophy on education. The variations in education staffing needs across the country are real, and they are very dramatic.

For example, Wyoming has 48 school districts, with a total of 378 elementary and secondary schools. Here is the important part: Of those schools, 79 have an enrollment of fewer than 50 students. I am not talking of a classroom size of 50 students, I am talking of a total enrollment in the school of 50 students. I am not kidding when I say, in Wyoming 79 schools are defined as ''rural.''

Then we have what we call the ''small schools.'' Those are the schools with an enrollment of 50 to 199 kids. There are 122 such schools in Wyoming. There are 143 ''medium-sized'' schools, with an enrollment ranging from 200 to 599 students. And we have a whopping 34 schools with an enrollment exceeding 500 kids for grade school and 600 kids for high school.

Districts often have to incorporate several grade schools to form a big high school. Let me tell you, nothing gets the good people of Wyoming more agitated than suggestions that they ought to consolidate those small or rural schools into a medium-sized or big school. It takes away the community. It takes away the emphasis. It takes away the way we have done things in Wyoming.

Now let me put this in context. The total enrollment in Wyoming's 378 public schools was 91,883. That is 1999 data. In New York State, 2.8 million children were enrolled in public school. That is

1997 data. So both of those would have changed a little.

As for teachers in Wyoming, they are our heroes. There are 6,887 of them. Based on aggregate teacher salary expenditures reported for the State last year, the average salary of a teacher in Wyoming is just under $29,000. Those teachers are underpaid.

This bill can do something about that. If we adopt the flexibility in title II of this bill, the teacher quality provision, then schools in Wyoming can use funds to give teachers a raise or reward outstanding teachers or provide incentives to recruit highly qualified teachers to our great State.

When educators from Wyoming visit me, the resounding message is usually not: Make our schools and class sizes even smaller; it is: Help us recruit good teachers and keep good teachers—with a lot of emphasis on the ''keep good teachers,'' and the need for higher pay and flexibility.

If you can believe it, there have been teachers hired in Wyoming under the Class Size Reduction Initiative that was appropriated but never authorized for the past 2 years. If they so choose, the schools that hired those teachers can retain them under this bill. However, the question I ask, on behalf of all the schools that were not eligible for that money because they already had small school size, is: Are the struggles they face in recruiting and retaining quality teachers any less important in ensuring that every child receives a quality education?

Do not forget the variations in this country, the fact that we cannot have one-size-fits-all Government. When it comes from Washington, it is too little, with too many regulations. We are not suggesting it ought to be more, with more regulations.

The research shows that while a small class size may have an effect on student performance and achievement, having a highly qualified teacher has an even greater impact. That was shown in a study by Rivkin, Hanushek, and Kain in 1998. And, according to the Department of Education's National Center for Education Statistics, we still need to invest in figuring out how to best help current and new teachers to be highly qualified. Massachusetts provided the perfect example of that, that assisting schools in having great teachers is as important, if not more so, than meeting federally targeted class size goals.

I hope this background about Wyoming's uniquely rural public education system, juxtaposed on that of ''big'' States, can help my colleagues to appreciate why the flexibility in this bill is so important to meeting the needs of all our children.

I will not see a bill enacted that doesn't provide as much support for Wyoming students' success as it does for the students in big cities. Our children are our most valuable resource, and we must prepare them to face the challenges of the 21st century. We cannot do this by allowing Washington politicians to implement a one-size-fits-all approach to education.

The Better Education for Students and Teachers Act allows States to decide how to best serve their students and teachers. I strongly support this legislation and encourage my colleagues to do the same, and to maintain the flexibility that it has.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from Wyoming for sharing his good judgment and observation about education in rural areas, States with smaller populations, and about their particular needs and the challenges they are facing in terms of strengthening teacher quality in those communities. We are grateful for his comments.

I add my strong support to the amendment offered by my good friend Senator WELLSTONE of Minnesota, making sure the tests that are developed under this legislation are going to be the kinds of tests that are going to be helpful and useful in terms of advancing the academic achievement of the children in this country.

We know tests in and of themselves are not reform. Tests don't provide a well-qualified teacher. Tests don't provide smaller class sizes. Tests don't provide afterschool programs. Tests, in and of themselves, are a device and only a device.

In Lancaster, PA, we have seen tests used as frequently as every 9 weeks by teachers. The purpose of those tests is to find out how the children are making progress in different courses. They have had a remarkable amount of success because they are broad dimensioned. They are challenging the thinking process of the children. It demonstrates that when the tests are done well, not just in the kinds of tests, the multiple choice tests, but ones that really evaluate the children's progress and look at the thinking process of the child, and then takes action, it is going to be supplementary services for those children in order to enhance their academic achievement, then there is legitimacy in terms of these kinds of evaluations.

I commend the Senator from Minnesota for bringing this measure to the floor. This has been a matter, among others, that he has been absolutely passionate about. It is well deserved.

What we don't want to do is pass legislation that claims we are doing something about accountability and are relying on the slick, simple, easy multiple choice tests which are being taught by teachers in different communities and then think we are doing something for children. We are not. That is something the Senator wants to address.

There are some wonderful studies that have been done in evaluating what is working and what is not working in the States and local communities. The statement of the Research and Policy Committee of the Committee for Economic Development is a very interesting evaluation of the effectiveness of evaluating students, measuring student achievement. It reviews in great detail what is being done. They start off by saying that tests are a means, not an end, in school reform.

> Real educational improvement requires changing what goes on in classrooms.

It continues from there.

Perhaps one of the more interesting comments came from Education Week, which also has been doing evaluations of the testing process. I will mention a paragraph here:

> Districts must draft policies that rely on multiple criteria, including test scores, student's academic performance, and teacher recommendations.

That is how they think you can do the best kinds of evaluation of a child.

''Initially I was resistant to the use of multiple criteria,'' acknowledges Gary Cook, director of the Office of Education Accountability in the State education department. This is in the State of Wisconsin.

> I have changed my opinion. I think it really forces districts to consider all the pieces of evidence in a student's performance to determine whether they should advance to the next grade or graduate. We need something more than just whether the child is going to be able to get the right answer or guess at the right answer. We need to evaluate how the children get to the answer.

That is the essence of the Wellstone amendment. He has explained it very well.

I know there are other colleagues who want to address the issue. I commend him.

We have enough experience now to know what doesn't work and what is an abuse of the whole testing process and what does work and can be used in evaluating children's progress so that well-trained teachers in classrooms that are small enough so they can teach and can use these tests in ways to help children make progress during the year, understanding what the needs are of those children, and so they can continue to make progress.

That is the essence of the Senator's amendment. He is right on target. It is one of the most important aspects of this legislation. This is one of the most important amendments we have. Many of us have been thinking about how to try to address it. The Senator from Minnesota has, in his typical way, found a pathway to do it.

I commend him and thank him. This is an extraordinary addition to what we are attempting to do with the legislation. I am grateful to him for his bringing this to our attention. I am hopeful we will be able to achieve it.

Let me mention one other evaluation. This is using these portfolio assessments. Here students collect what they have done over a period of time, not just because it is helpful to have all that material in one place but because the process of choosing what to

include and deciding how long to evaluate becomes an opportunity for them to reflect on their past learning as well as to set new goals.

As in other forms of performance assessment, they provide data far more meaningful than what would be learned from a conventional test, standardized or otherwise, about what the student can do and where they still need help. This is the conclusion of an evaluation of a number of the existing tests. It really captures in a few short words what is being sought by the Senator from Minnesota. I again thank him.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will be brief. I thank the Senator from Massachusetts for his very gracious remarks.

To summarize: What this amendment says is there is three critical ingredients about this testing to make sure that it is reliable, to make sure it is fair, and that it is accurate. One of those ingredients is that it is comprehensive. You want to use multiple measures. You do not want to use one single standardized test to evaluate how students are doing or how schools are doing or how a school district is doing.

The second thing is, you want it to be coherent. You want the testing to actually measure the curriculum, the subject matter that is being taught. You want there to be a connection. You don't want, in turn, teachers to have to teach to standardized tests that have no relation to the subject matter.

It is critically important. This is what the Committee on Economic Development was trying to say in their report. The final thing is that it should be continuous and it should measure the progress of a child over a period of time. That is terribly important to do.

I want to, one more time, say to colleagues that I guarantee you that if we don't have this language that just makes explicit what I think all of us are in agreement on, which is that this testing should be based upon the very best professional standards, then what you are going to have is teachers all over the country having to teach to standardized tests. It is going to be drill education, educationally deadening. It is going to be horrible for kids. It is not going to fire their imagination. It is going to be at cross-purposes to getting people to go into education.

A great deal is at stake. I hope to have support and I appreciate the support of the Senator from Massachusetts. I hope I will have support from the other side of the aisle and that we will pass this amendment. The two concerns I have had about the legislation when we went through committee—I say to the Senator, when we marked up the bill, this was one question. The other is the resource question.

At the very minimum, I think it is terribly important to do this the right way. If I could, I am speaking from this desk, and I will move to my desk. If I may have the floor for one more second, let me just also list a number of the organizations that are supporting this. They are: the American Association of School Administrators, Hispanic Education Coalition, Mexican American Legal Defense and Education Fund, National Council of La Raza, National Education Association, National Parent Teacher Association, National Hispanic Leadership Agency Scorecard, and the American Psychological Association.

There are a variety of organizations around the country that support it. So I hope this amendment will engender widespread support and that the Senate will pass this amendment. I think it will make it a much better bill. I don't think it is the whole answer. It deals with part of the testing legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I am a big believer in the importance of testing students. I think that testing has an essential and appropriate role in the curriculum of any educational system. I think there is no doubt that we have to test in order to determine whether or not students are meeting high academic standards. It would be a delight, I suppose, to most students who think that we are not going to test them but, indeed, we are.

I think this debate and what the Senator from Minnesota is attempting to bring our attention to is that there are ''tests'' and there are ''tests.'' Making sure that the tests are used for the purpose of measuring student performance, determining what kind of additional help a student might need, is really what we are focused on through the Senator's amendment.

I appreciated very much Chairman JEFFORDS' important amendment that we voted on last week to make sure we have Federal support, financial support, behind the design and implementation of these tests because we want to send a clear message to States and local districts that we believe in accountability, but we want to put some dollars behind that belief by saying we want you to design and implement tests that are going to really measure what students learn.

Right now, many teachers who contact my office, or the ones I see when I visit schools, as I did on Monday in New York City, are terribly concerned that what might very well happen is that more and more testing will be piled on without there being any requirement that they be worthwhile tests and without the resources to assist the teachers—who, after all, are on the front lines in the classrooms—in knowing how best to address the needs of their students that are revealed by the tests.

I was very impressed by this document put out by the Committee for Economic Development. My colleagues know that the Committee for Economic Development is a group of business people in our country. They are very committed to creating the conditions that will further economic development, and they know that one of the key conditions, if not the most important one, is the quality of our education. Looking at the board of trustees and the Committee for Economic Development, we have people from the leading corporations in America who see firsthand what their employees need when they come into the workplace, who are on the front lines of hiring people for a job. They have put out a publication that I really commend to my colleagues, to the administration, and to all of us who are concerned about using testing to improve student learning. It is called ''Measuring What Matters.'' It makes many of the same points that Senator WELLSTONE makes.

It might be somewhat surprising for some of the people who serve on the board of trustees for the Committee for Economic Development to know that they agree with Senator WELLSTONE, but they do. They agree that what we need are tests that will actually improve student learning. That certainly is what the intent of the bill that we reported out of the Health Committee under Chairman JEFFORDS' leadership was aimed at doing. How do we make it clear that tests are a means, they are not an end, in school reform. We don't just give the tests and pick out winners and losers. We have never done that in the United States—one of the reasons our educational system is both unique and successful and has been for decades despite our problems, which we talk about endlessly. We should look at some of the reasons why we have been successful.

I would rank near the top of that the flexibility of our educational system. We don't give a test when a child is 11 years old and say, all right, this group of children, you are consigned to a certain set of occupations; this other group, you did well on the 11-year-old test, so we are going to send you to different schools and put you on a different path.

We don't test when children are 14 and make that conclusion. We don't say that there are some children who can only attend certain kinds of courses in certain schools and others are barred because of tests. We don't have the kind of one-test determination that opens the doors or shuts them in colleges in other parts of the world. I think that has served us well in our country.

There are a lot of people who don't take school seriously until they are in high school. Sometimes they graduate and maybe then find their way to a community college. Then they really get energized; they know what they want to learn. So we have always viewed tests not as a stop sign for a child the system holds up and says: You are a loser; you don't know anything. We use them to say: Look, we

need to help. How can we provide more support for you to be able to get the most out of your education?

I think it is important for us to remember that tests are not an end; they are a means. They should be a means toward lifelong learning or improving the climate for learning or for giving individuals the tools they need to be successful, not just in the classroom but in life.

It is also important, as the Committee for Economic Development points out, that tests need to be valid and reliable and equitable. There should not be any doubt that I think any good test would meet those three criteria. First of all, validity: Are we measuring what we intend to measure? If we spend the whole year teaching children one set of facts or studying one set of subjects and we test on something else, that is not a valid test. So we need to make sure that what we measure is what we are teaching, and what we are teaching is in some way reflective of the standards of what we expect from our educational system.

Reliability is also a given. How consistent and dependable are the assessment results? Are these tests that teachers and parents and students and community leaders can depend on because they really reflect what we want our children to know?

Finally, are they equitable tests? That doesn't mean there are two standards, one for certain children who live in affluent suburbs and one for children who live in our poorest neighborhoods. No, if we are doing anything with this effort, it is to try to make sure we combine both excellence and equity and we do everything possible to give the opportunities where they are most needed.

We know we have to be very careful that our tests are fair, that they have no sign of bias toward any group of students. We need the help the Federal Government should provide if they are going to stand behind the regimen of testing we are considering in this bill.

We also need to be sure, if we are going to be using tests, that we get timely results. I offered an amendment in the committee. If tests are going to be given, the results ought to be available in 30 days and no more. What is the point of giving a test in April and you get the results in June or July when the children have gone home or may not get them until the following year?

We should have a sensible testing schedule, and we should require that the results be provided in a timely manner to parents, students, and especially our teachers if they are going to be used for diagnostic purposes and to measure and grade the curriculum as well as the children.

There are a lot of tests that are currently being administered. We give tests for everything now. We give tests for graduation. We give tests for promotion. We ought to be sensible about this. If the Federal Government, through our actions in the Congress and the administration, are going to say we want a test every year from third to eighth grade to determine how effective our children are learning reading and mathematics, then States have to take a hard look at what else they are testing because it is getting so that many of our schools feel they are spending all their time preparing for tests, administering tests, and grading tests. We have to be sure the tests are appropriate in number as well as content.

I also hope as we move forward on this important education debate that we recognize that accountability for students and teachers is best tied to school performance. I go into schools all the time that are literally within blocks of each other. Some are very successful and some are not. A lot of it has to do with how the school is organized and what their priorities are. I hope the testing we are discussing to be implemented in this bill will help us move entire schools toward better outcomes so that we lift up the performance of a school and create the atmosphere that will be conducive to learning and teaching.

One thing that bothers me, though, is that in our rush for tests and in our implementation of so many tests, a lot of schools are finding it impossible to keep the more well-rounded curriculum that has been the hallmark of American education.

I believe music, art, physical education, extracurricular activities, even field trips, are a part of the educational process. What I hear from so many schools in my State is that the tests take up so much time. The costs of the tests and all that goes with the tests mean that a lot of other important educational objectives are being eliminated.

I hope we take a view of testing that puts it into the context of American education generally. I take a back seat to no one in saying education has to be a local responsibility and a national priority. I have had experience in advocating for testing.

I believe I was the first person in the country who advocated testing teachers, using high-stakes tests. I even recommended schools be based on their performance in how many students they could bring up to grade level. But I am very cautious—and I guess I am putting up a caution light—that we not go so much toward testing as the definition of education that we forget what the learning process is and how unique the American education system is where people can literally wake up in 10th grade or 12th grade or a child can be exposed to art or music or some other part of the curriculum, such as a good science lab in the eighth grade, and all of a sudden learning becomes real and they are not consigned to a second-class citizenship because they did not get into gear before that time.

We are starting to see, with our high-stakes testing in New York, a lot of dropouts. We are worried we are beginning to see an increase in dropouts. We have to take that seriously. Our goal is not to test children for the sake of testing, then telling them they do not measure up, and then holding them back for the sake of holding them back until they become so frustrated and discouraged they leave the educational system. I do not think that is the goal of any of us in this Chamber.

Our goal is to have an accountability system so that we actually know what is being taught and what our children are learning, and use it for diagnostic purposes to make every child a success.

Raising the caution lights that the amendment of the Senator from Minnesota raises is important for us to think about. I will add one additional caution light. I guess that is the biggest issue of all for me, and that is the resources. I am very concerned, as I will state when we come to this in the days ahead, about the budget. We have been promised it will leave no child behind and will provide the resources for extra testing, to deal with special ed, to deal with more resources for our poorest children, to add teachers so we have lower class sizes, to modernize classrooms. I am worried that none of that will be in the budget.

That puts many of us in a very difficult position because we know that accountability is necessary, but we also know that resources in our poorest schools are an absolute necessary condition for a lot of our kids to be successful.

I enjoyed listening to the Senator from Wyoming talk about the very small school districts of fewer than 50 children. I have some very fond memories of districts that small in Arkansas. I remember going to graduating classes of three and four children. That is a very different and wonderful educational experience. I hope we never get away from that in our country; that we do have schools that are that small in States from Wyoming to upstate New York.

I come from a State that has some different kinds of problems. I have a school system with a million children. I have school systems, such as that of Buffalo, where the school stock is so old they cannot wire them for computers because the buildings were built like forts.

I visited a school called the Black Rock Academy that was built in 1898, last renovated in 1920. They are bewildered about what to do. They cannot figure out how to get those computers set up. They have wires coming up, going in a window, into a little room. They have about 30 computers, only 10 of which can be connected to the Internet. That is the best they can do under the circumstances. Buffalo has undertaken, using State dollars and local dollars, a tremendous school renovation and modernization program.

Our needs in New York are different than the needs of the small districts in Wyoming. I hope we are going to look

at all of our children from coast to coast and all of our local school districts to figure out what we can do to make everybody successful. Resources are key. It is more difficult to provide education in remote rural areas and in very concentrated poor areas in our inner cities. We need a bill and we need the resources in the bill that empower local communities to make the decisions that are best for them.

There is a wonderful menu of opportunities in the bill where people can choose professional development or technology, but we would really be selling our children short if we do not also include lower class size and school modernization because in the absence of some Federal help on those two issues, much of what we want to achieve is going to be very difficult and beyond the reach of many of our districts, even those that are making a good-faith effort, such as Buffalo, to deal with a very old stock of schools.

I kid some of my colleagues. We were educating people in some communities in New York before some of the States represented in this body were States. We were building schools before a lot of people had to build schools because of the centuries of history in New York. We have some of those schools that have been around a very long time.

Good education can and does occur in those schools. But the conditions are worsening to the point where, as I said the other day, we have concrete falling out of a ceiling, hitting a teacher on the head. We have overcrowded classrooms. If we are going to be seeking both excellence and equity, we have to do more to provide the resources all districts need to do the job they want to do for their children.

This is a very important issue that goes right to the heart of this budget. I, along with many of my colleagues, was very disturbed to learn there was no increase for education in the budget coming back from the House. This body voted in a bipartisan way for important measures that were attached to the budget. This was not just about numbers; it was about values, the value of making sure we put the dollars into our education system and many other important priorities, from defense to food safety.

The budget coming back does not reflect that. It does not reflect the flexibility for the dollars that will be needed to do what we have already voted for in the Senate.

I was very proud of the vote that said we need to fund special education. It is about as close as we can get to a mandate. A lot of school districts are under tremendous pressure because they cannot afford to do what they need to do. I was proud of this body for voting to fully fund title I. That was a values statement. It said our values are that we will invest in our poorest children. I was proud of our chairman's amendment that if the Federal Government puts this requirement of testing on our districts, the Federal Government should help to pay for the development and implementation of those tests.

This body, in a bipartisan way, made some very important values statements about education—not that we were just going to pass a bill that sounded good but one that could actually produce results. I am very pleased that at least in the Senate we are crafting a bill that I think will make a difference in the lives of our children. If we continue on this path, it could revolutionize education across our country. But it cannot be seen in isolation from the budget which, after all, carries the resources that will determine whether we have anything other than an empty promise.

I appreciate the opportunity to add my voice to what we are trying to do in this Chamber and to look for ways to work with my colleagues on both sides of the aisle to make sure it is real.

Mr. JEFFORDS. I appreciate the comments and excellent statement.

I yield the floor.

AMENDMENT NO. 384

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that the majority wants to go to the McConnell amendment, so I call up the McConnell amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. REID. Mr. President, I think the Senator from Kentucky is offering an amendment that has merit. I do believe, however, that it needs some improvement. I believe the amendment of the Senator from Kentucky leaves a big void. It doesn't do anything to protect teachers. And, most importantly, it doesn't do anything to protect students and parents who have corporal punishment administered to them either legally or illegally.

For example, the National Education Association, which represents almost 3 million teachers and other educational employees, has grave concerns about the McConnell amendment. Specifically, the National Education Association is concerned the amendment will lead to increased incidents of corporal punishment.

There are many instances where we have to take a look at corporal punishment which is administered legally in many States. Take, for example, a situation in Zwolle, LA. A story out of the New York Times a few days ago indicates a young girl was brutally beaten—legally, supposedly—in the school. In fact, the story states:

> Laid out on the kitchen table, the snapshots of 10-year-old Megan make a grim collage. They are not of her sweet face, but of her bare behind. There are 12 in all, taken, her mother says, day by day, as the doughnut-shaped bruises on each cheek faded from a mottled purple to a dirty gray.

Megan's father, Robert, recalls that when he first saw the bruises hours after she was paddled by her school principal for elbowing a friend in the cafeteria, he collapsed on the floor, crying. ''It hurt me more than it hurt Megan,'' Robert said. ''You don't hit on my baby.''

Megan, a fourth grader, whose name appears more often on the honor roll than on a referral slip at the principal's office, is one of millions of public school students still subject to corporal punishment. In March, her family joined a small but apparently growing number to stop Megan's beating.

One of her classmates, a boy by the name of DeWayne Ebarb, is a hyperactive child who has been paddled regularly throughout his time at this elementary school. In the last 8 weeks, he has been paddled 17 times. This is a small town of some 2,000. People are wondering what is going on.

I think we should be concerned in Washington what we perhaps are laying a stamp of approval on if we allow this amendment to pass as it is written.

Mr. President, 27 States have banned corporal punishment. The first was New Jersey back in 1887. Then came Massachusetts, a century later, in 1971. There was a crusade in effect started by a man name Robert Fathman from Ohio, president of the National Coalition to Abolish Corporal Punishment. You can't whack a prisoner, but you can whack a kindergarten child. The state of the law by the U.S. Supreme Court allows people who teach and train children in schools to beat them, but prisoners cannot be touched. It seems a strange little quirk in the law.

In some communities, the activities to allow a student to be whipped or spanked is approved in the law.

Since Mr. Fathman started his crusade in 1984 after his own daughter landed on the painful end of a paddle, five States have adopted bans. One of those States is the State of Nevada which banned corporal punishment in 1993. West Virginia acted in 1994. The number of paddlings around the country is in the millions. In 1980, it was 1.4 million; it is now down to half a million students beaten each year. We have to look at those children who are beaten. It seems it is quite clear that black students are 2.5 times as likely to be struck as white students, a reflection of what researchers have long found to be more frequent and harsher discipline for members of minorities.

Court challenges have been largely unsuccessful, including a 1977 decision by the Supreme Court rejecting the notion that paddling is cruel and unusual punishment. A decade later, an appeals court ruled that a New Mexico girl held upside down and beaten had been denied due process, signifying school officials could be held liable for severe beatings. But this has been rare.

The vast preponderance of lawsuits challenging the use of corporal punishment are unsuccessful, says Charles Vergone, a professor at Youngstown State University, who has been studying this issue for 15 years.

I hope that my friend from Kentucky, the distinguished senior Senator, will accept an amendment I will

offer which, in effect, basically would have corporal punishment not apply to this amendment. This, in effect, would not give a stamp of approval to corporal punishment.

I think the instances pointed out during the discussion I heard from the Senator from Kentucky raise some interesting points: one case about the cheerleader who was asked to run a lap. I don't know all the facts of that case. From what the Senator from Kentucky outlined, it does not seem fair that she was still allowed to cheer on the night that she was supposed to have been reprimanded for not following the instructions of her coach. I don't know all the facts, but from what I heard it appears there is some validity to that.

Also, the long narrative with which the Senator from Kentucky led his discussion, dealing with the student who actually tried to do physical harm, maybe even kill one of his teachers, wound up going to court. I think there is some merit to what the Senator from Kentucky outlined. That is what I think would still be available if the amendment I will offer in a short time were accepted.

We have teachers who talk about having been in areas where they didn't have the right to paddle and they didn't paddle, but they say if you have the right to paddle it becomes the punishment of choice. It makes it easier. Emily Williams, in rural Mississippi, said when she arrived from Williams College last year, one of the fine universities in America, she was horrified to hear teachers striking students in the hallways, classrooms, and cafeteria. But soon she was doing it herself. We are told that a number of teachers, in effect, brag about the fact that they can beat their students.

I started this discussion about 10-year-old Megan who was beaten. If she had gone to law enforcement authorities and showed them her rear end with all the bruises and contusions on it and said, ''This was done by my mother or father,'' very likely the juvenile authorities would have stepped in and been involved in the care and custody of Megan. But because it was done by a teacher and that is legal, nothing has been done or will be done.

If you look at corporal punishment, which a few years ago numbered 1.2 million and is now over 600,000, we recognize there is a real problem. We need not get into Biblical references. ''Spare the rod and spoil the child,'' that is one saying to which people always refer. One police chief said, ''The Lord said, 'Spare the rod and spoil the child,' and I think he knows a lot more than those bleeding heart liberals.'' I am sure that is probably true, that he does, but there is a time and place for everything. We have to be very careful to make sure anything we do here does not, in effect, support something that is not good for children.

As I have indicated, the National Education Association policy opposes the use of corporal punishment as a means of disciplining students. There are no studies that have found that paddling, the most prevalent form of corporal punishment, improves school discipline. To the contrary, Dr. Irving Heiman of Temple University has found it is a detriment to children learning.

The National Education Association believes there are better ways to establish and maintain control, including reducing class sizes. Of course, we are going to debate that, as we have. The debate has not been completed.

There is an amendment pending by Senator MURRAY to deal with reducing class size. I think everyone acknowledges that would be a sensible thing to do, to make discipline better. Smaller classes enable teachers to give students more individualized attention and to better control classroom activities. Recent studies have documented reductions in classroom disruptions as a result of class size reduction. I don't think we need a study to show us that if we have smaller classes, there are going to be fewer disruptions.

I hope we will take a positive look at the amendment I will offer shortly. The Teacher Liability Protection Act which is the name of the act, which now, to my understanding, is in the form of an amendment, would immunize negligent teachers, principals, and administrators when their misconduct injures students. Not only would this measure make teachers unaccountable to parents, it would preempt the laws of all 50 States with little or no justification for such a sweeping exercise of Federal control.

I do not think there is any need to create a special Washington-knows-best immunity for principals, teachers, and administrators. The States, which for more than two centuries have had dominion over tort law, already have ample protections in place for teachers and administrators. Washington should not dictate policy to State courts and administrators, and it should not dictate policy to the local school boards.

As I said, I don't know all the facts dealing with the cheerleader case that was mentioned by the Senator from Kentucky, but even though I may disagree with the decision made by the court—I would still like to know the facts—I also say the court had the right to make that judgment.

In the State of Nevada, judges are looked at very closely, the reason being judges in Nevada run for election. They cannot, in effect, thumb their nose at public opinion. As a result of that, I think judges in Nevada generally do an excellent job of determining what the law should be. But they are totally aware of what is going on in the public, and I would say the same applies to the cheerleader case where she refused to run laps. We need to know all those facts.

The American Federation of Teachers indicates there is no crisis. In effect, the American Federation of Teachers challenges whether legal immunity is really needed. I don't think the fear of lawsuits is keeping teachers from doing their jobs.

As I said, I think there is some merit to the amendment of the Senator from Kentucky. That is why I think the best thing to do is offer a second-degree amendment to that, to take away from that, in effect, the approval of corporal punishment, which is in keeping with many States in the United States.

Mr. MCCONNELL. Would the Senator yield?

Mr. REID. I am happy to yield for a question without losing my right to the floor.

Mr. MCCONNELL. I do not seek to have the Senator lose his right to the floor, but just to make certain the Senator understands my amendment neither promotes nor condones corporal punishment. I don't know what second-degree amendment the Senator plans to offer. If he would be willing to discuss it prior to sending it forward, it may be we could agree to it. As I will make clear when I regain the floor after the Senator finishes speaking, my amendment has nothing to do with corporal punishment. I am sorry the Senator from Nevada may have interpreted it otherwise. I think I can make it clear to his satisfaction that it is wholly unrelated to that subject. And I might well be interested in supporting the second-degree if I can take a look at it.

The purpose of this amendment is to leave that matter strictly up to the States. The Federal Government would not either support or oppose corporal punishment.

Mr. REID. The problem with that—I will be happy to share the amendment with the Senator, and I am confident and hopeful he will approve it—is the fact that the amendment offered by the Senator from Kentucky, as I understand it, said basically that teachers and administrators will not be sued for basic, simple negligence, but they can be sued for gross negligence.

Is that the underlying import of the Senator's amendment?

Mr. MCCONNELL. I think pursuant to State law. What we are seeking not to do is to replace State law on this subject.

Mr. REID. I appreciate that. That is my point and my problem. If a teacher spanks, beats—whatever the term we want to use—a student, he is doing that under the confines, and under the direction of the State law, in effect. What we want to say is that any acts of teachers that are negligent that do not apply to their administering corporal punishment, we agree with the Senator from Kentucky. I don't think there is any hindrance on our part of State law. If the State has corporal punishment, fine. The State of Nevada outlawed corporal punishment in 1993. But that was up to the State legislature. I didn't do that.

AMENDMENT NO. 421 TO AMENDMENT NO. 384

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 Nevada [Mr. REID] proposes an amendment numbered 421 to amendment No. 384.

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

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

The amendment is as follows:

(Purpose: To limit the teacher liability protections in this bill for teachers who strike a child to those situations in which such action is necessary to maintain order and in which a parent or guardian has provided recent written consent to such actions)

On page 4, line 23, insert a comma after (b), strike ''and'' and insert ''and (d)'' after (c).

On page 6, line 6, insert a new subsection (c), as follows, and renumber accordingly:

''(c) Nothing in this section shall be construed to apply to any action of a teacher that involves the striking of a child, including, but not limited to paddling, whipping, spanking, slapping, kicking, hitting, or punching of a child, unless such action is necessary to control discipline or maintain order in the classroom or school and unless a parent or legal guardian of that child has given written consent to the teacher prior to the striking of the child and during the school year in which the striking incident occurs.''

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. REID. I am happy to yield without losing my right to the floor.

Mr. KENNEDY. To move the process along, will the Senator object if we are able to dispose of the Wellstone amendment while the Senators are talking, with the recognition that the Senator from Kentucky would be next on the matter after the conclusion of the Wellstone amendment?

Mr. JEFFORDS. I would appreciate it if we would withhold on that.

Mr. KENNEDY. There has been a special reservation of that proceeding.

Mr. REID. I say to my friends from Massachusetts and Kentucky that I would be happy to do that. We want to move to another amendment. I wanted to confer with the Senator from Kentucky, but we were told that is what the majority wanted. That is why I called up the amendment without the opportunity of giving it to the Senator. I submitted the amendment. I have other things to say. I could do that at a later time. I simply ask my friend from Kentucky and the majority manager of the bill to take a look at this amendment. If there are problems with it, tell us. We will talk some more about it on both sides.

Mr. MCCONNELL. Mr. President, I guess the understanding is that we would move forward on Wellstone, and then come back to the McConnell amendment in the second degree by agreement. Is that what we are talking about?

Mr. REID. Mr. President, it is my understanding that earlier there was an agreement that the Wellstone amendment would be accepted. I guess that is no longer the case. We are now on the amendment of the Senator from Kentucky. I ask if the Senator would consider a quorum call for a few minutes. The McConnell amendment is the business before the Senate now. We can go to anything else without unanimous consent.

Mr. MCCONNELL. Mr. President, it would be my preference that we stay on the McConnell amendment in the second degree by Senator REID, and, if it is all right with the manager, go into a quorum call to be able to work this out and go forward. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Kentucky has offered an alternative that I think is in keeping with what we have tried to accomplish. I think it is something that would make his amendment better. It is something named after Senator Coverdell; something Senator Coverdell would appreciate, especially in the fashion that it was done.

Paul Coverdell, as you know, was a great conciliator, was great at mediating problems. I expect perhaps the spirit of Paul Coverdell was involved in this because I think it is a good settlement for everybody.

AMENDMENT NO. 421, WITHDRAWN

So, Mr. President, I ask unanimous consent that my second-degree amendment be withdrawn.

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

Mr. REID. The Senator from Kentucky, at the appropriate time, will offer a modification to his amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 384, AS MODIFIED

Mr. MCCONNELL. Pursuant to the agreement that Senator REID and I have come to, I send a modification of my amendment to the desk and ask unanimous consent that my amendment be so modified.

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

The amendment (No. 384), as modified, is as follows:

At the end, add the following:

TITLE ____—TEACHER PROTECTION

SEC. ___1. TEACHER PROTECTION.

The Act (20 U.S.C. 6301 et seq.) is amended by adding at the end the following:

''TITLE ____—TEACHER PROTECTION

''SEC. ___1. SHORT TITLE.

''This title may be cited as the 'Paul D. Coverdell Teacher Protection Act of 2001'.

''SEC. ___2. 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. ___3. 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. ___4. 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. ___5. 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. ___6. 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. ___7. 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.''.

Mr. McCONNELL. Mr. President, I ask the manager of the bill, are we ready to move forward with a vote after some closing observations?

Mr. JEFFORDS. Yes.

Mr. REID. Mr. President, I think we will have to wait until about 12:40. That is my understanding. Some people may not be available, but I am sure the vote will take a little while anyway. So if it is OK, could we have the vote start at 12:40?

Mr. JEFFORDS. I have no objection.

The PRESIDING OFFICER. The Senator from Kentucky has the floor. Is that the unanimous consent request, that the vote begin at 12:40?

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the vote on the McConnell amendment begin at 12:40.

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

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, we are about to vote on my amendment, the Paul D. Coverdell teacher protection amendment. This important legislation extends important protections from frivolous lawsuits to teachers, principals, administrators, and other education professionals who take reasonable steps to maintain order in the classroom.

The amendment, I hasten to add, does not protect those teachers who engage in ''willful or criminal misconduct, gross negligence, or a conscious flagrant indifference to the rights and safety'' of a student.

This is not new ground for the Senate. I remind all of my colleagues that last year we approved this virtually identical amendment by a vote of 97–0. It is now the appropriate time for the Senate to revisit this issue and give its full endorsement. Mr. President, 97–0 is about as strong as it gets in the Senate. I hope we will have a similar vote when the vote commences at 12:40.

I know Senator Coverdell would obviously be grateful to see that his legislation may well be on the way to becoming law this year. I urge all of my colleagues to support the amendment, as they did the last time it was offered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, I understand we have a vote in about 7 or 8

minutes. During this period of time, unless somebody else wishes to speak on the amendment, I would like to address the issue of teacher quality. This reflects upon one of the underlying amendments we are discussing—which is, class size—with an emphasis on the relationship that exists between a teacher and a child where we know much of that learning experience takes place, kindergarten through the 12th grade. It is that relationship and a number of factors.

We start with having a very good, highly qualified teacher in a classroom, an effective teacher in the classroom so that we really can say that every child has an opportunity to have achievement boosted, to have the achievement gap, which has gotten worse in the last 35 years, be diminished over time.

The argument we have made again and again on this side of the aisle has been that while class size is important, the absolute size should not to be dictated by Washington but determined by local schools, local school districts, local communities. Whether it be Nashville TN, Anchorage, AK, New York, NY, the decision should be made by people, not by Washington, DC.

Thus, what we have done in the underlying bill—and it is important that people understand what is in the bill;—is combine that program, with other programs so that we have the necessary resources we need—up to $3 billion, I should add. And these can be distributed, used, prioritized, locally rather than here in Washington, DC. So that in any particular classroom, a decision can be made whether or not to use that money for smaller class size, for more computers, for better reading materials, for more technology,—that they have the flexibility to prioritize rather than having a Government program for each and every issue.

Yesterday I spent some time underlining what we have in the bill for teacher quality, teacher development. It is quite extensive, in terms of State activities, where States very specifically may use these funds for things such as teacher certification, teacher recruitment, professional development, and other ways of teacher support. Examples of such activities include reforming teacher certification or licensing requirements, addressing alternative routes to State certification of teachers, recruiting teachers and principals, providing professional development activities, looking at issues such as reform of tenure systems for teachers.

Local educational systems may use these funds for professional development, teacher development, teacher recruitment or hiring teachers. Again, these decisions are made locally with the funds provided through the Federal system—as I said, $3 billion.

It moves on down to local accountability because we do want to make sure, if these funds have been pooled and these resources are available locally for teacher development, for improving the quality of teachers, for attracting new teachers to the classroom, that the system is held accountable, and there are extensive accountability provisions in the underlying bill, already in the bill, that include, such things as performance objectives. Those performance objectives are related to student achievement, to reducing that achievement gap over time, to the ability to retain teachers, to the ability of taking teachers who may be certified in one field but haven't been certified in another.

A particular area I hope we will be able to address later this week or next week is this whole specific area of math and science teachers. Again and again I have come to this floor citing the third international mathematics and science study, beginning in 1995 but even since that point in time, which shows that 4th grade students in the United States are among the top scorers from the 41 nations tested. But then both the TIMMS study and the TIMMS repeat study in 1999 show that by the 8th grade, U.S. students tested, not at the top, but in the middle. By the 12th grade, we see that U.S. students are scoring near the very bottom in math and science of all of the countries tested.

In today's global economy this means that if we are not preparing people in the 12th grade in terms of math and science, we are going to see jobs move overseas because Americans, especially for the high tech jobs of the future are going to be very ill equipped to compete with our neighbors globally in job creation, in math and science, in technology, and broadly.

Teacher educational development has to be a continuing process. It has to be done in a collaborative partnership with those people, including at local teacher training, local universities, local high schools, and local elementary schools. It has to be done in a partnership way. Again, this is spelled out in the bill.

In closing, this bill—we call it the BEST Act—authorizes $500 million in fiscal year 2002 for the establishment of math and science partnerships, linking the math and science departments of institutions of higher education with States and local school districts. That is very positive. There is a lot more we can do in terms of clarification of how moneys can be used, in authorizing the States to use funding in certain areas to recruit and retain teachers and, finally, in looking at math and science funding for a master teacher program.

I am very excited about this amendment, which will be filed later today or later in the week. It will build on what is in the underlying bill, and puts the focus on the quality of teachers, not just the quantity of teachers.

The PRESIDING OFFICER. The time has expired. The question is now on agreeing to the amendment of the Senator from Kentucky. The yeas and nays have not been ordered.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—98

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

NAYS—1

Thompson

NOT VOTING—1

Dodd

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island.

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

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

AMENDMENT NO. 425 TO AMENDMENT NO. 358

Mr. REED. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. CLINTON, Mr. SARBANES, Mr. JOHNSON, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKEFELLER, Mr. DURBIN, and Mr. DAYTON, proposes an amendment numbered 425.

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

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

The amendment is as follows:

(Purpose: To make amendments regarding the Reading First Program)

On page 32, line 11, strike ''$900,000,000'' and insert ''$1,400,000,000''.

On page 201, line 19, strike ''and''.

On page 201, line 21, strike the period and insert ''; and''.

On page 201, between lines 21 and 22, insert the following:

''(3) shall reserve $500,000,000 for fiscal year 2002 and each of the 6 succeeding fiscal years to carry out section 1228 (relating to school libraries).

On page 203, between lines 20 and 21, insert the following:

''SEC. 1228. IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.

''(a) IN GENERAL.—From funds reserved under section 1225(3) for a fiscal year that are not reserved under subsection (h), 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 (e)) 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 (e) 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) a description of 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) 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).

''(e) 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.

''(f) 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.

''(g) 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.

''(h) NATIONAL ACTIVITIES.—From the total amount made available under section 1225(3) 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.

On page 203, line 21, strike ''1228'' and insert ''1229''.

Mr. REED. Mr. President, I have sent to the desk an amendment on my behalf and of Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. CLINTON, Mr. SARBANES, Mr. JOHNSON, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKEFELLER, Mr. DURBIN, and Mr. DAYTON.

This amendment is a bipartisan attempt to ensure that the President's Reading First initiative is a success. Let me commend the President for emphasizing literacy as a very important part of education reform. His proposal would recognize the importance of literacy and increase and support the training of teachers, but it would not reach another important aspect of achieving literacy, and that is a well-equipped school library. My amendment would help students achieve literacy by authorizing funds so schools could acquire new library books, new library material.

Funding school libraries has been part of the educational authorization for the Elementary and Secondary Education Act since its beginning in 1965. The very first ESEA authorized the purchase of library materials.

One of the sad commentaries about school libraries today is that much of that material is still on the shelves, with copyright dates of 1967, 1968, 1969, and 1970. Clearly, the world has moved a great deal from those days. We have landed on the Moon. We have created the Internet and done lots of other interesting things. Many other aspects of life have changed since the mid-1960s and early 1970s.

My proposal would provide resources, based upon a targeted formula, so the poorest schools would have access to these funds, so we could, in fact, replenish library collections throughout the United States.

Last week the Senate uniformly voted for Senator COLLINS' Reading First amendment, where she incorporated additional provisions into the President's proposal for Reading First. I support this effort by Senator COLLINS, but I believe there is a deficiency within this initiative. It fails to include an essential component that would ensure students learn to read. We have to fund school libraries so students have the necessary books, technology, and materials, which is an integral part of our effort to improve reading in our schools.

What we are finding is the gap between the highest and lowest achieving students is widening. But what we are also finding, when we look at data, is that in those schools that have first-

rate libraries and trained library personnel, achievement goes up consistently. That is a factor I believe we cannot ignore. It is one of those factors that provide additional support for my proposal today.

Again, the President's underlying proposal authorizes $900 million for the Reading First Initiative. It has been enhanced and improved by Senator COLLINS' amendment. This proposal, which I and my colleagues have offered, would provide further enhancement to this worthwhile goal of ensuring every child in America reads, and reads well.

Let me also acknowledge the great work of Senator JEFFORDS and Senator KENNEDY who have brought us this far. But even though they have brought us this far, even though we have, with the President's direction, emphasized literacy, we still have this gap in achieving literacy. We have to provide funds for school libraries so they can buy the material and books necessary to support the scientifically based reading programs the President has made the centerpiece of his Reading First Initiative.

School libraries are really the places where we reinforce those reading skills. They are, in one sense, the laboratories where children explore their ability to read and explore a great world beyond the confines of their classroom or their community. You can go into a library and, figuratively, travel around the world, even reduce yourself to the size of a microbe, and travel, coursing through the veins of the body. That is what is remarkable about reading and so fundamentally important about reading. It is also something that has to be a lifelong pursuit.

Frankly, even though we can instruct children with respect to literacy, unless we provide them with stimulating books and expose them to the library as students, it is not that likely that they will appreciate reading or continue the habit of reading, this habit of self-improvement. Children leave schools, but we hope they will not leave the library. That is one of the great lessons they will take from their schooling—not just the mechanics of reading but a love of reading so they will leave the school but never leave the library, they will be patrons of public libraries, they will be patrons of books. The library is the foundation for independent learning, and I cannot think of a more worthwhile goal in this reauthorization than creating that type of spirit and that type of ability within the students of America.

As I mentioned before, as we look at high levels of literacy, we find a very strong correlation between these high literacy levels and good school library programs. In one study, this was the case for every school and in every grade level tested, regardless of social and economic factors in the community, and in very dissimilar States: Colorado, Pennsylvania, and Alaska. These findings echo earlier studies which found that students in schools with well-equipped libraries and professional library specialists performed better on achievement tests for reading.

Again, we understand one major focus of this legislation is testing students to standards, bringing those standards up and bringing every child up to those standards. Without the support of good public libraries in the community but, more particularly, good school library programs, we are not going to be able to give these children the tools to reach the standards, to pass the tests we are prescribing now for a vast section of American students.

As I indicated, there is an array of scientific evidence, research evidence, that demonstrates this fundamental point. A 1993 review of research, ''Power of Reading'' by education professor Stephen Krashen of the University of Southern California, demonstrated that higher test scores result when there is a greater investment in better qualified school library staff and more diverse school library collections.

A 1994 Department of Education report on the impact of school library media centers noted that the highest achieving students tend to come from schools with strong libraries and library programs. So I believe this evidence is further proof that we can improve reading by making a wise and efficient investment by enhancing our school libraries.

We also understand that we have today on our shelves, in our libraries, books that are simply out of date and inaccurate. I have made something of a cottage industry of bringing my favorite anomalous books to committee hearings, such as a book that talks about what is it like to be a flight attendant; only they use an incorrect term ''stewardess.''

If you look through this book, if you look through these pages, you get a distinctly different impression of what it is like to be a flight attendant. First of all, they are all women. We know that is not the case today. Second, there are very few minorities. We know that is not the case today. Third, they talk about the rule that you must leave if you want to get married, because they all have to be single. They have pictures of flight attendants doing sit-ups and describe that as their homework.

These are images that are totally out of sync with today's times. But yet this book was on the shelves of the school library. Ask yourself. If a young man is interested in that profession and takes that book off the shelf, what impression will he get? Obviously, it is not going to open up the possibility of a career for him as a flight attendant.

That is just one example. There are examples of books on the shelves of today's schools that say things like some day we will get to the Moon.

I received a book from a librarian in Arizona that has the title, ''Asbestos, The Magic Mineral,'' suggesting a book that was not written recently.

One of my favorite selections that was sent to me is the story of the U.S. Constitution, and an analysis of the Constitution, with a foreword by President Calvin Coolidge—a little bit out of date but still on the shelves of a school library.

We can do more than provide our children with outdated sources of information. We also now know that we are in a situation where books are not the only way we are communicating information to children. Libraries need sophisticated, computer-based media. They need the technology of the computer.

Yet what you find at the local level is a situation where despite the best intentions of school committee men and women and the best intentions of Governors and mayors, school library collections are the first casualties of unexpected expenses.

It is not a surprise. Here is typically what happens across this country day in and day out. A school superintendent has worked hard all year. She reserved $50,000 for a new library, new books, and new media.

Then she gets a call. Their unexpected expenses have gone up $75,000. Where do you get that kind of money for an unexpected expense? We will do the library improvement next year. Next year becomes the following year, and the following year. As a result, we have a crisis at school libraries. Some shelves are near empty and the books are out of date. They are not opening up new, modern vistas to students. In some cases they are giving them erroneous stereotypes about the world at a very impressionable age.

Let me suggest, as I said before, some of the books that we find on the shelves of our libraries.

There is one called ''Rockets Into Space,'' copyright 1959. This book, by the way, has been checked out of a Los Angeles school library 13 times since 1995.

It informs the student that there is a way to get to the Moon. Obviously, it was written before there was the successful voyage to the Moon by man. It states that it will take two stages to get to the Moon, first to a space station, and then to the moon. Essentially, that is not what we did. But the book has been checked out numerous times within the last decade.

There is another book which I found interesting. This was from a school library in Richmond, VA, entitled ''What A United States Senator Does,'' copyright 1975. It notes that the Vice President of the United States and the President of the Senate is Nelson Rockefeller, and that there are two Senate office buildings, the Old Senate Office Building and the New Senate Office Building, which we now call the Dirksen Building.

There is a book from a library in Tarzana, CA, entitled ''Women At Work,'' copyright 1959, which informs

the reader that there are seven occupations open to young woman: librarian, ballet dancer, airline stewardess, practical nurse, piano teacher, beautician, and author.

These are not positions open exclusively to women and are certainly not the only professions open to women today.

Here is one from a Pennsylvania library entitled, ''The First Book Atlas,'' copyright 1968, which states that the five most populated cities in the world are New York City; Tokyo, Japan; Paris, France; London, England; and Shanghai, China.

That might have been correct in 1968. But, for the record, the five most populated cities in the world today are Seoul, South Korea; Sao Paolo, Brazil; Bombay, India; Jakarta, Indonesia; and Moscow, Russia.

In a rapidly changing world when we expect our students to be internationally adept and not just locally competent, we are providing them with information that is woefully out of date.

I am sure there are atlases and maps throughout most schools and in school libraries that do not have all the present sovereign nations of the world. Since the breakup of the Soviet Union, we know there has been quite a few new nations emerging into the world. But this is what we find consistently.

I believe if we do not provide better materials for our libraries, we are not going to fully complement the President's initiative and Senator COLLINS' amendment. It is one thing to be literate and to have the mechanics of reading, but there is something else. A child must have material to read which provides accurate information and that is not full of stereotypes and misinformation. If you don't provide access through school libraries, students will not acquire the skills and love for reading necessary to boost scores on reading tests.

That is what my legislation will do. It will give the school libraries the opportunity to become up to date, to entreat children with the idea of reading so that in their lifelong pursuits they will know that libraries are the place to go to find knowledge and information that is accurate.

Let me also talk about the situation from the perspective of low-income students because typically this is where you find the most chronic absence of a good school library for the reasons I talked to previously—budget pressures that are so compelling and constraining on municipalities, and the idea that next year we will fix the library. Next year never comes. Jonathan Kozol, who has been referred to many times on this floor, and who is a passionate advocate for students everywhere but who has a particular passion for those disadvantaged students that he works with on a daily basis, wrote in May in a school library article, entitled ''An Unequal Education,'' that a fiscal crisis in the 1970s reduced school libraries and the poorest neighborhoods in New York City to: ''little more than poorly stocked collections of torn, tired-looking, or outdated books. As student populations grew and school construction was postponed by scarcity of funds, libraries themselves were soon co-opted to be used as classroom space. Librarians were fired or, more diplomatically, 'retired'—and, as they retired, were not replaced. Books were frequently consigned to spaces scarcely larger than coat closets.''

He continues:

> Few forms of theft are quite so damaging to inner-city children as the theft of stimulation, cognitive excitement, and aesthetic provocation by municipal denial of those literacy treasures known to white and middle-class Americans for generations.

The reason for this sad state of affairs is the loss of targeted national funding for libraries, which we had provided in the 1965 ESEA authorization.

I would challenge all of my colleagues to go to their States and go to a school library. It won't take too long until you find a book that has a copyright of 1967, and maybe with a stamp, as they do in the Philadelphia school system, that says, ''ESEA 1965.''

About 20 years ago, however, a decision was made to roll this dedicated funding into a block grant competing with other programs, and the funding for libraries declined. Schools have not been able to replace outdated books. At the same time funds have diminished, as everything else, the price of quality school library books goes up.

The average school library book costs $16. But the average spending per student for books in elementary schools throughout this country is approximately $6.75, $7.30 in middle schools, and $6.25 in high schools. You can't buy lots of high-quality books at those types of prices.

Earlier in this session, I introduced bipartisan legislation addressing the need for adequate library books, which is the predecessor of this amendment. On February 20, 2001, there was note of that introduction in the Washington Times. Then there was a response on February 23 from a school librarian who described the real frustrations we are talking about, and that I have tried to suggest.

She has worked for 27 years, and she saw the article and took it upon herself to write the newspaper. Here is what she said:

> The money coming down for spending has been diverted by administrators for technology. The computers are bought with book money and the administrators can brag about how wired the schools are. The librarians are ordered to keep the old books on the shelves and count everything, including unbound periodicals and old filmstrips dating back to 1940s.
>
> And most of all keep their mouth shut about the books—just count and keep quiet. Now do you wonder why librarians keep quiet?

Well they are not keeping quiet anymore. They have taken a very strong position with respect to this amendment. Coincidentally, they have come to Washington, and I believe they have visited most of my colleagues' offices, to talk about the need, not some esoteric hypothetical pie-in-the-sky need, but the real need for investments in school libraries.

What happens is that we have a situation where schools face this Hobson's choice: with declining resources, and other demands, do we remove all of the outdated books, leaving only bare shelves or keep outdated books on the shelves, hoping that students wont be confused or turned off by reading? The result is too many of our students don't have the tools they need to learn to read and achieve.

Too often schools sacrifice improvement in libraries. We can help change that dynamic. We can pass this legislation. We can give them flexibility at the local level, although targeted to low-income schools, to go out and buy library materials, to fulfill an important part of our national purpose today to improve the literacy of all American children.

Now I believe that we should, and we must, complement the President's Reading First Initiative. He has, quite rightly, identified the problem. He has very astutely suggested we need to train teachers in the latest scientific methods, that we need to have classroom material, that we need to do many other things. But one aspect is still lacking; and that is books - books to practice the skills they learn in class and books to foster a love for reading which is the key to success in school and beyond. This amendment addresses that need.

My amendment specifically would add $500 million in funding reserved to support school libraries. It would not take away any resources that have been already identified for the President's Reading First Initiative pursuant to Senator COLLINS' amendment. It targets funding to schools with the highest levels of poverty.

Recall now the comments of Jonathan Kozol: the diminishment of the educational experience by a lack of access to materials which in suburban schools are taken for granted.

If we can get this spirit of inquiry, this excitement about reading, if we can infuse that into every child in every public school, particularly in our disadvantaged schools, we will accomplish a great deal with this reauthorization.

This amendment also provides the districts and the schools with the flexibility to use the funding to meet local school library needs. Who better than a local school system and local librarians to decide what they need? A new atlas, new materials for the younger readers, a better library media that can be used by all the students—all of that will be decided by local individuals.

It also includes language that would help enhance the training of library specialists. There is a misconception sometimes that all you need to do is

have the teacher just take the children into the library and say: Pick a book. That overlooks the huge contribution a well-trained librarian can make to the education of young children. A well trained librarian is essential to helping students read. It is also important to have librarians with particular skills to be able to show children different means of research, different techniques, to be able to answer their questions, to find material for them, and to show them how to find material. That is not done simply by walking the children into the library, and saying: Pick a book. You need to try to get a sense of their interests and you need to try to lead them from one interest to another interest.

This might be the most fundamental aspect of education, and yet if you do not have the trained professionals to do it, you will not get the kind of high-level achievement we seek in this legislation.

The amendment would also allow establishing resource sharing initiatives. In my home State of Rhode Island, and in Ohio, the school librarians have set up a wonderful network with other school libraries, with public libraries, with academic libraries, so they can multiply the resources at their disposal. That would provide the kind of support that I believe is not only necessary but long overdue with respect to school libraries.

This amendment allocates funding on a formula basis to school districts, so that all needy districts and schools get the assistance they need to improve school libraries, rather than authorizing a very limited, competitive grant program which would only help certain districts that have a knack for grant writing.

This amendment is built upon the initial legislation I introduced along with Senators COCHRAN, KENNEDY, SNOWE, CHAFEE, DASCHLE, and others. The amendment, as I indicated, has broad support.

This bipartisan amendment I offer today, along with Senators SNOWE, KENNEDY, CHAFEE, BINGAMAN, WELLSTONE, MURRAY, CLINTON, SARBANES, JOHNSON, BAUCUS, LEVIN, REID, ROCKEFELLER, DURBIN, and DAYTON, is a modified version of that legislation because, rather than being a separate, stand-alone portion of the ESEA, this amendment includes support for books as part of the Reading First initiative.

In conclusion, since I have talked about what the amendment does, I would like to briefly talk about some of things the amendment does not do.

First of all, this is not a new program. This amendment would incorporate school library funding into the Reading First Initiative, the President's reading initiative. Unanimously, last week, we embraced Senator COLLINS' amendment, so I assume, without contradiction, we are all for Reading First, we are all for literacy. This would be incorporated into that. This is not a new program.

The second point I make is that this is not, as I said before, a novel Federal intervention into school policy. In 1965, we authorized funds to buy library materials. It worked. Those materials are still on the shelves. It is something that has been long associated with our Federal effort to help local schools.

Now we all want to consolidate programs. I think that makes a great deal of sense. As you look across the board, some programs could be more efficient. But here is an effort to present, within the context of the Reading First Initiative, a comprehensive reading program: training teachers to teach reading based on scientific principles, classroom materials, and then, if you will, the laboratory for reading, which is the school library and the books to read.

If we are serious—and I know we are—that we want to see every child succeed, if we want to see every child meet challenging standards, and in a very real sense pass the test, then we have to invest more in our school libraries. It is not simply enough to just prescribe the test and hope for the best. We have to give children books to read, the tools to master these techniques and, hopefully, I think in a broader sense, to acquire a passion for reading that will carry them far beyond their schooldays into their adult days. That truly, in my view, is the sign of an educated person.

Let me conclude my initial remarks by citing the Department of Education's guide for parents entitled ''A Guide For Parents: How Do I Know a Good Early Reading Program When I See One?'' In that guide they say that a good early reading program has: ''a school library [which] is used often and has many books.''

We must take this opportunity to dispense with inaccurate, out-of-date books that line the shelves of our school libraries. We have an opportunity to complement the President's proposal and provide the funding that is critical to making the program work so it can actually improve the reading and literacy skills of our nation's students. I hope we will seize this opportunity and urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to proceed as in morning business.

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

(The remarks of Mr. BOND pertaining to the introduction of S. 849 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Wisconsin.

ANOTHER LANDMARK TORN DOWN

Mr. FEINGOLD. Madam President, I rise to voice my objection to another blow committed by this majority against the Senate. I wish to express my dismay with the majority leader's decision, of which I first learned in Monday's Roll Call, summarily to fire the Senate Parliamentarian because of his advice on a number of budget-related issues.

This action appears to be yet another unfortunate turn in the majority's heavy-handed efforts to transform the Senate into another House of Representatives. And I fear that the real victim of this latest purge will be the rules and traditions of this great body. Bob Dove has borne the brunt of the majority's latest outburst, but I fear that the Senate, too, will suffer.

Let me begin by noting that I, as others, have had my share of disagreements with Bob Dove during his time as Parliamentarian. I suspect that most Senators who have devoted any time to learning the Senate's rules will find points on which they differ with the Parliamentarian. But in the practice of law that is Senate procedure, the Parliamentarian plays the role of the judge. It is before the Parliamentarian that staff and even Senators make their arguments and state their cases, much as advocates before a court.

It is in the nature of judging that a judge cannot please all litigants, and it is in the nature of having a Parliamentarian that the Parliamentarian's advice to the Presiding Officer cannot always please all Senators.

Were it not so, we would not have a Parliamentarian. If the Parliamentarian cannot advise the Chair what the Parliamentarian truly believes that the law and precedents of the Senate require, then the office of the Parliamentarian ceases to exist.

If the Parliamentarian merely says what the majority leader wishes, then the majority leader has taken over the job. And in that case, the Senate has become less a body governed by rules and precedent and more a body that proceeds according to rule and precedent only when it pleases, in effect at the whim of the majority leader.

That the Senate rules constrain the majority has been one of its strengths. It is oft-recounted lore that when Jefferson returned from France, he asked Washington why he had agreed that the Congress should have two chambers. ''Why,'' replied Washington to Jefferson, ''did you pour that coffee into your saucer?'' ''To cool it,'' said Jefferson. ''Even so,'' said Washington, ''we pour legislation into the senatorial saucer to cool it.''

It is the Senate's rules that allow legislation to cool. It is the Senate's adherence to its precedents and not to a rule adopted for this day and this day only that distinguishes the Senate from the House of Representatives. The Parliamentarian is a vital link in that chain of precedents. It is the Parliamentarian's advice to the Chair that makes this a body governed by rules.

The Senate has had an officer with the title of Parliamentarian since July

1, 1935, when the Senate changed the title of the journal clerk, Charles Watkins, to Parliamentarian and journal clerk. Since then, only four other men have occupied the office: Floyd Riddick, Murray Zweben, Bob Dove, and Alan Frumin. These five Parliamentarians held that office for an average of more than 12 years each. By comparison, during the same time, the Senate has had 14 different majority leaders.

As Justices sit on the Supreme Court, though Presidents will come and go, so Parliamentarians have maintained the rule of precedent, through changes in political majority. Removing a Parliamentarian because a majority leader disagrees with a decision is akin to a President's attack on the Supreme Court. History has roundly decried President Franklin Roosevelt for seeking to pack the Court. I predict that history will also roundly decry the majority leader's man-handling of the Senate's rules.

This majority has torn down another ancient landmark that our predecessors had set up. Once again, this majority has removed another boundary stone that once marked how far we could go. We are left today more bereft of rules, a body less governed by law, and unfortunately more governed by the wishes and ambitions of men and women.

The new Parliamentarian, Alan Frumin, has, as I have said, served as Parliamentarian before. I hope this time he can serve for a good long time.

I have always known Alan to be a man who calls them as he sees them. I hope that the majority leader will allow Alan to continue to do so. For only by allowing the Parliamentarian to follow his or her best judgment will the office of the Parliamentarian continue to be able to play its important role in preserving the Senate rules, and, thus, in preserving the Senate itself.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2002—CONFERENCE REPORT

Mr. LOTT. Madam President, I submit a report of the committee of conference on the concurrent resolution (H. Con. Res. 83) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 83), establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report was printed in the House proceedings of the RECORD of May 8, 2001.)

Mr. LOTT. There are 10 hours for debate provided under statute. I expect all debate to be used or yielded back by the close of business today with the exception of an hour or so. We will then obtain a consent for closing remarks tomorrow morning to be followed by a vote on the conference report. I will not propound that request now but will consult with the Democratic leader and will propound the unanimous consent at a later time. I do think it best to get started.

The distinguished chairman of the Budget Committee has arrived. We will begin debate and go as long as Senators desire today and reserve about an hour tomorrow so there will be time equally divided to wrap up and then get a recorded vote.

Madam President, I thank the distinguished chairman of the Budget Committee for the job he has done again this year. A lot of people are appointed different jobs in the Senate in terms of leadership or offices of the Senate and have difficulties in doing our jobs. But few have a job any tougher than being chairman of the Budget Committee because it lays out the plan for the year. It does have to take a look at the whole budget.

The Presiding Officer, the Senator from New York, is on the Budget Committee. I know she found the process interesting, including the hearings. It is the committee that has to decide what is set aside for Medicare, for instance; if we have reform and need additional funds, how much will be available for tax relief and how much will be available for the nondefense and, in fact, defense discretionary accounts.

It is very hard to accommodate all the different parties. We have to work it through the Budget Committee, Democrats and Republicans, and on the floor of the Senate, with many amendments, and quite often vote-aramas at the end of the process where we vote, many times, on 20, 30, 40 amendments, in sequence. It is not a pretty process, but it is one that has to be done.

The chairman of the committee and the ranking member of the committee go to conference and see if they can find ways to work together and deal with the House, too.

So it is a long process. Senator DOMENICI has been involved in that process, either as ranking member or chairman, I believe, almost since we began. I remember I voted for the original Budget and Impoundment Act way back in 1973 or 1974. This time was probably even more difficult than usual, trying to thread the eye of the needle, trying to get something that can pass.

I believe they have done a good job. It surprises me when I hear some of the condemnation that I just heard from the Senator from Wisconsin and in press conferences. I think this is a good budget resolution.

Some people seem to think that people who work and make money should not be able to keep a little bit more of their money. Anybody who wants to defend this Tax Code can go right at it, but I don't believe it is going to work with the American people because the people I talk to, blue-collar working neighbors in my hometown—shipyard workers, paper mill workers, refinery workers, small business men and women—don't think it is fair; they think they are overtaxed by the Federal Government, and by the State and local government, for that matter. They think they pay too much for gasoline taxes, which contributes to the price with which they are having to deal.

They think the Tax Code is too long, too complicated, and unfair. When I say: Does anybody in this room want to defend the marriage penalty tax, any Democrat, any Republican, anybody, old or young, married or single? I see not one hand.

Yet we have been yapping around here for 10 years about how we are going to get rid of the marriage penalty tax. It has gotten so serious, my daughter who got married 2 years ago, has threatened to run against me if I don't finally do something about this. This is an unfair, ridiculous tax.

Does it cost some money? Yes. Whose money is it, for Heaven's sake? It is my daughter's and her husband's, a young couple trying to make ends meet. Nobody wants to defend that.

The very concept of the Federal Government coming in when you die and reaching into the grave to take the benefit of the fruits of your labor in your lifetime is so alien to what America should be about, I just cannot believe people will say estate taxes are a good idea.

Oh, it will not affect me. I have asked for and been given a life in this institution in the Congress. I came here young and don't have any money and don't really ever expect to have very much. But the idea that my son, who has chosen a different route, would have the Federal Government show up and say: Give me 40 percent or 50 percent of your life's earnings—I am not going to give him an estate; he is not going to inherit it; whatever he has, he is going to earn it—I think that is wrong, fundamentally unfair and basically wrong. Rates are too high; taxes are too high.

Oh, there will be weeping and gnashing of teeth—the very idea that you would lower the top rate from 39.6 to 33 percent. You go out and ask the average man or woman on the street, do they think one-third of what they earn is enough to pay for Federal taxes—anybody—anybody should pay more than a third, 33 percent?

Then you have to add on to that State taxes, local taxes, sales taxes. On everything you do from the moment

you get up and flip on a switch and you drink that cup of coffee until you get your paycheck, you are paying taxes.

I realize in this city, unbelievably, it is hard to cut taxes. But I don't think this is too much. In fact, I don't think it is enough. Allow people to keep a little bit more of their money through a child tax credit? We should not do that? We have been trying now to get some other things, such as the education savings account, in place to allow people to save a little bit more of their money.

People say we need more money from the Federal Government so we can help people with the things they need, such as child care. I have a unique idea. How about letting them keep some of their own money and pay for their own childcare as they see fit. That will be one way to do it. I am not saying we don't need additional support, but that is one way to do it.

I think what is provided in this budget resolution is not an unfair amount. We went through a process. It is not as high as I would like for it to be, but it is a pretty substantial amount. I assume it has bipartisan support.

In terms of spending, why, listening to some of the stuff I heard on TV last night, you would think we were going in there and slashing Federal programs all over the place. I thought it said a 4-percent increase—4-percent or more increase over what we are going to spend in this fiscal year. Is there anybody in this room who thinks it is only going to be 4 percent? No; this opens the bidding, unfortunately. I hope the President will veto these appropriations bills if they start providing increases of 6 percent, 7 percent, 12 percent. There is no limit.

We have been saying it right here in the Senate. Does anybody want to offer an amendment to have more spending? Just offer it. It will pass. It doesn't matter what it is. I don't know what we think. I guess we think somebody somewhere some other day will pay for all this or we will worry about that later.

This is a balanced, fiscally responsible budget resolution. It provides for additional action on Medicare. It provides for increases in a lot of areas. The President's budget does provide for some reductions in certain areas, but can we not have priorities in the Government? Can't we spend a little more here and a little less there? Isn't a 4-percent increase over an inflated expenditure from last year and the previous year an adequate amount? I think it is.

I don't know, maybe we are just not reading the same budget resolution. I think this is a responsible resolution. I urge Senators to vote for it. Again, it is not the end of the process. This is the kickoff. We have been wrestling around with this thing now for 3 months, and this is just the kickoff. We haven't even gotten into the first quarter. We need to get it done.

Think of the alternative if we didn't pass this budget resolution. What happens? We are stalled out right here and cannot go forward with the annual appropriations bills, with the tax relief package. There would be uncertainty about what would be available, I guess, in certain entitlement programs.

I hope we can calm the rhetoric. Sure, there will be substantive disagreements. There will be people who advocate spending more or less at various places. That can be done. We have budget resolutions. We have authorization bills. We are going to be continuing to vote on education. We are going to have more spending for education. Everybody knows that; that is part of the package. I am for that. I think further investment in education is a good investment. I am prepared to support it.

There are going to be emergencies. Unfortunately, there will be disasters somewhere in this country, probably in my own State. We have floods, tornadoes, droughts—everything but locust so far. We will help people with their disasters.

We are going to have emergency requests for defense. We have costs that were unexpected in health care and additional steaming and flying time. But we will work through that process.

I hope we will overwhelmingly pass this resolution tomorrow and go forward with the bills that will follow in due course.

Again, I say to you, Senator DOMENICI, thank you. I know it is never easy. For some reason I am not quite sure, you have been willing to continue to do it year after year. I will be looking forward to hearing what you have to say about the final product. I know Senator CONRAD will have some remarks, too, and then we will go to a vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Madam President, I know Senator CONRAD will come to the floor in the not too distant future. But until he arrives, I want to take a moment to comment on the budget resolution and respond, in part, to some of the comments made by the distinguished majority leader.

I don't know that there has been a budget resolution during my years in the Senate, or at least as Democratic Leader, that has generated greater anger and frustration among our colleagues than this one.

There are three concerns we have with this budget resolution. I want to address each of them briefly and accommodate other Senators, if they wish to speak.

The first is process.

This process was an abomination. I have great respect for the distinguished chairman of the Budget Committee. I admire him for a lot of reasons. I know that he isn't the one who calls all the shots in all cases. But I think this process is inexplicable. As we profess the desire and a need for bipartisanship, I don't know why we have a process that is so highly partisan on an issue that is so important.

I think it is fair to say—and I don't know that any Republicans would ever dispute it—that the Democrats were virtually locked out from the beginning on this issue. No Democrats participated. There wasn't a markup in the Budget Committee, therefore you didn't see Democratic participation in formulating this budget or Democratic opportunities to offer amendments. There was none. You didn't see any participation among Democrats in the conference committee—none, zero.

I am sure that when those who created this budget process nearly 30 years ago and enacted it into law, as well intended as they were, they did not envision decisions as paramount as these being made in some closed room, locking out one party, denying the opportunity for Democrats to be involved. I don't think that they even imagined that something like this could happen.

Unfortunately, that is precisely what has happened. I believe it is fair to say that there isn't a Member of this body who has seen this budget in its entirety other than the chairman. I can guarantee you there are no Democrats who have seen it. Yet, with less than 24 hours to review it, we are being asked to vote on a budget blueprint that will dictate our fiscal policy for the next 10 years. We have been given nearly a $2 trillion budget without a fair opportunity to evaluate it, without an opportunity to participate, and now we are being asked to vote up or down.

This is an abomination. This is inexcusable, especially in a 50/50 Senate.

But here we are. I am angered and frustrated that we even have to begin this debate with this reality. It is an outrage.

The second concern I have is this budget is a fabrication. This isn't a budget. This is a make-believe document with more holes, more gaps, more missing pages, and more questions than there are answers. Don't like the baseline? Create a new one. Don't like the numbers? Come up with other ones you like better. Don't know what the President wants to do on the defense budget? Give him an opportunity to put that number in later.

This isn't a budget. This isn't even close to a budget. In fact, because this is such a fabrication, we have virtually destroyed the budget process as it was originally designed by excluding Democrats and by making up things as we have gone along.

Let me rephrase that. Democrats haven't made it up because we weren't involved. Republicans made it up.

This is a fabrication. This is make-believe budgeting. This is a budget process gone awry.

This is absolutely one of the worst documents we will be called upon to vote on in this Congress. We ought to be ashamed that we are bringing this budget to the floor—ashamed.

The third problem is, of course, policy. I have to say, I don't know anybody who can say without equivocation the policy implications contained within this budget fabrication. If it is possible to come to any conclusions based on what little we already know, here are the conclusions one has to reach.

First of all, don't let anybody fool you. If this budget does go into effect, the tax cut is so large that we could ultimately tap right into the Medicare and Social Security trust funds.

There is no question about that. The Medicare trust fund is no longer inviolate. All of these votes and all of these speeches about protecting Medicare and having this lockbox are malarkey. This budget threatens the Social Security trust funds. Malarkey.

When this resolution passes, we will dramatically hasten the date when the Social Security trust fund becomes insolvent. I guarantee you that we are going to hear actuaries talk about how short the viability for the trust fund will be as a result of this resolution passing. Why? We just heard the majority leader, and he was right about this. Who can vote against a tax cut? Who can vote against all of these wonderful-sounding opportunities to reduce taxes? If you are a politician of any ability, you ought to be able to support a tax cut. However, this President couldn't even get his $1.6 billion.

I have to say no one should believe that the final cost of the tax cut is $1.4 trillion because that is what Republicans say it is.

I want to see what they do when the alternative minimum tax is proposed. That is $300 billion. I want to see what happens when the extenders are proposed. That is $100 billion. I want to see what people say when they are forced to acknowledge that the cost of the tax cut must include about $400 billion in interest. Where does that go? That is $800 billion on top of the $1.4 trillion. That is $2.2 trillion, and we haven't gotten to capital gains reductions, business tax breaks, pension reform, and all the other tax ideas that someone is going to conjure up.

This budget is going critically wound the fiscal well-being of this country, in a manner in which we haven't seen in our lifetime.

This is outrageous. We gut education at the very time we are talking about education policy in this country. It is gutted. Don't let anybody mislead you. You are going to hear nice-sounding phrases about sense of the Senate language and ideas about how we are going to be able to manipulate the numbers to put additional education money in the budget.

If you believe that, there is a tooth fairy and a bridge I want to talk to you about.

This isn't budgeting with priorities the American people care about. There isn't any new money in here for education. There isn't a real plan in this budget to provide a prescription drug benefit—regardless of how many people campaigned in the last election on the importance of this issue. This is a tax cut made into a budget, and it is a budget lacking in virtually everything we said is important. Is Social Security important? Not in this budget. Is Medicare important? Not in this budget. Is education important? Not in this budget. Are prescription drug benefits important? Not in this budget.

I daresay everything we stand for on this side of the aisle is lost in this budget. I can't think of a reason why somebody who holds the core values that many of us hold would ever even think about voting for a fabrication as disastrous for this country as this budget will be.

If I sound exercised, I am. If I sound as deeply troubled as I hope my rhetoric would convey, I am.

This is not good for the country. It is not good because there has been a complete breakdown of whatever modicum of bipartisanship that I hoped a 50/50 Senate would deliver. There isn't any bipartisanship reflected in this budget.

I think the die is cast. But I hope somehow over the course of this year we can truly find ways to reverse some of the incredibly disastrous decisions that have been made in this budget.

Senator CONRAD has done an outstanding job in leading the Democratic caucus and providing us with his guidance and his insight. I publicly want to acknowledge my gratitude to him. No one cares more deeply. No one has studied this issue more thoroughly. As a consequence, no one has the respect of our caucus more than the Senator from North Dakota. I thank him for that. This has to have been a frustrating experience for him. But there will be another day.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, fellow Senators, and anyone listening, I am very sorry that the minority leader is frustrated. I wish he were not. I am also very sorry that my facts and what is in this budget, as I see it, are very different from his—very different. I have been part of this process.

I want to talk for a minute about partisanship. I can tell you when President Clinton won office and had a Democratic Senate, they did the budget. They did the tax bill. We did nothing. We were left out of everything. And I do not think our leader came to the floor and called that the kind of names the minority leader has used today.

Frankly, I think the Senate, itself, will prove that what he has said is wrong because they will vote for this budget resolution. If it were a fabrication, they would not vote for it. If it were unreal, they would not vote for it.

But I want to start by using a different approach. I want to start by saying: If not now, when? If not now, when will the American taxpayer get back some of the surplus that their taxes have generated? How big must the surplus be, Madam President, and fellow Senators, before we give the taxpayers some of their money back? How big should it be?

It is $5.6 trillion. That means getting that much money more than we need for the policies of our Government. Should it be $10 trillion before we give them back any money? Should it be $20 trillion before we give them back some? Absolutely not. Madam President, $5.6 trillion yields to the American people in their hands for use as taxpayers—let's get the number—$1.25 trillion. Remember, there is a $5.6 trillion surplus, and then, secondly, $100 billion that must be spent this year and next year as an economic stimulus. And the Democrats wanted that. Of course, they did not want the other one. They did not want the long-term one.

So every single thing has been invented by way of the fault of this budget, to put it in the way of one thing, and one thing only: taxes given back to the American people. In fact, the minority leader, again, to borrow his own words, is frustrated. I tell you, tomorrow I think the Senate will indicate that it is frustrated, that it is frustrated in not giving back the taxpayers some of their money, and they are going to vote to do that.

Frankly, I wish we were here without controversy and that those who lead on that side and those who lead on this side, including this Senator, could say: This has been done together; we have had total bipartisan support. But let me tell you, we have already gone from the $1.6 trillion that the President asked for in the tax cut, and with some Democratic help we are down to $1.25 trillion, plus $100 billion for stimulus.

How far down would we have to go under the idea we would have bipartisan support, and write this together in the Budget Committee, and go the conference, Democrat and Republican? Just think of it. It is already, on the one hand, being claimed as a loss for the President because he did not get enough tax cuts, and, on the other hand, it is too much; and, therefore, we talk about everything wrong in this budget because we would not like to see this tax cut pass.

The good news is, fellow Americans and taxpayers, regardless of the rhetoric of today, within a week to 10 days, the Finance Committee of the Senate will produce a tax cut bill. It will come to the floor. Then we are going to see how many support it and how many support the stimulus of $100 billion spread equally this year and next year. I surmise there will be plenty of support for it.

But every obstacle is put in its way by those who lead on the other side of the aisle. Now they complain: It's too big a tax cut. But the President did not get what he wanted. And there are all these other things we should be doing, not giving back money to the taxpayers.

So I again say: If not now, when? And I answer my own question: Now. Give them back some of their money. It is not an extraordinary amount. Social Security is funded. Some would like to say: Before we give the tax cuts, we want to fund the next generation of Social Security. I don't know about that. I think we put all the money into Social Security that they are entitled. No matter what is said on the other side of the aisle, it is our position—and I think it is right—we do not touch Social Security and we do not touch Medicare.

For those who want to get up on the other side of the aisle and just say we do, I stand up on this side of the aisle and say we don't. You can believe who you would like, but we have committed to not bringing you a budget that offended the Social Security trust fund. We have committed that we will not do that on the HI, the Medicare program. You say we do, and I say we don't.

So let's see how we vote tomorrow. If there were a large group of Senators who thought we were violating Social Security and Medicare, this would not be adopted tomorrow. So they can keep on repeating it, but let's see how the Senators vote tomorrow.

One thing happened during this process that is very extraordinary and good. The other side of the aisle has developed a budget ranking member who works hard, knows a lot, and makes his case. It is not that I agree with him all the time, but he makes his case. I commend him for that. And he does it well. It is just that on this one I do not believe he is going to tell all of you and tell the American people what this budget means.

I would like very much to quickly tick off on the charts right there behind me—and we will do it early on so the other side can go on and produce a chart that says it isn't so, but I do not like to say things in this Chamber that I do not believe are true and honest and forthright.

First, it reduces the debt to $818 billion, down from $2.4 trillion. For those who complain that it isn't enough, just look at the numbers. We have Treasury bills that we owe to people that are accruing interest, that we have to pay every year; and it is $2.4 trillion. It is almost as large as the surplus—well, half as large. We are going to reduce it to $818 billion, which is the largest decrease we have ever had in history and I believe very close to the maximum amount we can do. We can talk about what it does in terms of the budget percentages, and the like, but those are the numbers.

It protects Social Security and the HI trust fund. In fact, on Social Security, none of the tax cuts here are predicated on any numbers that include Social Security trust fund money. That is taken out first. I don't know what else we ought to do to live up to our lockbox commitment, unless it is to start a new funding to take care of Social Security in another way that we have not yet passed and don't know anything about.

It maintains a balanced budget every year: $219 billion in fiscal year 2002, $48 billion not counting the Social Security trust fund surplus.

When you added it all up, people thought we were using the entire contingency fund, but we did not. There is a $½ trillion—$500 billion—unspent over the 10 years. For those who want to do something about the ID or special ed program, by making it mandatory, have at it. Let's get it passed. It can come out of that $500 billion. We just could not pass a new mandatory program in a conference with the House for that piece of education.

On taxes, let me repeat, you can state it two ways, but, in essence, over the next 11 years, the American people will either get back in their pockets or have changed the law such that $1.25 trillion is back in their pockets. In addition, for the rest of this year, plus next year, we will rebate, refund, cut, another $100 billion for the American people.

So you might say this is a $1.35 trillion reduction in taxes for the American people, and that would be a correct statement. Some would like to put it in two pieces: having the $100 billion for stimulus first, and take that out first. That is all right with me. The sum total is what I have said.

I repeat: If we are not going to give them back some of this money now, when will we? Will we wait 3 or 4 more years and find ways to spend the surplus? If you want to wait, I am not sure who will spend it, but somebody will spend it. You had better get on the record giving some back to the people.

On spending, there are a lot of ways to look at this budget, but I suggest that the spending in this budget, as we add it up, is $1.92 trillion for the year 2002—excuse me, $1.952 trillion for everything. This authorizes, for the appropriations process, $631 billion in 2002. In that number there is both defense and nondefense, and Social Security and everything, but the 631 is just appropriated accounts. There are many assumptions made—many—but the appropriators will decide what they are going to fund out of that total amount and how. If they do what we assume, they will put an awful lot of it in education. They may not do that, but you can't do more in a budget than to say that we assume it and ask the others to pay for it.

In addition to the President's increase, which was about 4 percent for the year, we have authorized an additional $6.2 billion for nondefense programs. That is without emergencies, which are handled as they were in the past; when they come, they are added to the budget. We didn't change that. The House wanted to change it. That was one of the things over which we fought in an argument with reference to using our budget process.

Let me talk about Medicare for a minute. I can't understand when there is a reserve fund in this budget that says, if you do a new Medicare bill with prescription drugs in it, $300 billion is given to you to spend: How much did you want: 500? 600? 800? The House had 146. We won that debate. We got 300, just as the Senate had voted. I don't know what else we can do. We have stated unequivocally, you cannot use any of these programs or moneys to affect either Social Security and/or Medicare.

Let's talk about defense for a minute. How could we have budgeted defense when the President gave us a number and said, we are having a top-to-bottom review and it won't be ready until a few months down the line? Are we supposed to say, let's leave it all out of the budget and start over in 3 months? The best thing I could see to do was the following: Fund defense as he requested it, which is not a very big increase, and put in this budget that when the top-to-bottom review is completed, whatever their number is, they get to submit it, and it belongs to defense and nothing else.

But guess what. It is not a free ticket. It has to be appropriated by the Congress. If we don't like it or don't want some of it, we don't have to do it. I didn't know any other way to do it. It is not intended as a blank check. It is intended as what I have described.

There are some saying, what else did we do in this budget, besides the $300 billion we set aside for Medicare, if they reform it and if they do prescription drugs? Frankly, I am very pleased to say the House gave on that to us; it went our way.

In addition, we had a program in here to make sure that the farmers this year, 2002, and for the decade—we had unanimous support that we ought to increase the authorization and allocation and use some of the contingency fund for that. Guess what. The House had nothing for that in their budget, and before we finished, they said, we think we should do a little more than the Senate—I assume because that is what they want to show their House Members. So we did agriculture at an $80 billion increase, to make sure it gets money. Frankly, I don't know how much more you can do. I believe if we are not right, it has so much support that next year or the next year we can do more. We could take it out of the contingency fund and fund agriculture even more.

Here on the Senate floor, Senator KENNEDY was going to propose a very large amount which had to do with uninsureds—health uninsureds. Senator SMITH of Oregon, joined by his friend, Senator WYDEN, proposed an add-on to the health uninsured fund of

$28 billion to be used over the next 3 years. They can use it if they want in the committee for uninsured benefits and enhancement of the program. The House had zero. We got a full $28 billion. They gave us everything we asked.

So Medicare, health insurance for the uninsured, agriculture, and then in the area that many here worry about, home health care. For home health care we have another reserve fund that comes from Senator COLLINS' work in the Chamber. We put in $14 billion to make sure that that fund continued unabated; that is, that home health care funding, instead of coming down at a point in time which is currently prescribed, it says that sunset brings it back up, and it is almost $14 billion.

There is another one Senator GRASSLEY and Senator KENNEDY have been working on that is called the childcare credit and earned income tax, $18.5 billion for its expansion. Then we added to it nearly $8 billion to expand Medicaid benefits to children with special needs.

We don't hear anything about any of those as this budget is denounced, as it is called a fabrication, as it is called a sham of process, none of which is true. I have brought budgets here many times. This is a solid budget.

I will close by talking about the appropriated accounts because every year we have to do 13 bills. There is a lot of commotion about them and a lot of trouble getting them done. I just described to you what is going to happen on defense. I might tell you this budget resolution contemplates a supplemental this year principally for defense, which everyone knew would happen. This contemplates it because we have room under the caps for this year. But if you take just the nondefense part of this budget that is appropriated, our mathematics and arithmetic say that that is going up 5.5 percent, not 4 as the President asked.

There are some—perhaps the other side—who will say it didn't go up at all. Let's deal with that on apples and apples, the totality of the accounts now this year and the totality of the domestic accounts next year. There is $6.2 billion in new money, and the percentage increase is 5.5. If the House knew it was 5.5, I am not sure they would pass the resolution. So they used their numbers; I used mine. I know what is going to appropriations, and it is not 4 percent for which the President asked. It is not 5 percent. It is more than 5 percent.

Can you get along with it? I don't know. Is there enough money for education? Absolutely. If you want to take every assumption in this resolution that is attributed to education and then add the 6.2 new money and assume they are going to give some of that to education, you have funding of education programs that I believe will be voted for in appropriations by both sides of the aisle because there is sufficient money in there for education, including the increase, a substantial increase, in special ed. In fact, I think the amount is $7 billion, 7.9—almost $8 billion for special ed, the IDEA program.

Let me say to everyone, the Senate voted in an amendment that said, do a huge new mandatory entitlement program for IDEA for special ed. It is not a mandatory entitlement. It is appropriated every year. Congress has not done well, except in the last 2 or 3 years, in doing its part for the funding for special ed kids, but we are starting up that path. For anybody who is looking in this budget to find a brand new mandatory entitlement for IDEA, it isn't here. I guarantee you, there is no way you can get a new entitlement out of the House. It will work its will, and we will work our will. But we couldn't do it in the budget resolution because they said it is a whole new way to approach it; do it separately. There is still money around if you want to do that, still money around over the decade, without violating the balanced budget, Medicare, or Social Security.

I guess I could close just like the minority leader did. If you think I am kind of worked up, first of all, that is the way I am all the time. However, I am just slightly worked up more than I normally am. While he is infuriated about certain things, I am infuriated about some things said by a number of people about this budget. I won't say who.

I close by saying to everybody, there is no doubt in this Senator's mind that the people of this country deserve to have a significant amount of this surplus given back to them now. There is no doubt in my mind that it is fair; it will help the American economy; it won't hurt it. I close by saying, if we can do anything to stimulate the economy through tax changes, this resolution will permit that to happen. It will permit money to be spent from the hands of our people, encouraging them to spend money and keep the economy going, or to pay some of the money for expenditures for gasoline and related fuel prices.

I anxiously await hearing from my friend, who I have just indicated, right in the middle of my speech, has done a great job becoming very learned and an expert. He knows I was here a lot longer and, probably today, he is willing to stand up on the floor and say in all ways I know more than Domenici about the budget because I have really learned it. I would not doubt that. I think I have just enough to get it done. It has been a lot of years.

The charge of partisanship could be levied more times than not, as budgets have been produced in this place. I didn't go through each one to find out how partisan they were, but I can vividly remember the budget resolution ran through here with no Republican support, no votes in the Senate, when President Bill Clinton was given what he requested.

Whether that was the right thing to do, who knows? Whether this is the right thing to do, some say no on the other side; some say yes. I believe the American people are watching us. We had a big chart that said: $5.6 trillion overpayment to Government, $1.25 trillion to the people in taxes, and $100 billion to stimulate the economy by giving people back some money to spend. We will let them judge whether that is too much.

Let me close by saying those are simple numbers. They already take into account a 4-percent growth in Government. That still yields those numbers. How much more should Government grow? I don't know. I surely think there ought to be enough to give people tax cuts. It seems to me it is rather basic and simple. Nonetheless, because we are a different body than the House, we have more allocated than 4 percent, for which the President asked. Repeating, for the domestic side, it is more like 5.5 percent they are going to have to spend. We still have those numbers—$5.6 trillion, and $1.25 trillion of that going back to the people, plus $100 billion to be in their pockets this year and early next year as a stimulus, for them to use as they see fit.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I rise to speak to the budget resolution that is now before us and the conference report on the budget resolution.

First, let me say I have profound respect for the chairman of the Senate Budget Committee. I have worked with him for the 15 years that I have been in the Senate. He is a man of integrity. He is an honest man. He is well motivated. He does what he believes is the right thing for the country, and certainly for New Mexico. I don't question any of that in the slightest degree. He also has an outstanding staff that benefits the entire Senate. So I want to stipulate right at the beginning that I have respect for him and affection for the Senator from New Mexico as well.

He is Italian. My wife is Italian. Italians have a lot of spirit. We saw some of that spirit from the Senator from New Mexico this afternoon. I am Scandinavian, and we Scandinavians don't show a lot of emotion, although from time to time it erupts. We also have strong feelings and strong beliefs.

I believe this budget is a very poor product for the conference committee. One of the reasons I believe it is a poor product is because the fact is that Democrats were locked out completely from the process of writing this budget. There was one meeting at the conference committee, the initial meeting, in which we were allowed to give opening remarks. After that, we were locked out completely. We weren't invited. In fact, we were told by the chairman we would not be invited back. That was true on the House side as well. The Democrats were simply excluded.

So make no mistake; this is not a bipartisan budget. This is a budget that

has been written by one side and one side alone. They bear full responsibility for what flows from this budget.

I agree with much of what the Senator described in this resolution. What he is not talking about is what is not in this budget. What he is not talking about is what has been left out. What he is not talking about is what is left hidden from view and how profound an effect it will have on every decision we make in this Congress, not only for this year but for 10 years, and for years beyond. These are consequential decisions that are going to have an effect that is going to last a very long time. Let no one make any mistake about it.

The Washington Post, on Monday, had as their lead editorial this work, entitled ''An Unreal Budget.'' That is a pretty good description of this budget because it, I would say, borders on bizarre. It is not a budget. It is not a budget. Much of what we know is going to be spent is not revealed in this document.

The conclusion of the Washington Post was:

> The theme of this budget is tax cuts first, sweep up afterward. It's the wrong way around. Budget resolutions are supposed to foster fiscal responsibility. This one will have the opposite effect.

Unfortunately, in my judgment, that is true. This budget abandons fiscal responsibility. The chairman of the committee referred back to 1993 and suggested, well, it was really done the same way then as it is being done now. That is not true. In 1993, we had a full markup in the Senate Budget Committee. This year there was no markup in the Budget Committee. In 1993, we had full debate, full discussion. What we did in 1993 was to reduce deficits.

Let's go back to 1993. We had a $290 billion budget deficit the year before. We put in place a package that reduced deficits each and every year for the 5 years of that budget resolution. We then followed it with a bipartisan plan in 1997. That one we did in a bipartisan way. We finished the job of balancing the budget and moving us from deficits to surpluses.

This is an unreal budget because there are whole chunks of spending that have been left out, conveniently forgotten, like the two pages that were lost in the House that hung up consideration of this package. The two pages that were lost, interestingly enough, just happened to be the critical two pages. You know what. They did not just lose two pages; they lost dozens more because this budget does not contain all the spending that is going to be done, and all of us know it. It is not in this budget because it is the only way they could make this budget add up.

If they put in what we all know is going to happen, it does not add up, and they take us back to the bad old days of deficits and expanding debt.

That is the harsh reality about this budget. First of all, we ought to deal with the uncertainty of the projections that surround this budget. All of this is based on a 10-year projection that we will enjoy a surplus of $5.6 trillion over the next 10 years—$5.6 trillion. That is not money in the bank; that is a forecast, that is a projection, and the people who made the forecast themselves have warned us of its uncertainty.

What did they tell us? They said there is only a 10-percent chance that number is going to come true, $5.6 trillion. There is a 45-percent chance there will be more money. There is a 45-percent chance there will be less money. That forecast was done more than 8 weeks ago. With what has happened in the economy during this interval, between the time the forecast was made and today, do you think it is safe to assume there is going to be less money or more money?

Just one statistic. Yesterday, the productivity numbers were released for the first quarter of this year. They were estimating that productivity would be up 1 full percentage point. Instead, it went down by one-tenth of 1 point.

That difference makes a profound change over time. That would wipe out hundreds of billions of dollars of this forecasted surplus over time.

The people who made the forecast provided us this chart. It shows in the fifth year alone, we could expect a range of anywhere from a $50 billion deficit to more than a $1 trillion surplus.

How did they come up with that forecast? How did they come up with that projection? They looked at their previous forecasts. They looked at what they said in the past and they looked at the difference between what they predicted and what actually occurred. Then they applied it to this forecast. As I say, in the fifth year alone, they said it could be anywhere from a $50 billion deficit to more than a $1 trillion deficit. That is how uncertain this forecast is.

What does that tell us? I believe it says we ought to be cautious. We ought to be conservative. We ought to be careful. This budget throws caution to the winds. This budget reminds me very much of what happened in 1981: A new President, big tax cut proposal, big defense buildup proposal, rosy economic forecast, and what happened. The deficits and the debt of this country multiplied geometrically, and they put this country in a deep hole which has taken 15 years to dig out. And these same folks with the same view and the same philosophy are getting ready to do it all over again.

Unfortunately, this time there is not time to recover. In the 1980s, we had two decades to recover. This time the baby boomers start to retire in 11 years, and then it all changes. We will go from massive surpluses to substantial deficits because all of a sudden the number of people eligible for Medicare and Social Security increases dramatically.

That is the first thing we need to keep in mind about this budget: the uncertainty of the forecast that underlines all of the assumptions. I do not think there is a family in America who would bet the farm or bet their household on the basis of a 10-year forecast. I think most people would say it would be nice if it came true, but we are not going to count on it; we are going to be careful in what we do.

I put up the Washington Post editorial that called it an unreal budget. Boy, they have it right. It is unreal. Huge chunks of Federal spending are not included.

Let's start with defense. We all know what is going to happen with defense. Here is a story from USA Today, Friday, April 27: ''Billions Sought for Arms.'' The Secretary is going to propose a boost in defense spending of $200 billion to $300 billion over the next 6 years. That is just USA Today. This is in headline after headline all across the country. The Secretary of Defense is going to ask for very major increases in defense expenditures, $200 billion to $300 billion in additional spending in just the next 6 years.

Not a dime of it is in this budget. It is not here. They did not include it. Why not? Let's go to the Secretary of Defense and see what he said. The Secretary of Defense was interviewed on ''Meet the Press'' on May 6, this past weekend.

The host of the show: Will you get the $10 billion more in defense money this year that you need?

The Secretary of Defense: I don't know. I have not gone to the President as yet. He wanted to wait until after some of the studies had been completed and until the tax bill was behind us and we're going to be discussing that over the coming weeks.

The host of the show: But you need more money.

The Secretary of Defense: We do.

And indeed they do, but the money is not in this budget. This is supposed to be a budget document that tells us the revenue and the spending of the Federal Government over the next 10 years, but it is not that. This is a document that excludes as much as it reveals.

It leaves out this major defense expenditure. Oh, not completely. It provides for a reserve fund so if there is a determination by the chairman of the Budget Committee that more money should be added, and the authorization committee believes it, they can put it in with no vote in this Chamber, no opportunity to review their decision. They make the decision alone.

It does not resemble representative democracy to me. It resembles a handful of people in a back room making a decision that has a profound impact on the budget of the United States without ever being considered by the full Senate or the full House of Representatives. That is what is in this budget: the authority to do precisely that. That is the wrong way to do business.

The President has said education is the top priority. Those have been the

President's remarks during the campaign and during his first weeks in office: Education is the top priority. We have speech after speech in the Senate by our colleagues saying education is the top priority, but it has not been given priority in this budget because there is no new money for education in this budget.

In the Senate, when the budget resolution was considered, we adopted a Harkin amendment. It reduced the tax cut by $450 billion. It gave $225 billion to education. It gave $225 billion to a further paydown of our national debt.

We got back from conference committee zero—not a dollar. In the Senate, a bipartisan Breaux-Jeffords amendment was adopted by the Senate providing $70 billion for IDEA. That is the disabilities act. That is the promise the Federal Government made to local school districts, that we were going to fund a certain percentage of the cost, a promise we have not kept.

When we moved to keep the promise, we adopted an amendment when the budget resolution was considered by the Senate. We added $70 billion to keep the promise. Every dollar was taken out. There is not a single new dollar for education in this budget. They have increased it by inflation, but there is no new money for education.

The same is true of Social Security. The President had a big meeting at the White House. He said in that meeting: We have to strengthen Social Security. The baby boomers are going to start to retire, and Social Security will be under enormous pressure.

He is right. That is going to happen.

Here are contradictory goals of the administration, an editorial from the Columbus Dispatch of December 24, 2000:

> . . . the tax-cut proposal works against this plan to begin privatizing Social Security. Experts differ on how much this ''transition cost'' will be, but it won't be cheap. Thus, Bush's 10-year $1.3 trillion tax cut would deprive the government of the cash it would need to pay the $1 trillion transition cost for the first 10 years of Bush's Social Security privatization plan. The goals are contradictory.

They couldn't be more right.

In the Democratic plan, we provided $750 billion to strengthen Social Security in the long term. Not one penny of that is in this budget.

If we review the situation, we have the administration proposing a major defense buildup, but none of the money is in this budget. We have the President saying education is the top priority, but there is no new money in the budget. We have the President saying Social Security should be strengthened, but there is no money in the budget.

Excuse those who are somewhat skeptical about this process. The Democrats are locked out. The budget is written in secret in a back room in the dead of night, presented to us late at night. And when we look at the details, if they put in the things they say they are for, if they put in money for education, if they put in money for defense, if they put in money to strengthen Social Security, the budget doesn't add up. That is their problem. That is the little secret about this budget.

If it is a compendium of the expenditures of the Federal Government, what we are really going to do in terms of additional resources for education, a buildup for national defense, strengthening Social Security, if you put all those numbers on a page and add them up, you will find we are raiding the Social Security trust fund and the Medicare trust fund. That is why they don't have a full budget. That is why they don't add it all up. That is why they have excluded the money to strengthen Social Security, the money to build up national defense, the money to improve education. They know what we know: When you couple it with the President's massive tax cut, it doesn't add up.

They will be into the Medicare trust fund for $200 billion and more. They will be into the Social Security trust fund by hundreds of billions of dollars. That is the reason we have what the Washington Post called ''an unreal budget'' because they don't dare come with all of the details. They don't dare come up with all of the numbers. They don't dare come up with what they really intend to do because it doesn't add up.

Let's talk a little about the tax cut in this bill. They say this tax cut is $1.35 trillion. It is a lot of money. It is a stunning amount of money—$1.35 trillion. Indeed, the amount reconciled over 10 years is $1.25 trillion. The economic stimulus is another $100 billion.

There are other elements they do not talk about, including expanded health insurance coverage, designed in the Senate to be additional spending that is now written as a tax cut, another $28 billion. A special reserve fund has been set up that blocks points of order against the use of that money. They have refundable tax credits—I call those tax cuts—for health, childcare, for earned-income tax credit, another $37 billion. Those they call ''spending.'' They don't call them tax cuts. In common parlance, any person would recognize them as tax cuts because that is what they do.

We have a reduction in SEC matters and other minor matters, another $19 billion. The total revenue reduction is $1.434 trillion. That is one of the reasons they don't have the defense buildup. That is one of the reasons they have taken out the additional money for education. That is a reason they don't have the money to strengthen Social Security for the long term. The tax cut has become so large, the package doesn't add up if you put in all of the things we know are going to happen.

We have a calculation on how the final conference agreement threatens Social Security and Medicare. This calculation will not be found in the budget. They don't want to put these numbers on a page. They don't want to add them up. They don't want to have any one place to look to, to put the whole puzzle together. When we put the puzzle together, it does not fit; it does not add up.

If we adjust the defense number for what the new Secretary of Defense is talking about, if we adjust the tax cost by what is needed to fix the alternative minimum tax, which now affects 2 million taxpayers, if we pass the tax cut plan before us, the Joint Tax Committee says it will affect over 30 million taxpayers. There is no provision to deal with that problem in the President's tax proposal—none. It costs $292 billion just to pay for fixing the alternative minimum tax problem created by the Bush tax cut.

Make no mistake; that amount of money isn't enough to fix the alternative minimum tax in total. That is just the amount of money necessary to fix the costs created by the Bush tax cut itself. The alternative minimum tax is growing every year with the effects of inflation. We have gone from 2 million people being affected. If the Bush tax cut passes, the Joint Tax Committee says 35 million people are going to be affected. Boy, are they in for a big surprise. They think they are getting a tax cut. What will happen is they will get pushed into the alternative minimum tax—one in every four taxpayers. But there is not a dime in this budget to fix it.

As I indicated, there is no new education money. Even though this week on the floor of the Senate, or last week, we passed an amendment to put in $150 billion for education, there is not a dime of it in this budget.

Emergencies. Over the next 11 years, we can anticipate $55 billion of emergency costs—tornadoes, hurricanes, earthquakes, floods. Every year it averages $5 billion. They don't have it in here. We know it will happen. When you apply the interest costs to all of the above, you are deep into the Medicare trust fund and you are deep into Social Security: into the Medicare trust fund by over $300 billion; into the Social Security trust fund by over $200 billion.

What is it going to be? We are not going to have the defense buildup? We will not have any new money for education? We will not fix the alternative minimum tax? We are not going to have emergencies? I don't think so. I think we have a budget document that simply is not telling the whole story. It is telling just a piece of the story, just part of the story because if you tell the whole story, it does not add up.

This is an especially important time because we know that in this 10-year period we are forecasted to have surpluses. We also know from testimony before the Budget Committee that we are headed for a circumstance very soon, in the next decade when the baby boomers start to retire, that the Social Security and Medicare trust funds face

huge cash deficits. Those deficits start in the year 2016, and you can see what happens after that. There is a cascade of red ink. The deficits explode.

There is no provision in this budget for strengthening Social Security for the long term. In our proposal, we had $750 billion. It is just another one of the missing pieces of this budget.

Some have said there are all these increases in spending in this budget. The chairman talked about a 4-percent increase. The only 4-percent increase that is in this budget is for 1 year in one part of the budget. It is not the whole budget. The whole budget over the 10 years goes up by 3.5 percent a year. Domestic discretionary spending goes up by 2.9 percent a year on average over the 10 years of this budget. This is not big spending.

In fact, what we see, as I have indicated, is that total spending goes up on average per year for the 10 years of this budget by 3.5 percent a year. Discretionary spending goes up on average by 2.9 percent a year. When we look at spending as a percentage of our gross domestic product, which the economists tell us is the best way to measure changes in spending over time, what we see is the total spending in this budget resolution is going to the lowest level since 1951—the lowest level since 1951. The size of Federal Government, that has already come down rather dramatically over the last 9 years from 22 percent of the gross domestic product to 18 percent of the gross domestic product today, will continue to decline to 16.3 percent of the domestic product in the year 2011, the lowest percentage since 1951.

Discretionary spending is military spending. Discretionary spending is the other part of domestic spending that is not controlled by the mandatory spending. Discretionary spending is law enforcement, education, parks. Discretionary spending as a percentage of GDP is going to its lowest level ever, 5.1 percent. So much for the claims of big spending.

In fact, the appropriated spending levels shortchange education and other critical priorities. Here is what the Senate passed: $181 billion over 10 years. The conference committee has actually produced a cut of $56 billion. This is going to mean dramatic changes—in law enforcement funding, funding for parks, funding for education, funding for health care—because the money simply will not be there.

The fundamental difference in our budget approach and the budget approach of the other side has been, yes, we have had a difference on the tax cut. We believe the tax cut should be about half as big and that we should do twice as much on debt reduction, both short term and long term. That is the fundamental difference between us on budget matters. But, in addition to that, we also have different priorities on education. We believe that is a place where a significant investment should be made. But in this budget there is no new money for education.

As I indicated, this budget threatens to put us back into deficit, back into debt, and to see the gross debt of the United States actually larger at the end of this period rather than smaller.

The chairman of the Budget Committee has talked about the reduction in the so-called publicly held debt. That is what the red line on this chart shows. He is exactly correct: Debt held by the public is going down. Debt held by the public is going to be paid down to about $800 billion.

But at the very same time that debt held by the public is going down, debt held by the trust funds of the country is going up. In fact, the gross debt of the United States at the end of this period is going to be substantially more than it is as we meet here today. The gross debt of the United States today is $5.6 trillion. At the end of this 10-year period, the gross debt of the United States will be $7.1 trillion. The gross debt is increasing by just about the same amount as the tax cuts contained in this budget resolution.

Here is a comparison of what President Bush proposed, what the Democratic alternative was, what the Senate passed, and with what the conference has come back. There are two differences that really jump out at you. They are dramatic differences. The first one is in education, where the President proposed $13 billion of new money over the 10 years, Democrats proposed $139 billion, the Senate passed $308 billion, and the conference committee has come back with nothing—zero. That is a pretty dramatic difference.

The second dramatic difference is in strengthening Social Security. The President had reserved $600 billion of the trust fund to strengthen Social Security for the long term. We proposed $750 billion, but not out of the trust fund because we believe that is double counting. We took it out of the general fund to strengthen Social Security because that is what we believe it will take to do the job. Just taking money out of the trust fund does not solve the problem. This problem is bigger than saving every penny of the trust fund.

What came back out of the conference committee? Nothing, zero.

The same on defense—defense—where they have left out the massive defense buildup that we all know is about to be proposed by the Secretary of Defense.

I want to conclude by saying I believe there are six key reasons to oppose the budget resolution conference report that is before us.

No. 1, there is no new money for education.

No. 2, the magnitude of this tax cut crowds out other important priorities, including national defense, including education, and including expanding health care coverage in America.

No. 3, this budget hides the defense spending increases by providing a blank check to the Bush administration. I have never seen this before, a reserve fund created where one person is able to determine what the defense spending of the United States is going to be. That is a rather extraordinary grant of power to one individual.

No. 4, it sets up a raid on the Social Security and Medicare trust funds just as certainly as night follows day. Because of all they have left out, because of all they have left aside, because of all that we know is to come, this budget sets us up for major raids on the Social Security and Medicare trust fund.

No. 5, it cuts spending for high priority domestic needs by $56 billion over the next 10 years. That, by the way, was something that just changed in the final hours of the conference committee.

No. 6, it fails to set aside funds for strengthening Social Security for the long term.

I submit to our colleagues that those are the reasons this budget conference report should fail.

I urge my colleagues to oppose it so that we can have a bipartisan budget agreement, one that is in line with the values of the American people.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, it almost seems to me as if we are not reading the same pages. To say that there is no new money in this budget for education is incomprehensible to me.

In fact, this chart shows exactly what the increase in spending in education is. This is just the baseline. We are probably going to increase spending even above this.

But this is the Clinton request. This is the Bush request. This is what we are voting on right now. The difference is $40 billion, and the Bush request we are voting on as a baseline is $44 billion. We probably have $6 billion on top of that.

When we are talking about no spending increases when the President has clearly given an 11.6-percent spending increase, the largest of any Federal agency, I think it is just some vast miscommunication.

Senators understand what is in this budget resolution. We are increasing spending 5 percent above last year's level. That is bigger than the rate of inflation.

There is not a business or household in this country that considers a 5-percent increase a cut—a cut in our spending needs? I think what we have here is really a difference in basic philosophy and basic priority.

The budget we will be voting on today increases spending in priority areas, such as education at the 11-percent increase. It will also increase defense. It will increase other high-priority areas. It will bright-line some areas; there is no doubt about that.

Those are the kinds of choices that every American has to make in their own household budgets. Why shouldn't

Government do the same thing with the American taxpayer dollars? Let's not forget whose money it is. Let's not forget our responsibility for the stewardship of other people's money. If we had our own choices, maybe we would spend it a little differently. But we must be careful stewards of taxpayer dollars. That is what this budget does.

It also makes sure that we return some of the excess money back to the people—$1.5 trillion in tax relief for the American people, which is about 25 percent of the projected surplus. It is not the whole surplus; it is approximately 25 percent of the surplus.

Social Security is going to be kept totally intact. All of the money that comes into the Social Security fund is going to stay with Social Security because we are going to need to reform Social Security to keep it from going into a deficit in the year 2038. We are going to keep the money in the Social Security trust fund, just as we said we would do, in order to prepare for the reform that will keep Social Security secure. And the downpayment on that is to keep the money that is coming in, in Social Security, right there and not allow it to be spent for any other purpose.

Yes, there is a difference in philosophy. We will see that coming forward. The difference is we believe the money that is coming into the coffers of the taxpayers of America should be carefully managed, should not be overspent, and should not be thrown around but should be carefully spent and carefully prioritized, just as the people who earned the money and send it to Washington do in their own budgets. That is our responsibility. That is what we are producing in this budget today.

Senator DOMENICI has been the most bipartisan and cooperative chairman of the Budget Committee I have ever seen. When I heard some of the comments about Democrats not having a role in this budget, I couldn't believe my ears because I have been watching Senator DOMENICI for the last month. I know he has been in meeting after meeting after meeting with the Republicans and the Democrats on the committee and, yes, with the White House to have the total input and, yes, with Members of the House of Representatives to try to see what we could do to pass a bill in a very evenly divided Senate.

I think what was produced by the Budget Committee under the leadership of this great chairman is a wonderful budget that shows we respect the taxpayers of this country and we are going to manage their dollars wisely. We are going to spend more on public education, on Medicare, and on defense. We are going to spend money in high-priority areas. We are not going to spend more money in every area. I think it would be irresponsible to do that.

Let's argue about those priorities. That is legitimate. That is a legitimate debate. But to say that we aren't increasing spending when we are increasing spending 5 percent, which is more than the rate of inflation and more than the spending increases in most households in this country, I think we have to get the truth on the table.

The fact of the matter is, in the area of education, we see the largest increase and the highest level of funding for education for disabled children. We are making a commitment to the disabled children in this country. We are increasing Pell grants for low-income college students. It is a clear priority in this bill that we would try to make sure every young person in this country will have the ability to go to college if that is his or her desire. If that is a goal of a young person in this country, through Pell grants, low-interest loans, we want to make it possible for those children to have that opportunity.

We have increased Pell grants every year I have been in the Senate. In fact, I submitted the amendment that made sure Pell grants went to needy students first rather than being peeled off by other interests.

New reading program: That is the basis of the increase in spending in the education bill, $1 billion, tripling current funding, because we believe that if a child can't read at grade level in the third grade, that child is going to fall behind. There is no doubt about it. If you wait until that child drops out of junior high school or high school, of course, the child is lost. Of course, the child is frustrated. In fact, that is exactly the cause of many high school dropouts today—not that the young people aren't smart. It is not that they can't learn. It is that they cannot read. If they cannot read, of course, they can't comprehend the math and the history and the geography: Of course, they can't.

That is why we are prioritizing getting to those young people at the early stages and finding out what the weaknesses are and correcting those weaknesses while they still have a chance to have the full benefit of their education.

There is $472 million to encourage school choice and innovation. We are increasing the spending for historically black colleges and Hispanic-serving institutions. That is an area where I have been involved since I have been here. We have been year after year after year increasing the spending in both of those areas, and this is going to increase what we have increased by 30 percent by the year 2005 because that is a priority.

Under the National Science Foundation, there will be $200 million for new K–12 math-science partnerships to try to encourage our young people to go into science and math because we know that is where the future is.

I commend the Senator from New Mexico. I appreciate that he has been a responsible steward of taxpayer dollars in our country. I would not want someone in the Senate who thought that just because the money was there it should be spent whether or not the program warranted the added expenditures. And continuing spending is still something that should be worth applauding. If we are continuing the spending for a program, if we are increasing it, then I think that we have determined it is a priority. I think we should look at this budget from the eyes of the people we are representing to determine what the priorities should be, and knowing that perhaps we did not increase in some areas, and we might have decreased in some areas, but that does not mean we will not be able to come back and do something later. But it does mean we are going to keep our eye on the ball, and we are going to increase education spending, we are going to increase defense spending, we are going to increase Medicare, we are going to keep Social Security secure, and we are going to do the things that people elected us to do; that is, to represent them and their tax dollars with respect for their hard work to earn that money.

The people of this country are hard working. They are productive. They should be able to keep as much of their money as we do not need for Government, to spend as they wish on their families. I do not think that is a bad priority.

So, Mr. President, I thank the Senators. I thank them for this budget. I hope we will have a budget adopted by a large majority because I think they have done a good job.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have been talking with the ranking member. There are two Members on his side ready to speak. I am going to just speak for a couple minutes, and then the other side can have two in a row. If we have another speaker come, we will work to accommodate that person, but that will be after the two speakers from the other side.

Mr. CONRAD. Might we just lock it in at this point?

Mr. DOMENICI. Sure.

Mr. CONRAD. We will recognize the two Senators after Senator DOMENICI has concluded his thoughts. On our side, we will first go to Senator KENNEDY.

I ask Senator KENNEDY, are you seeking 20 minutes?

Mr. KENNEDY. Please.

Mr. CONRAD. Twenty minutes for Senator KENNEDY.

I ask Senator STABENOW, are you seeking 20 minutes?

Ms. STABENOW. Fifteen minutes.

Mr. CONRAD. And then we will go to Senator STABENOW for 15 minutes, if we can enter into that as an agreement after Senator DOMENICI concludes. I ask unanimous consent that that be the sequence of recognition.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I have no objection.

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

Mr. DOMENICI. Let me say to the Senator, I hope the debate does not go late into the evening. But I think we are just on a path now where each side has 5 hours. I hope we do not use it. I do not know if you will use it. But essentially, for anybody who wants to speak on our side, you just heard the consent agreement. So if you want to speak, it will be 40, 50 minutes before we have another Senator from our side. I hope we will all recognize that. We will welcome you before the evening is out.

I might say to anybody who is concerned about what this budget resolution has in it, I have stated that one time today. But I believe as a wrap-up I will go through again everything that we have put in this because anyone can pick out certain areas and debate them.

But overall, I want to first thank those Democrats who voted with us, those from the other side, so we could go to conference. Anyone who thinks they have not had an impact, they have had an impact. They had an impact to permit us to get a budget, go to conference, and get a conference report that included tax cuts. How the tax cuts are going to come out and all the ingredients of that over the next 11 years, including 2 years of stimulus, clearly, those on the other side will have a very big impact on that. Not only did they have an impact as we left here, they had an impact as we produced the conference report for the Senate and final wrap-up of the language that went to conference. But essentially I assume they will be big participants in the kind of tax reductions that people are going to get. I thank them for that.

I am going to summarize on education because I am sure there will be many speakers speaking to what they thought should have been the numbers on education. I just want to say that whatever the President assumed as education increases are assumed in this budget. IDEA is assumed to increase to $7.6 billion. That is up $1.25 billion. That is a 20-percent increase in special education. There will be some who think it should be more. There are some who think it should be a new entitlement program. But it did receive a pretty substantial increase.

For those who are wondering about funding IDEA, we can look at the last 3 years, plus this year, and we are well on our way to living up to our commitment, which has taken a long time to fulfill. We are moving toward the amount we assumed the Federal Government's participation in special ed was going to be a long time ago. We are moving aggressively on that. We have another $6.2 billion that could be, if the appropriators see fit, part of it—they could use all of it, half of it. It could go to education if they choose to do that. That is what is in the budget resolution.

I want to wrap up and say, I understand my worthy opposition talks about the assumptions in this budget, the 10-year totals. I can only say to everyone, if you believe that we have assumptions for growth, inflation, and the like, that are optimistic, then go ask those who are not optimistic what their assumptions are. You will find this is a modest set of assumptions. It is not extraordinarily high. If some President in the past and some Budget Director in the past used rosy scenarios in economics, we did not. It is not in this budget. It was not done by CBO.

Lastly, there is no question that everyone wants to do something in Medicare. I repeat, I think when the Senate comes out with a $300 billion reserve fund—the House had $145 billion or $146 billion, and we end up with $300 billion—we did pretty good, considering that both Houses have to speak. We doubled the amount the House had. Frankly, it is a pretty good number for those who want to work on that.

There are many other things that will be addressed from time to time. I will try, after much discussion, to recap it all. But it may be we will get through early enough and, who knows, maybe the Senate will not want to even hear from me again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask that the Presiding Officer be good enough to tell me when I have 5 minutes remaining.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. KENNEDY. Mr. President, I see my good friend from New Mexico in the Chamber, Senator DOMENICI. I saw, as well, my friend from the State of Texas in the Chamber. They were commenting earlier—particularly the Senator from Texas—about how this budget protects education. Well, it does not.

We Democrats challenge the chairman of the Budget Committee or the Senator from Texas to take the budget here and show us where and how education is protected in this budget—because it is not protected.

We will give you a very quick lesson on why the budget fails to protect education.

First of all, let's take how this budget considered the tax breaks. It is very clear, on the top of page H1961 in the CONGRESSIONAL RECORD, in how it treats the tax cut. It says, ''the Senate Committee on Finance shall report a reconciliation bill'' which is to include their tax reduction of $1.25 trillion. The Finance Committee shall do it.

Then we come over to the issue of defense on page H1962. And it says: ''Senate Defense Firewall.'' It says: ''for the nondefense category, $336,230,000,000 in new budget authority.'' That is less than current services. Still nothing on education. Written right here, H1962. Let's at least, when we are talking about this extremely important measure, get away from general rhetoric and let's look at the facts written in this budget.

It says right up here on H1962 that you won't even have current services. Current services means the money needed to provide the same services the government provides today next year. It costs more to provide the same services because of inflation. We are not even going to get the current services level of funding for domestic discretionary spending under this budget. It is written right in here on H1962, but you need to look at the Congressional Budget Office report to know that current services in domestic discretionary spending will require $343 billion next year, in fiscal year 2002.

Then we stay on the same page H1962 and go on to the third column. As a reserve fund for agriculture, it says the Committee on the Budget may increase the allocation for farmers by $66 billion.

Well, then, let's go ahead and look in here on page H1964 and see what they say about education, when we have all of that written in here to set money aside for tax cuts and defense and agriculture. Now we come to education.

If the Senator from Texas or the Senator from New Mexico can read the language of the report at H1964 and tell me where we have this increase in funding for education, I will be glad to wait here for all 10 hours to hear it. But we won't hear it. They can't get there because this is what it says: ''It is the sense of the Senate.'' No requirement, no mandate, no words like ''shall,'' or even ''may'' set aside specific funds. Instead, ''It is the sense of the Senate'' that the budget makes available ''up to $6.2 billion.'' ''Up to''—''up to.'' Come on. Please, please, for those who are going to support this budget, don't insult our intelligence by maintaining that this is any commitment even of $6 billion for education. It is not. Read the language. It is not there. Don't distort the facts. No new money is in this budget for education. If it is, answer where it is, because it isn't there. We have given you the references. We await the answers. We await the answers from the members of the Budget Committee.

Money for education just isn't there. It is a sham. The commitment of the administration and the budgeteers is a sham when it talks about increasing education for the children of this country. It is a cliche. It is a shibboleth. It is nonexistent. This budget doesn't provide it. We wait to find out where it is. We wait to have it clarified. We wait for them to tell us how they claim it is in here. They won't be able to do it.

The only increases they have provided in the last year come not from new money but come from the cuts in other programs. We heard Members here on the floor of the Senate talk about the increases last year in education. Wouldn't we be proud to have all this in education? You wouldn't be proud of it if you were a worker who needed job training and you had your job training resources cut $540 million next year alone. And you wouldn't be

proud if you were a mother and your child needed early learning opportunities—you wouldn't be so proud of it. And you wouldn't be so proud of it if you were a young person trying to upgrade your skills to be trained as a pediatrician and to try to get some help for training so that we have the best doctors in the world to take care of our children. They slashed that program too, to pay for what they call a one-time ''increase'' in education.

The list goes on—the slashing of clean water, the slashing of renewable energy, the slashing of the National Science Foundation, disaster relief, community policing. It adds up to, what, $1.8 billion, just to the level of new real dollars that the administration claims it will provide for education. Come on, please. Please, Budget Committee. Please don't insult our intelligence. You don't have a nickel in this program that is new money in terms of education. You just don't have it.

The money you put in there you have taken from someplace else. You don't have it in the outer years, as we see the outer years. Here it is in the Education Department's own 2002 budget. You talk about it here on in the budget resolution as well. There will be no new education money in the outer years. It is very clear what it is, on page H1983, if you read through the ''Functions and Revenues'' paragraph on the first column. The budget plainly says, ''This report assumes that the 2002 discretionary function level grows by inflation.'' There it is. There it is, ''grows by inflation.'' That is all for education. It grows by inflation. That means zero increase in 2003, zero increase in 2004, zero increase in 2005, zero increase in 2006, zero in 2007, zero in 2008, zero in 2009, zero in 2010, and zero in 2011. That is in the CONGRESSIONAL RECORD on page H1983. There are others who may know this document better than I, but I'm just reading the words written in this budget. We have cited the relevant passages.

This budget comes in the wake of actions of this body, in a bipartisan way, to provide $250 billion through the Harkin amendment. We look around here, we look around and say, the Harkin amendment? We were going to reduce the tax bill by $200 billion so that education could be realistically funded. Is there $200 billion in here for education? No. Is there $100 billion? No. Is there $50 billion in here? No. Is there $10 billion? No. The Senate voted, Republicans and Democrats, to reduce the tax cut by $250 billion and put that in education. Is there $5 billion in here? No. Here's what new money the budgeteers and the administration provide for education: Zero.

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

Mr. KENNEDY. I yield for a question.

Mr. CONRAD. The Senator had up a chart that shows the Bush increase compared to the Clinton proposal.

Mr. KENNEDY. Yes, the differences in proposed Elementary and Secondary Education Act increases.

Mr. CONRAD. That is what is in the President's proposal. It is very interesting. We had the Senator from Texas hold up a chart that talked about the President's proposal. Will the Senator from Massachusetts correct me if I am wrong? Are we voting on the President's proposal or are we voting on the conference report?

Mr. KENNEDY. The Senator, who has spoken so eloquently, knows we are voting on the budget conference report.

Mr. CONRAD. And would the Senator from Massachusetts correct me if I am wrong. As I read the conference report, there is no increase in any year for education, other than the sense-of-the-Senate language buried deep in the document that every Senator knows isn't worth the paper it is written on because it means zero. Isn't that correct?

Mr. KENNEDY. The Senator is absolutely correct and reminds us about the importance of being accurate in the representation of what is in this budget.

I hope that those on the other side will take the time to come out here, because we are challenging them on this point on education. Come out here and refute us. Show us where we are wrong. I would welcome that opportunity to hear how we are wrong. As the Senator from North Dakota has pointed out, the language is what is guiding. It isn't what we think might be in here. It isn't what might be in here at some time. It is what is in here. It is what is written down for all to see.

The Senator has pointed out the controlling language which shows that there is no increase in education. Education is funded at current services, adjusted for inflation. That is against a background of an administration that has said: ''Education is the No. 1 priority. We are not going to leave a child behind.''

Well, we know that two-thirds of the children are being left behind with the current expenditures in title I—two-thirds of them. And 50 percent of the children are being left behind in the Head Start Program. And 95 percent of the children are being left behind in Early Head Start. And we know we are only funding about 15 percent of the eligible children in terms of the childcare for working mothers.

We are leaving no child behind? We are leaving them all behind, a whole generation behind. That is what this budget does.

Mr. CONRAD. Will the Senator yield for another question?

Mr. KENNEDY. I am glad to. I hope the Senator will give me 5 more minutes at the end.

Mr. CONRAD. I would be happy to do that.

It is interesting, our friends on the other side, first of all, they hold up the Bush budget, which has nothing to do with what we are voting on here. We are voting on the conference report that has no increase in education. They also tried to misrepresent what the Bush increase was by claiming credit for money that was advance funded last year when he was Governor of Texas. He didn't have a thing to do with it. They count that in their so-called 11-percent increase he has proposed. Of course, none of that is relevant to what we are doing here because we are dealing with the conference report.

Correct me if I am wrong because I look at discretionary spending, the total pot of money that education comes out of, and just to keep pace with inflation it requires $663 billion for 2002. The conference report says they have $661 billion available. So they have cut $2 billion in the total pool of money from which education funding comes. On top of that, defense is about half, and they have increased defense by $3.3 billion. So other non-defense programs have to be cut by $5.5 billion to make this budget.

Will the Senator from Massachusetts indicate whether that is a correct conclusion or not?

(Mr. BROWNBACK assumed the Chair.)

Mr. KENNEDY. Well, just in answering—and I intend to—I was looking at page H1867 of the budget that Republicans filed before they lost their two pages last Friday, which contains the exact same numbers for education, Function 500, as the budget they filed today, if you look at page H1960. I don't know whether the Senator is looking at this particular passage. It has in here education training employment and social services. Then it has the budget authority, the outlays for 2001; from 2002 with $76 billion; for 2003, $81 billion; 2004, $83 billion; 2005, $85 billion—you get the drift—then $85 billion to $87 billion. It goes up about $2 billion a year. That looks like flat funding to me, adjusted only for inflation, which describes what is going happen if Republicans have their way. Flat funding on education all the way to the year 2011.

Let me ask the Senator this. In this budget proposal, they include figures in the tax program, don't they—for example, for all of the out years; am I correct? Maybe the Senator can inform me. As I understand it, the budgeteers were able to say what would be given or returned to taxpayers all the way through to 2011, but we can't do it with regard to education.

Mr. CONRAD. The Senator makes a powerful point. What they have done—when they want to reserve money for something, they know how to do it. When they want to reserve money for the tax cut, it is in a reconciliation instruction that goes to the Finance Committee, and they have to report it. When they want to reserve money for defense, they know how to do it. They create a special fund, and the chairman of the committee will decide how much we spend on defense. It is a remarkable

thing that one person has the power to decide what we are going to spend on defense. When they want to have funding for education, there is no reserve fund. They say it is the top priority. There is no reserve fund, and there is no increase. In fact——

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

Mr. CONRAD. We are talking a real increase for education. It would require more than inflation, would it not, because the student populations are growing. It isn't enough to just offset inflation. The school population is growing. So the truth of the matter is, in real terms, education is being cut under this budget.

Mr. KENNEDY. Well, the Senator is correct. The fact is, the poorest students—yes, poorest students—in America over the last few years have increased in terms of poverty, yet the budget includes nothing to address their needs. We expect a doubling in those attending school who speak foreign languages, yet we have nothing in this budget but current services; no increase. The total numbers of students are increasing, and we'll have a million more to educate by 2009. We will have a million more students that will come to school over the next 9 years whose interests aren't even being taken care of. This budget is a complete abdication of responsibility to students in this country.

I wonder if I could have 10 minutes for to offer my prepared remarks for the consideration of my colleagues.

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senator from Massachusetts be given 10 minutes off the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I oppose this budget conference report. Its tax breaks are excessive and tilted overwhelmingly to the wealthy, and it ignores the urgent need to invest effectively in education.

Under the enormous tax breaks provided by this Republican budget, there will be no funds to increase education investments for the next ten years. It's a budget that fails to provide the nation's schools, teachers, parents, and communities with the resources that are essential to carry out the reforms we all know are needed. At the same time, it gives away half a trillion dollars to the wealthiest one percent of Americans. How very Republican!

That is the bottom line proposed by this Republican budget—nothing new for education, and over half a trillion new dollars for those whose incomes already average over $1.1 million a year.

This budget doesn't just leave some children behind—it shortchanges an entire generation of children. Nowhere are Republicans' misplaced priorities clearer. After all the talk about the importance of education to children's lives and the nation's future after all the talk about unmet needs in the nation's schools—after all the Senate votes to increase investments to meet the most basic education needs, this Republican budget contains no new funds for education. It tells millions of children who attend disadvantaged schools that they don't count—that no help is on the way to give them the long-overdue support they need and deserve.

The federal budget is, in fact, the budget of the American family as a whole. Individual families have their own budget process. They know what they would like to do, but almost all of them have limited resources, so they set their priorities. Wise family budgets guarantee that the family's basic daily needs for food and shelter are met. Then the family can plan for long-term needs. And after these needs are met, vacations and other non-essential items can be included. Families know that failing to budget for both immediate and long-term needs can risk financial disaster even bankruptcy.

The same is true of the federal budget. Yet Republicans have chosen to purchase the country club membership, the extravagant cruise, and the high-priced sports car, while refusing to invest in educating the youth who will lead the nation and guide its economy in the next generation. Today's irresponsible Republican decisions on this budget jeopardize America's future.

Two basic facts tell the whole sad story about how badly this budget treats education. First, it spends every penny of the total $2.7 trillion surplus that will be available over the next ten years, without providing even one penny of that surplus to improve education. Second, to add insult to injury, this GOP budget caps education funding at the amount needed only to maintain current services and then it applies heavy additional pressure to cut education funding even below the level of current services over the next ten years.

In allocating the surplus, the only real Republican priority is to protect the GOP tax cut. As the conference report bluntly states, ''the Committee on Finance of the Senate shall report to the Senate a reconciliation bill not later than May 18, 2001 that consists of changes in laws within its jurisdiction sufficient to reduce revenues'' by $1.25 trillion through the year 2011. This language requires a tax cut. It sets a date certain for the tax cut to be sent to the full Senate for a vote. It sets a specific amount for the tax cut. And it even protects the tax cut from a Senate filibuster—the ultimate protection for GOP tax cuts. Wouldn't it be nice if our Republican friends would give the same tender loving care to education that they give to tax cuts under their budget?

Democrats support a tax cut. But it must be a responsible tax cut—one that the Nation can afford, and one that is fair to all workers. But the tax cut supported in this budget flunks those tests. The GOP tax cut—so explicitly touted and protected in this budget—is irresponsible, excessive, unfair, and unaffordable.

In addition to tax cuts, this GOP budget carves $66 billion out of the surplus to enable the Agriculture Committee to increase support for farmers. The GOP budget also adds special protections to increase spending on defense. Democrats support these priorities too and their inclusion in the conference report clearly demonstrates that Republican members of the House and Senate know how to write a priority into the budget when they want to. But they refuse to do so for education.

Let's look at what the budget does say about education. Here it is: ''Sense of the Senate With Respect to Education Funding. It is the Sense of the Senate that this budget resolution makes available up to $6.2 billion in discretionary budget authority for funding domestic priorities. . . .'' As we all know, a Sense of the Senate provision has no binding legal effect on anyone. That is why Republicans did not use a Sense of the Senate to protect their tax cut.

The language of this budget proves that Republicans know how to protect their priorities—it also proves that education is nowhere to be found in Republican priorities. All of the GOP education rhetoric rings hollow when you examine the GOP budget.

The Republican leadership could easily have accepted the recent Senate vote on the Harkin amendment, to reduce the size of the tax cut by 20 percent, so that support for education could increase by $250 billion over the next 10 years. A responsible proposal like that would enable vital improvements to be made in education throughout America, while still leaving $1 trillion dollars for tax cuts. But no, said our Republican friends. They want every last penny for their tax cut, and they write specific language to force it into law.

In addition, they added specific budget language that restricts education funding. The conference report itself specifically sets education discretionary funding at CBO's current services level, and then adjusts it for inflation for the next 10 years. These figures fail to account for the estimated increase in enrollment of 1.1 million new students, which the Department of Education expects between now and 2008. When this increase is taken into account, it is clear that Federal spending per student will actually decline under the Republican budget. With all the challenges facing schools and students today, Republicans intend to reduce Federal funding per student.

The conference report goes even further, and directs a $5.5 billion cut next year in total nondefense discretionary spending—2 percent below the amount that the Congressional Budget Office says is needed to maintain current

services next year. With all this downward pressure on overall domestic discretionary spending, any increased education investments will be difficult at best to achieve.

We are already well aware of the difficulty in funding the small $1.8 billion increase that President Bush proposes for education next year. None of it comes from the surplus. Instead, Republicans expect it to come from cuts in other domestic programs, as I pointed out earlier.

Those cuts include—$541 million from a range of job training programs, $20 million from the Early Learning Opportunities Act, $35 million from Pediatric Graduate Medical Education, $497 million from the Environmental Protection Agency's Clean Water Fund, $156 million from renewable energy programs, $200 million from basic science research at NASA and the National Science Foundation, $270 million from disaster relief at the Federal Emergency Management Agency, and $270 million from Community Oriented Policing Services. All of these cuts are demanded under the Republican budget in exchange for a small increase in education.

If the tax cut were trimmed by 20 percent, major resources in the range of $250 billion over the next decade such as the Harkin amendment that was approved by a bipartisan vote in the Senate a few weeks ago, would be available to vastly improve education throughout America, without requiring cuts in other essential services.

America's school administrators, teachers, and State and local leaders all know the need for additional Federal investments in education. They are the ones today who cannot afford to hire additional qualified teachers in overcrowded school districts. They are the ones today who confront the social problems that arise when 7 million children are left alone after school each day. They are the ones who endure first-hand the crumbling school buildings.

Countless business executives know the needs too. They are the ones who see young children enter school without being ready to learn. They are the ones who search in vain for qualified employees among graduates of many public schools.

Across America, 12 million children live in poverty—but we provide the full range of title I Federal education services to only one in three of these children. The rest are left to fend for themselves, with the most inadequate teaching, the most inadequate attention, and the most inadequate facilities.

Four of every 10 children in poverty are taught by teachers who lack an undergraduate major or minor degree in their primary field. Gym teachers are teaching math. English teachers are teaching physics.

Because Federal title I funding is so deficient, needy children have more teachers' aides than teachers. The vast majority of teachers' aides never graduated from college. In all, at least 750,000 well-meaning but underqualified teachers are working in classrooms across America today.

Nearly one in five first through third graders are attempting to learn in overcrowded classes of 25 or more students. In these cases, some students inevitably lose in the competition for essential teacher time. Entire classrooms suffer as well. Ask any teacher or student. Overcrowded classrooms undermine teaching for everyone.

In addition, over 7 million latchkey children are left alone to fend for themselves after school each day, without constructive after school activities to keep them off the streets, out of gangs, and away from drugs and other dangerous behavior.

Even though Head Start ranks as the public's favorite Government program, inadequate funding continues to deny Head Start to half of all eligible children. In the case of Early Head Start, 95 percent of eligible infants and toddlers are left out.

Students with disabilities suffer from the same Federal neglect. The Federal Government has long promised to fund 40 percent of disability education. Yet it still only funds 17 percent. As a result, only one in six children with a disability obtains the needed Federal support.

This afternoon, we have a release from the White House talking about the education program:

> The administration strongly opposes the costly and unwarranted amendment to convert special education funding under the Individuals with Disabilities Education Act to direct spending.

Unwarranted. Tell that to the parents of disabled children. Tell that to local communities that are paying for these services. Unwarranted. Unwarranted against this tax program? Please.

For years, States have called on the Federal Government to live up to its commitment to disabled students. Yet this Republican budget says no.

Fourteen million children attend crumbling schools—schools with contaminated drinking water, heating and plumbing systems that do not work, falling tiles, broken windows, and soot-filled ventilation systems. Seven million children attend schools with severe safety code violations.

Parents across the country are pleading for increased investments to meet these basic needs for modern facilities. But the Republican leadership says no, no, no.

In all of these cases, our Republican colleagues say that ''money doesn't guarantee a quality education.'' What a preposterous response. Money may not guarantee quality education, but it is impossible to provide quality education in today's schools without substantial new investments. ''Reform'' without resources simply rearranges the deck chairs on the Education Titanic.

Make no mistake. The Nation stands at a crossroads. It is long past time for Congress to make the investments that are so urgently needed in education, and we can do so by using less than ten percent of the $2.7 trillion budget surplus estimated over the next decade.

Sadly, lipservice is all the Republican leadership gives to education. We have a unique opportunity to use the budget surplus to improve education, and we cannot afford to waste that opportunity. I urge my colleagues to vote against this anti-education budget and send it back to conference so Congress can do the job that needs to be done and do it right.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized.

Mr. CONRAD. Will the Senator yield?

Ms. STABENOW. Absolutely.

Mr. CONRAD. The Senator from West Virginia is here seeking time on another matter. Could we enter into an agreement that the Senator from West Virginia be recognized for 15 minutes after the Senator from Michigan has completed?

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

Mr. BYRD. I thank the Senator and manager of this conference report, and I thank the distinguished Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to thank our ranking member on the Budget Committee, Senator CONRAD from North Dakota, for his leadership on this important issue and, as well, Senator KENNEDY, who has spoken so eloquently about the fact that there are no dollars in this budget resolution for education for our children.

One of the real pleasures for me as a new Member of the Senate on the Budget Committee has been to serve with Senator BYRD and to learn from him, as well, about the processes of budget and appropriations.

We all, today, stand in opposition to this conference report that puts the United States on a risky fiscal path and threatens the longest peacetime economic expansion in our history.

I had an opportunity as a member of the Senate Budget Committee to sit through 16 different hearings. Secretary after Secretary came forward—the General Accounting Office, the CBO, Chairman Greenspan. In every case, people came forward and said what was driving this economy and these projected surpluses was increased labor productivity.

I echo what Senator KENNEDY has discussed in terms of education. If in every case before the Budget Committee the discussion was about increased labor productivity, doesn't that mean education? It means research and technology development. But if we don't have the skilled workforce to be able to use that technology, to do the research, to be able to work in these new economy jobs, we will not be able to keep this economy going.

When we look at this budget and we see zero being guaranteed for education, it makes no sense. It makes no

sense from an economic standpoint, it makes no sense from a human standpoint, and it makes no sense from the standpoint of our families.

What we are saying regarding this budget is that this is a budget in toto, not just a debate about a tax cut. It is a debate about the values and priorities of the American people. I believe in using and I know the people in Michigan desire using common sense. They want us to be balanced in our approach. They want to see tax cuts. I support tax cuts geared to middle-class families, folks working hard every day, having to make those choices for their families—our small businesses, our family farmers. I support providing meaningful tax relief.

I also hear from my constituents of a concern about paying down our national debt. We have certainly heard a lot of people talk about it for years and years. Now is the time when we can actually do it. We need to do it.

I also hear great concern about making key investments in the education of our children. I hear that whether I am talking to a business group, whether I am talking to a local PTA, or whether I am talking to people in the community on a daily basis. There is a great concern about education and what it means for the future of the country. I hear great concerns about education.

There is more than one way to put money into people's pockets. One way is tax relief. I support that. Another way is to provide lower interest rates by paying down the debt. That means lower mortgage payments. That means lower car payments. Coming from the great State of Michigan where we make a lot of those automobiles, we want people to be able to buy new automobiles. We want those car payments to be low. Lower student loan payments, business loans, all of these things put money in people's pockets.

But there is another item that puts money in people's pockets. That is for those who are senior citizens in this country. When we look at the tax cut proposed for those under $25,000 in income a year, they don't see anything from the proposed tax cut. A large percentage of those are our seniors. For them, if we want to put money back into their pockets, we need to lower the cost of their prescription drugs.

There is more than one way to put money back into people's pockets. I support a variety of strategies that make sure we do that, as well as making sure we are responsible and that we are willing to make sensible commitments for the future.

We will hear colleagues talk about different percentages, different amounts on the budget surplus, but I choose to look at it like this: When we look at a surplus, some of it is Social Security and Medicare. We are paying in; we are building up surpluses in the trust funds. Within 11 years, many baby boomers will start to retire and we will see the major strain on Medicare and Social Security, but we are building up surpluses. If we take that out of the equation and the debate, as I believe we should, and we look at the non-Medicare and Social Security surpluses, when all is said and done, virtually every penny of that surplus, non-Medicare and Social Security, is dedicated to the tax cut. That means for the next 10 years for our families, the only priority we believe American families have is the tax cut geared to the wealthiest Americans with the idea that it will trickle down, through supply side economics, somehow into people's pockets.

Then in order to provide any spending, the majority of the Medicare trust fund is moved over into something called a contingency fund and spent. This budget spends the Medicare trust fund as if it were not a trust fund but as if it were dollars to be spent on other programs.

This is a serious issue underlying this budget. We now find out, in addition to Medicare, this budget spends a portion of Social Security. We know within 11 years baby boomers will start to retire in large numbers. We don't have time to pay it back. This is a serious issue, and there is no doubt in my mind that the way this is structured puts us back into debt. It causes Medicare to be insolvent much sooner—within 10 years—and it seriously weakens Social Security.

What we see underlying this budget and all that is being talked about is the idea of using Medicare and a portion of Social Security to finance this tax cut and budget. I believe that is fundamentally wrong. I support the position that we strengthen Medicare both for our hospitals and home health and other providers, and we strengthen it by modernizing it with the prescription drug benefit for our seniors. I believe it is important we say, ''Hands off Social Security and Medicare.''

We have a budget surplus. There is no reason we ought to be spending a dime out of Medicare or Social Security to fund anything in this budget or a tax cut. Yet that is what is happening. That is a fundamental flaw in this budget. We have a situation where we are using Medicare and Social Security in this budget resolution to fund the tax cut and the budget. We see zero dollars being put aside for education. We find ourselves in a situation where, despite the amendment that was agreed to by the Senate by a bipartisan vote to increase funds for education and to pay down the national debt, in the end analysis those things are taken out. We are back where we started. We are not paying down all the national debt that we can, we do not have dollars included for education, and we have a very narrow, ill-conceived budget resolution in front of us.

I also believe we need to keep our promise to special education, as was talked about earlier. I think we have made several promises as a country. Two of them were Medicare and Social Security—great American success stories, promises made to the American people.

Another promise that was made 25 years ago was that the Federal Government was to provide 40 percent of special education costs for our children in schools. We have yet to hit 15 percent. If we are not going to keep that promise now, when will we keep it? We are hearing now the President is saying he will not support that. Yet when I go home and talk to my teachers and principals, they tell me if we would just keep our promise to special education, that would go a long way to free up other dollars for them to be able to address lowering class size, safety in schools, math and science efforts, reading, and other important areas—if we just kept our promise.

If we cannot do it when we are projecting trillions of dollars in budget surpluses at this time in our history, when will we? When do we keep our promises, if not now?

Finally, we all know we are looking 10 years into the future. We do not have to be doing that, but this is being designed as a process to somehow look 10 years down the road. We know in the Budget Committee, the Congressional Budget Office told us there is a 10-percent chance they are accurate. It may be more; it may be less. It could be a $1 trillion surplus; it could be a $50 billion deficit. We do not know. We are being asked to look 10 years down the road and to guess, to basically gamble with the future of the country and the families of this country by picking a number and somehow spending dollars that we do not know will materialize in the future.

I joined earlier in this debate with Senators on both sides of the aisle to propose that we put in place some kind of budget trigger so that if the dollars did not materialize, they would not be spent. I don't know; I am just a midwesterner. I am new here. But it seems to me common sense says we ought to have it in hand before we spend it. A trigger would do that. Yet there is no trigger in this budget resolution. We are guessing about what will happen down the road. CBO says there is a 10-percent chance they are right.

I urge my colleagues to take another look. We can do better than this. We can do better than this for everybody. We can provide a meaningful tax cut. We can pay down the national debt. We can do it without spending Medicare and Social Security. And we can invest in education and in health care and critical quality-of-life issues for our families if we decide that is what we want to do.

It can be done the right way and can be done in a way that is fiscally responsible, that keeps the books balanced, and makes sure we can be proud when we are done that we have truly kept going in the right direction as a country.

My fear with this budget is it is looking at the future through a rearview

mirror. I am very afraid of what is coming down the road because we are using Medicare to pay for this tax-cutting budget, using part of Social Security, and refusing to invest in education even though we know increased labor productivity is what will keep our economy going. We know what works and what does not work and what needs to be done to be fiscally responsible.

I urge my colleagues to vote no on this legislation and give us a chance, as the Budget Committee, to do our work. We were not given a chance to sit down together and work something out that made sense. It is not too late if we stop now and vote no and decide we are going to try again because we can do better for our families.

I yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, it is my understanding that the order was entered permitting me to speak out of order for not to exceed 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Is my understanding correct that by my speaking out of order the time is not charged against either side on the pending measure? That was what I had hoped.

The PRESIDING OFFICER. That was the Chair's understanding.

Mr. BYRD. I thank the Chair.

Mr. DOMENICI. Might I say to Senator BYRD, I was not here but I would not have agreed to that just because we have plenty of time, 5 hours on each side. But I will not object.

SENATE PARLIAMENTARIAN

Mr. BYRD. Mr. President, the Senate has just undergone an abrupt change in an office well known to all of us here in the Senate, but hardly visible, until lately, outside of the Senate—the office of the Senate Parliamentarian. I wish to make some comments on this matter. But first I would like to commend the outgoing Parliamentarian, Robert Dove, for his years of devoted service and to congratulate Alan Frumin on his assumption of the duties of the office.

In my view, there are important institutional considerations that must guide the selection of any individual who aspires to become the Parliamentarian of the Senate.

A long career in non-partisan service in the Senate offers the obvious benefit of experience, and fosters a detailed comprehension of the Senate's institutional role. An understanding of the Senate's unique constitutional role can best be developed by actually working on the floor of the Senate, and by close observation of Senate debate.

A prospective parliamentarian should have little or no history of active partisan politics but instead should demonstrate an interest in the whole Senate as an institution. An individual with such a background can best represent the Senate's prerogatives in its dealings with the other departments of Government and with the other body, the House of Representatives.

To date, each person who has served as Senate Parliamentarian has devoted a career to non-partisan service to the Senate. Every person who has become Senate Parliamentarian has served at least a decade as an assistant Senate parliamentarian before rising to the position of Senate Parliamentarian. Each person who has become Parliamentarian was promoted to that role from the status of most senior assistant parliamentarian.

The five individuals who have been Senate Parliamentarian—and I have known them all—served an average of 12 years in the Secretary's Office before becoming Parliamentarian, with none less than 10 years. Each Parliamentarian served as an apprentice to his predecessor and progressed in sequence through the ranks following his predecessor.

The first Parliamentarian, Charles Watkins, served in the office of the Secretary of the Senate as the Journal Clerk for 13 years before becoming Senate Parliamentarian.

The second Parliamentarian, Dr. Floyd Riddick, who only recently passed from this life, served in the office of the Secretary of the Senate for 17 years, 13 as assistant parliamentarian, before becoming Senate Parliamentarian.

The third Parliamentarian, Murray Zweben, who I believe only recently was deceased, served in the Parliamentarian's office for 16 years, 13 as assistant parliamentarian, before becoming Parliamentarian. The fourth Parliamentarian, Bob Dove, served as an assistant parliamentarian for 14½ years before becoming Parliamentarian. The fifth Parliamentarian, Alan Frumin, served as an assistant parliamentarian for 10 years and had a total of almost 13 years of non-partisan Congressional service before becoming Parliamentarian.

Mr. President, trust is the basis of all fruitful human relationships. Loss of trust has poisoned many a well

Kings have fallen, presidents have fallen, and Senators have fallen because the people lost their trust. Treaties have been abrogated because trust was compromised. Especially in a body like the Senate, where one's word is one's currency, trust makes the wheels turn. Trust and comity, I would say, are the twin pillars upon which this body really rests.

The Parliamentarian is the keeper of the rules. He guards the precedents. He keeps the game fair. His advice about complicated procedural matters must be above suspicion. Both sides must view him as having no personal agenda—no goal but the goal of the best interests of the institution; no calling but the calling of doing his utmost to see that the Senate remains true to its constitutional mandate. He must be trusted by both sides.

Such an individual must be steeped in the Senate's history and traditions. He or she must understand intuitively not only the rules and precedents but also the underlying principles which they seek to protect and the pitfalls they seek to avoid. His must be a calling and a commitment. His must be a labor of love.

It is heavy, heavy lifting—not a job for a faint heart or a faint intellect.

Benjamin Disraeli once observed that, ''Individualities may form communities, but it is institutions alone that can create a nation.'' The Senate is the one institution in that constellation of institutional stars that comprise the universe of a Representative democracy which is designed to protect the rights of the minority. The right of unlimited debate and the right to amend are prima facie evidence of the Senate's raison d'etre.

Unlike the House of Representatives, unlike the Judiciary, the Senate alone guarantees that the minority will be heard, and will have the opportunity to alter the course of events.

In the Senate, when we speak of the minority of the membership, we also speak of the minority of the States.

The Parliamentarian and his rulings are key to guarding those rights and preventing the Senate from losing its purpose. Remember, majorities change, and it is in the interests of both political parties to have an independent, experienced keeper of the Senate's historical and constitutional mandate.

There must never, ever be a majority or a minority parliamentarian. As difficult as it may be in such times as these, we must all work together to strive to avoid the crass politicization of that critical office. Such an event, were it ever to occur, would be a nail in the coffin of the United States Senate. We must not travel down that road, no matter how tempting such a path may be. Expediency must never become the watchword of the Parliamentarian.

I have given most of my life to this institution of the Senate. To me this is hallowed ground. This Chamber is a sanctuary. To me the protection of the liberty of the people rests squarely on these old floors. I speak not as a member of any political party today. I speak only, as I hope I am, as a faithful steward of this grand and glorious institution. I hope that we all can come together in a spirit of true bipartisanship to reject any tendency to use the office of Parliamentarian as a tool for partisan advantage.

To guard against such a possibility, I urge that any decision to remove or replace a Parliamentarian be the joint decision of both Leaders.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I say to the distinguished Senator, with reference to this place, that while I can't claim to have spent as much of my life as you, it seems almost forever. It has been 29 years for me. It has been

a long time since I first met you. You had been here a long time before you met the Senator from New Mexico. But I have 29 years of activity here of seeing how things are done.

This is a rather unique institution—unique in the very best sense of the word. You really have to be part of it for a while. You can't just read a history book. Many political scientists have written about it, but none have really captured what it is.

What you say about trust and comity is very right. There is no doubt about it. When people ask you how it runs, you say by rules. But by unanimous consent, a lot of the time, Senators can agree. A lot of times they are not here when agreements are entered into. Leadership does that. That is just one example. Everybody trusts them. They trust us who are doing it. We put together a unanimous consent, or my good friend, the ranking member, did, and it sounds right to both sides. Everybody thinks we are not going to cut them out or improperly agree to something. But we run that way.

Unanimous consent is an interesting word. It means a lot of comity, a lot of trustworthiness between individual Members.

I am not as acquainted with the history, but I have known a number of those who are mentioned.

But you took to the floor talking about this great institution of America, and about its moving forward. I thank you.

When I talked about whether your time should come off the resolution and about whether you had 15 minutes or an hour, whatever you needed, you got.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Mexico, my friend.

Mr. DOMENICI. Thank you.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2002—CONFERENCE REPORT—Continued

Mr. DOMENICI. Mr. President, so Members on our side of the aisle understand, I want to say that we are going to go on this evening because there is kind of a gentleman's agreement that we are going to use up most of the time tonight; that is, most of the 10 hours allowed, and set a small amount aside tomorrow just before the vote. I am not dictating that. I am merely saying under the rules we can stay here until the 10 hours are used tonight. I hope we don't use all of it. I don't intend to do so. But if there are Senators who would like to speak, and for whatever reason they want to talk about one portion of this budget, they want to talk about defense, they want to talk about taxes, we have time. I don't have anyone planning at this time to address the Senate.

I want to make a couple of comments, however, before I move to the other side to see if Senator CONRAD has additional speakers. I want to talk about a habit we get into, depending upon what we have been saying and how we have been acting in the past. But, essentially, there were some comments about what the tax bill would look like and how one part of this institution—to wit, Republicans—were for the rich. I assume by that they meant that the other party is for the poor. But, in any event, I think it would be good for the American people, and those who are watching the evolution of a tax bill pursuant to this budget resolution, to know who is going to make the decision about the tax bill. So give me a moment while I tell everyone who is going to make that decision.

The makeup of that bill—that $1.25 trillion over 11 years and the $100 billion that is going to go back to the American taxpayers this year and next year—is not decided or determined by this budget resolution. It tells them how much to do. But the Finance Committee of the Senate decides what are the cuts.

I believe it will serve a purpose to read their names. Then people can think about them as a group, and then remember that at least 11 of them have to agree. Frankly, I believe it is a very representative group. I believe it represents the various philosophical and ideological attitudes of Senators from both sides of the aisle, and even subgroups between it as to Senators.

So let me start: The chairman is Senator CHARLES GRASSLEY of Iowa; the ranking member is Senator MAX BAUCUS of Montana. Senator ORRIN HATCH is second on the Republican side; and Senator JOHN ROCKEFELLER is the counterpart on the Democrat side. Senator FRANK MURKOWSKI is a Republican; and Senator TOM DASCHLE, the minority leader, is a Democrat. Senator DON NICKLES is a Republican; Senator JOHN BREAUX is a Democrat. Senator PHIL GRAMM is a Republican; Senator KENT CONRAD, who has been speaking here about the budget, is a Democrat; Senator TRENT LOTT, a Republican, was also here speaking about the budget; Senator BOB GRAHAM of Florida; Senator JAMES JEFFORDS of Vermont; Senator JEFF BINGAMAN of New Mexico; Senator FRED THOMPSON of Tennessee; Senator JOHN KERRY of Massachusetts; Senator OLYMPIA SNOWE of Maine; Senator ROBERT TORRICELLI of New Jersey; Senator JON KYL of Arizona; Senator BLANCHE LINCOLN of Arkansas.

All I want everybody to know is they are going to decide what the tax cuts are. They are going to decide who benefits over the next 11 years and how we give people back money in an urgent manner this year and next year.

Frankly, I believe if we were to decide we wanted a well-balanced committee, that clearly would make its own decisions based upon very big differences of opinion, that is what you would have. Those would be the Senators. And more than half—half plus one—must agree on what is the tax plan.

I am not fearful they are going to bias this result in favor of the rich against the poor or they are going to bias it in some way that is not common to the desires of this place we call the Senate. I do not see how they could and expect it to be adopted.

So after all the words are finished about who is going to be helped by the tax bill, let me say, no matter what we say in this Senate Chamber in a budget resolution, no matter what we agree to, no matter what we are accusatory about, that group of Senators, with a simple majority required—which means one more than half—will decide what is the tax bill.

Having said that, I want to speak for a moment and then I will yield the floor. I will be pleased, once again, before we finish, to wrap up on what is in this budget and how we got there and how it will be implemented.

I believe it is a good budget. If one were to look at a previous budget and determine that we wanted to look at every single item in it, and analyze it, and take it to the floor and talk about what should have been done versus what somebody else would do, sure, it is subject to others looking at it and saying: We would have done it differently. But I say, whatever the adjectives are that have been used to describe it, it is an honest budget. It may not be what some want, and it may not answer questions the way some would want them answered, but it is a well-intentioned, honest, honorable budget.

I am hopeful that those who helped us get where we are will help us get the vote tomorrow and let the Congress, with the President, decide what is going to happen during the next 8 or 9 months.

For those who are concerned about Social Security or Medicare, let me repeat, on the Medicare side, we have set aside $300 billion that can be used for Medicare reform and for prescription drugs.

How well did we do? The House had $146 billion. They went to our number of $300 billion—a pretty good compromise. We won. They gave up. We have a lot more available if we get a bill.

With reference to farms in America, and the farm program, which clearly, for some reason or another, requires that we supplement the money that would come under the existing law every year by way of emergencies and the like, we have put in a number for the next decade that uses $5 billion in the first year, $80 billion over a baseline that would be the law as we have it implemented on the books. The House even asked that we put in more than we had passed which had received very broad bipartisan support.

If you look at education—we will prepare, before we close, a separate chart about it, but I want to repeat, the special ed program of the United States is going up $1.25 billion year over year. I

know that is not enough for some, but it is a pretty good sum of money for others. The rest of the programs in education, those within the control of the appropriators, surely some that are not real education will come down, but essentially the rest of education will go up 11 percent.

People can say that isn't enough and there are other programs in there that should go up, but let me suggest, as I started today, when might it be right to give the taxpayers back some of this surplus? I think it is now. I think that is what the vote is going to be about: Do we want to really seriously give back to the American taxpayers some of this surplus tax money? And if not now, with a $5.6 trillion surplus, then when? That is what we are trying to do.

We are very grateful we had bipartisan support, albeit it reduced the tax number from $1.6 trillion, which the President wanted, to $1.25 trillion, plus $100 billion in stimulus this year and next year, which would go into the pockets of American working men and women, those who invest, small businesspeople, and the like.

The President did not get all he wanted. Republicans did not get all they wanted. We came to the floor with a budget resolution with $1.6 trillion. I just told you what we ended up with.

Let me also say that when it comes to defense, some have continued to speak about this as if we gave a blank check to the military. I want to repeat, what should we have done when there was almost bipartisan concurrence that the President's top-to-bottom review, if it were going to be credible, should ask us to do some things differently but we did not know what they were, and we could not have them for 4 or 5 months. Would we have said, let's wait around and do another budget resolution for defense? I do not think so. So we said, let's use the President's number for this year, which is a low number, I acknowledge. Then let us say, subject to appropriations when the President is finished, we can put his number in and see what the appropriators want to do but not more than the number he recommends.

I guess we could have done it differently. There are a number of ways to do it, but I do not think it is a blank check because I think Congress has to vote on it, on any additions above his request, which is a very meager request for this year.

I want to also close by saying that I think, because some Senators from both sides of the aisle insisted we do something in the field of health care for the uninsured, we did something.

We have an additional $28 billion over and above the current programs for the uninsured, thanks to Senator SMITH and Senator WYDEN, on which the House had zero. They conceded and said OK. We also have home health care which one of our Senators championed, Senator COLLINS, with support. We put in $13 billion to complete it over the decade with the increases instead of the cuts currently contemplated. In the conference they said: We should have give and take. They gave us the whole number and conceded that we could proceed on that front.

Then there is the bill of Senator GRASSLEY and Senator KENNEDY, the Family Opportunity Act. We went into conference with nothing on that. We came out with $9 billion on top of the other items for just that program. The House gave in and gave us the whole thing.

We had some great successes in the direction of championed causes that came from the Senate to the Senate budget resolution, to conference, and back to us intact.

AGRICULTURE RESERVE FUND

Mr. LUGAR. Mr. President, I rise to thank Senator DOMENICI for all his efforts helping to bring about this historic conference agreement on the fiscal year 2002 budget resolution, H. Con. Res. 83. The agreement's reserve fund for agriculture, Section 213, provides the Agriculture Committee with mandatory spending authority totaling $66.15 billion over fiscal year 2003–2011 in addition to the current law baseline to support the Agriculture Committee's work to formulate a new multiyear farm bill.

I want to make certain that there is full agreement and understanding as to how the Budget Committee will interpret the reserve fund for agriculture on a couple of key points. First, I understand that the $66.15 billion in new mandatory spending authority over fiscal year 2003–2011 will be available to support reauthorization, modification, extension, expansion, and innovation concerning any or all titles of the Federal Agriculture Improvement and Reform Act of 1996. FAIR Act titles are the Agricultural Market Transition Act, Agricultural Trade, Conservation, Nutrition Assistance, Agricultural Promotion, Credit, Rural Development, Research, Extension and Education, and Miscellaneous. Is my understanding correct?

Mr. DOMENICI. Yes, Senator LUGAR's understanding is correct. Section 213 is intended to give the Agriculture Committee the flexibility to use this additional mandatory spending authority in the ways the Senator mentioned, if it so chooses in reporting a new farm bill.

Mr. LUGAR. I thank the Senator. I also understand that the Joint Explanatory Statement of the Committee of Conference which accompanies this conference agreement suggests that the agriculture reserve fund's $66.15 billion be divided among two budget functions—$63 billion for agriculture (budget function 350) and $3.15 billion for natural resources and environment (budget function 300). It is my understanding that the conference agreement permits the Agriculture Committee to spend more or less in each of these functional areas when it reports out a new farm bill as long as the $66.15 billion total is not exceeded over the specified time period. Is my understanding correct?

Mr. DOMENICI. Yes, the Senator's understanding is correct.

Mr. LUGAR. I thank the Senator for clarifying these key points.

Mr. DOMENICI. Mr. President, I hope on our side, if anyone wants to speak, they will let me know. I will be here and try to reserve time. The Democrats can go with one Senator. Then we go with one. In the meantime, if there is none, I will tell Senator CONRAD he can have as many Senators as he wants in a row if he wants to line some of them up. If I don't hear from our side,I may agree in advance with Senator CONRAD.

Mr. CONRAD. Mr. President, we have Senator DORGAN ready to go for 20 minutes and then Senator SARBANES. If we could put those two in at this point, that would be helpful to moving the process along.

Mr. DOMENICI. Let's agree now so they will know where they are.

Mr. CONRAD. Twenty minutes for Senator DORGAN, and Senator SARBANES only requested 10.

Mr. DOMENICI. Mr. President, I make that request.

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

Senator DORGAN is recognized.

Mr. DORGAN. I thank Senator CONRAD.

What I would like to do at the beginning is to ask a few questions and see if I can get some information from Senator CONRAD. It is interesting to me, we now have this budget agreement on the floor of the Senate. We have a Senate that is divided 50/50—50 Democrats, 50 Republicans, elected by the American people to come and serve. We have a Budget Committee, and that Budget Committee worked and produced a budget. We had a vote on the floor. Then we had a conference between the Senate and the House.

I ask Senator CONRAD whether, as the ranking Democrat on the Budget Committee of the Senate, he was part of the conference. Was he, along with the other Democrats, part of the budget conference which produced this conference report?

Mr. CONRAD. No. What happened was, we had an initial meeting in which statements were made, the opening statements that are traditionally done in any conference. Then we were invited not to return. So this is a budget that has been written wholly by the other side of the aisle.

Mr. DORGAN. Mr. President, I further ask the Senator, isn't it the case that at the start of this year we heard all of this talk about, ''this is a new day, a new approach; we are all going to work together, have a great deal of bipartisanship; we are not going to do things like we used to do them''?

Isn't it the case that when you have a 50/50 Senate and you have a Budget Committee that is 50/50, equal membership on each side, and then you have a

conference but only one side is invited to the conference, that that somehow sounds like the old way, sounds like the partisanship we used to see? Would the Senator from North Dakota agree with that?

Mr. CONRAD. It certainly is not a new way. It is certainly not what we were given to believe we were going to see when the President came to town, saying he was a uniter, not a divider. We have seen precious little of his moving in any way but insisting that it be his way or no way.

This budget is certainly an example of that. Not only was there no involvement of our side or any Member of our side in the budget conference, there was not even a markup in the Budget Committee—none. There was not even an attempt to mark up a budget resolution in the Budget Committee.

Mr. DORGAN. The reason I ask the question is I think most people would be very surprised by that. They see a Senate that is 50/50, a Budget Committee that has 50 percent of its membership Democrats, 50 percent Republican. Then you go to a conference, and the Democrats are told they are not welcome. The American people would be mighty surprised by that.

Let me ask a couple other questions because this is a very important area. I want to try to understand it. I heard the chairman of the Budget Committee talk about this conference report with respect to defense. He said: This is not a blank check with respect to defense. He said: What we have done is we have created a circumstance where whatever number the President would ask us for will be ''subject to appropriation.'' In other words, we don't have the right number in here. Whatever it is the President wants, he is going to get, subject to appropriation.

I ask Senator CONRAD, is there any other area of this budget that is treated quite that way? For example, have they decided that for education we won't put the right number in, whatever somebody else wants at some point, subject to appropriation? Is there any other area that is treated quite that generously?

Mr. CONRAD. No, not to my knowledge. I find it really rather incredible that we have a circumstance in which one person is going to be able to decide the defense budget for the United States—one person in the Senate, one person in the House of Representatives. In the Senate, the Budget Committee chairman for 1 year will be able to decide what number goes in, and in the House, the chairman of the Budget Committee there can decide for 10 years what the defense budget is going to be. It is fairly breathtaking.

Think about what we read in the textbooks: That we have a representative democracy, that every State has two Senators and they have Members of Congress determined by the population of their States. They come here, they vote, and they decide. But in this circumstance, with the Republicans in control of the House and in nominal control of the Senate, because they have the Vice President prepared to break a tie, they are in complete control. They are in total control. This is their document.

Mr. DORGAN. Without using all of my time, let me further propound a question on the subject of debt. I have here the conference report, and it says the following with respect to (5), under title I, recommended levels and amounts: (5), public debt, the appropriate levels of public debt are as follows: Fiscal year 2001, $5.660 trillion; 10 years later, $6.720 trillion.

It looks to me as if we have gross Federal debt increasing by $1.1 trillion with this conference report. Would that be accurate?

Mr. CONRAD. The Senator would be correct, if he is on page H1958 of the CONGRESSIONAL RECORD.

Mr. DORGAN. That is correct.

Mr. CONRAD. Dated May 8, it shows there the public debt increasing during this period. There has been a lot of talk out here that we are reducing the debt. That is true of the so-called publicly held debt, that debt which is held outside of Government coffers, outside of Government hands. The publicly held debt of the United States as we sit here today is some $3.4 trillion. By the end of this year, it will be $3.2 trillion. That is being reduced to the $800 billion referred to by the chairman.

But the gross debt, the combination of the publicly held debt and the debt to the trust funds of the United States from the general fund, is actually growing.

Mr. DORGAN. Further asking a question, that gross debt, the debt that is owed to the trust funds, the debt that is a debt that represents a liability by Government agencies, is that real debt or is that just a number someplace? We hear people saying: We can have very large tax cuts; that is not a problem; and we are also paying down the debt.

I look at this and I see gross debt is increasing by $1.1 trillion. I just heard a statement a few minutes ago by a Senator who said: Here is what we are going to give the taxpayers, referring to tax cuts.

Are we also in this budget going to give the taxpayers $1.1 trillion in an increase in gross indebtedness in this country during the 10 years?

Mr. CONRAD. I don't know of any other way to read it. This chart I have shows the two debts that we have.

The debt held by the public is the red line on this chart. The debt held in Government accounts, debt that is owed to the trust funds, is the green line. We see the debt held by the public going down, which is what has been described by the Senator from New Mexico. We see the debt that is owed to the trust funds going up. And the reason for that is, what is being done to pay off the publicly held debt is to use the surpluses from the Social Security trust fund—money that is not used now. That money is going to pay down publicly held debt—debt that is held by companies and individuals and other countries that is in U.S. securities—that debt is being paid down. But it is being paid down by using trust fund surpluses of the United States and, of course, they are then owed from the general fund of the United States, the money that has been borrowed from them to pay down the publicly held debt. So at the end of this time, the gross debt of the United States—the combined debt—will actually be more than when we started.

So I think it is a little misleading for people just to talk about the publicly held debt.

Mr. DORGAN. Mr. President, I ask how much time remains.

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. DORGAN. Mr. President, I appreciate the answers to the questions I have raised. They are very important questions. I think it suggests that there is false advertising involved here. In the commercial sector, we have the Federal Trade Commission that regulates that kind of thing, but in politics it cannot be regulated. It seems clear to me that you have a $1 trillion increase in gross indebtedness.

If anybody comes to the floor of the Senate—and if they would, I would love to spend time with them, and I will be available—to talk about indebtedness and whether the liabilities incurred by Federal agencies and programs that we must meet—whether those are real liabilities—and I think they are—then we have an increase in gross indebtedness by $1.1 trillion in the next 10 years. At the same time, we have people advertising that there is so much money that we need to create a huge tax cut, the bulk of which will go to the top 1 percent of the taxpayers, and that is fine because we are paying down the debt at the same time.

That is fundamentally untrue. Gross debt will increase by over a trillion dollars. That is the bottom line. Let's talk about that. I will be here if someone wants to talk about it.

Let me talk about this general budget. Here is a budget written in a conference by the majority party, telling the minority party: You are not welcome. See you later. We are going to write this. It is true that you have 50 percent of the membership on the Budget Committee, but you are not welcome as part of the conference.

That is the way it was written. The way it was brought to us is kind of a virtual budget, in the sense that it suggests certain things that exist that don't exist.

I was thinking about the story about raccoons and something raccoons do that is quite unusual. They apparently have a tendency—and I watched this as a kid—when they get their food, to take it to a stream and begin to wash it meticulously with their hands. They wash it and wash it. But if raccoons find something to eat and there is no water around, they still walk away and

pretend there is water, and they do the same actions with their hands, pretending they are washing. Somehow it makes them feel they have done the right thing.

We have kind of a pantomime activity in this budget like the raccoons, I guess. We believe if we pantomime it, somehow people will believe it. Let me talk about what this pantomime is about. Education. We have replaced the Elementary and Secondary Education Act on the floor of the Senate—that is what we were debating—with this budget conference report. In the Elementary and Secondary Education Act, we have made commitments as a Senate. We have said we commit ourselves to education. We, by the way, are going to require accountability. We are going to insist on accountability, and we have a whole series of things to do that.

We want better schools and we also say, by the way, we are willing to authorize funding to pay for those schools—at least to pay for the improvement of those schools. We know most of the funding for schools comes from State and local governments and school boards. We know that, but we provide some important niche funding.

We have said we insist on accountability and we want to improve this country's schools and we commit ourselves to authorizing the funding to do it.

Then we bring a budget conference report to the floor of the Senate and say, no; I know we committed ourselves, but we are not going to pay for it. We are going to require these things, but we will not pay for it. Talk about unfunded mandates.

I have been around here year after year when we have had people standing on the ceiling talking about unfunded mandates, how awful that is. Well, the fact is, we are, in the underlying bill—the Elementary and Secondary Education Act—going to make certain representations about what we expect of schools and what we are going to do to help them; and then in this budget we say, by the way, we didn't mean that. That was kind of a virtual argument we made. That is kind of the raccoon washing without water—a pantomime. We didn't really mean that.

This budget would have been a much better budget had that conference been able to get the best ideas that everyone had to offer. We work better, it seems to me, when we take the ideas from all sides and try to find out what works and what doesn't, who has a good idea and who doesn't, gather all the ideas, make it a competition of ideas. That is not what happened. The reason it didn't happen that way is because we had a mission at the start by the President and majority party—I should say the majority party, Republican Party, which has 50 votes in the Senate. They said: We want a $1.6 trillion tax cut, which got shaved a little bit. We insist on that and we are going to try to make everything else fit in that format.

Well, it doesn't fit. They know it; we know it; everybody knows it. In fact, the gross debt is going to go up $1.1 trillion, even as we shortchange schools and give a blank check to defense. Can you imagine a city council doing this? Voters would run them out of town. Can you imagine a family making these choices? It doesn't make any sense. It is the wrong way to do business. It is the wrong result. It is not giving anything to the American taxpayers except a future in which we underfund the most important things that exist in this country's future—educating our children.

We underfund a range of areas that are very important to this country, including agriculture, which is critically important to my State. At the same time, we provide substantial room for a very large tax cut, at the very time that our economy is softening, and the tax cut is going to spend surpluses that don't yet exist. It anticipates 10 years of straight surpluses at a time when our economy is beginning to have significant troubles, when yesterday productivity was down for the first time in some long while, and we know and everybody should know that we will not likely have 10 straight years of surpluses. I hope we do. I wish we would. But we may not.

If we don't, this $1.1 trillion in increased gross debt in the budget will balloon and grow, and we will find ourselves back in the same circumstance we were in during the late 1980s and early 1990s, with a mushrooming budget deficit strangling the economy of this country and driving up interest rates and causing economic havoc.

We worked long and hard to get back to a point where we had a balanced budget. That wasn't easy to do. We ought to have a budget that comes to the floor of this Senate that represents the priorities of a 50/50 Senate and priorities of the American people, and one that doesn't undercut the opportunity for this economy to grow and expand and produce new jobs and new economic opportunity.

Now, this budget was not prepared the right way and it didn't come out with the right answer for this country's future. It is a partisan document, produced by people who excluded half of the committee from the room, and then said to us: We are going to be true to the President's mission by bringing a document to the floor of the Senate that you didn't help write on the other side of the aisle because we would not let you. Now we insist that you accept our representations of what it contains.

We don't accept that. My colleague, Senator CONRAD, describes it very accurately. This issue about added money for education is a mirage, just a myth. I will give you one example.

We have a huge energy problem in this country and we have folks cutting research for renewable energy by 40, 50 percent. That is a small example but an important one. It represents all of the wrong priorities.

We can do much better than this. I hope we will turn this conference report down and say, look, we have a Budget Committee that has half Democrats, half Republicans. Let's get the best ideas that each has to offer. Politics doesn't have to produce the worst of both. You can get the best of each, and it seems to me that we could go back and do this in a week or 2 and come up with an approach that, yes, has a tax cut—I support a tax cut—but not one that crowds out all other opportunities for investing in matters of importance to the country; one that makes the right investments in education; one that says schools for our children are important and we intend to hold them accountable. But we also do intend to help them and to meet our promises to those kids. We need one that says let's fix our energy problem but not cut back on renewable energy research, for example to contribute to solving our energy problem.

We have a whole series of opportunities. We ought not to be wringing our hands and gnashing our teeth and wiping our brow about this. This represents an opportunity. We live in a time and place that is a blessing. We have an opportunity to do the right thing. I fear at this point that if this Senate passes this conference report, it moves this country in the wrong direction.

Let's do it over and do it right. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized for 10 minutes.

Mr. SARBANES. Mr. President, because I know he has a pressing commitment, I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. SARBANES. I yield him 2 minutes out of my time.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I thank the Senator from Maryland.

I voted for the original budget resolution a month or so ago. I did so because I believe we ought to cut taxes and cut marginal tax rates, eliminate the marriage penalty, and provide estate tax relief. I would like to see us increase the child tax credit.

I also voted for a budget resolution that dramatically increased Federal funding for education. We are in the throes, last week and this week, of redefining the Federal role in education in this country. Part of that legislation says to States: We expect you to narrow the achievement gap for all your students over the next 10 years. We expect your students to perform at higher marks, making progress along the achievement path toward being able to read well and doing math well.

If States, school districts, and schools do not measure up, under the accountability provisions of the education bill on which we are working, there is real accountability and real

consequences for those schools that do not measure up, that do not make progress, and that do not narrow the achievement gap.

Meanwhile, in our Nation's Capital, we fund one out of every three children for Head Start. We do not provide for the others.

We fund one out of every three kids who are eligible for title I funding. These are kids who need extra help, especially in reading and math.

For special ed students, we meet one-third of what we promised to fund. We are supposed to be providing 40 percent. We do about 13 percent. We are pretty good at thirds.

We had hoped the budget resolution that came back to us would meet some of those shortcomings. It does not. Regrettably, there is not more money for Head Start, there is precious little more money for title I, and there is precious little more money to meet our obligations under the Individuals with Disabilities Education Act.

I cannot support this conference report on the budget resolution. I wish I could, but I cannot.

This is what I fear we are going to end up doing. I fear we are going to end up cutting taxes more than we ought to and, in the end, come back and say we are spending more money than we can afford. We went down that path in 1981, and my fear is we are going to go right down that same path in 2001.

We do not have to do it. The real tragedy is we could have had a broad bipartisan agreement on a tax cut of a trillion dollars. We could invest in education, defense, and needed investments in health care, and we could have had a bipartisan majority do that. My fear is we are, in the end, short-changing the States, the schools, and the kids about whom we say we care so much.

I wish it did not have to be this way. Unless we defeat this budget resolution tomorrow, it will be.

I, again, thank the Senator from Maryland for yielding me this time.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in very strong opposition to the conference report pending before us. Unfortunately, this budget falls far short of the mark in almost every respect.

We had just a brief meeting of the conference committee in which the Democrats participated. We were excluded from everything else that took place. I said then that I thought we were at a crossroads in considering this budget; that I thought we had a historic opportunity before us if we made wise decisions, and that I was fearful we were going to lose that opportunity. This conference report bears out that fear.

If we pass this misguided budget, I have no doubt that in a few years we will all be put in mind of the words of John Greenleaf Whittier, who wrote:

For of all sad words of tongue or pen,
The saddest are these: ''It might have been.''

We are throwing away a magnificent opportunity to develop a sane, rational fiscal policy for the Nation which will help to deal with a whole series of problems. We have this unparalleled opportunity to pay down the Nation's debt, to invest in our Nation's future, and to shore up vital programs. If we act prudently, we can ensure that the Federal Government will have the resources in the future to meet our obligations after the baby boomers retire and beyond. We can do a reasonable tax cut in response to the problems confronting working families all across the Nation, and we can do this all in a very balanced way.

Instead, because of this excessive zeal for a massive tax cut, we risk knocking our economy off track and sending ourselves back into the deficit ditch from which we have only recently emerged.

The budget outlined in this conference report would squander our best chance for investing in America's future, lifting the debt burden off the next generation, and providing a reasonable tax cut for our working families.

We are constantly told these revenues are the people's money. Of course they are the people's money. From where else does it come? But the debt is the people's debt. The challenge of educating our children is the people's challenge. Providing Social Security and Medicare for our seniors is the people's challenge. It all flows from the people.

That sort of bumper-sticker comment does not come to grips with the real problems. There are other bumper-sticker comments we can make. Every time they say, ''Well, the tax money is the people's money,'' we can say, ''The debt is the people's debt,'' and on and on.

One cannot use a bumper-sticker slogan as a substitute for tough analysis and a real calculation of what serves the Nation's interest.

I commend the ranking member of the Budget Committee, the very distinguished Senator from North Dakota, for his terrific leadership through this budget process. I know how frustrating it was. He continually implored the chairman of the committee to work together to deal with these difficult problems.

The Budget Committee, the only committee in the Senate that is uniquely focused on the Federal budget, never held a markup. It never held a markup. Thus, the committee was prevented from fulfilling its primary duty of developing a responsible Federal budget. That is what the committee is there for. It was not allowed to do its job.

The budget resolution was debated for the first time in this Chamber before we had even seen the President's detailed budget submission.

Of course, others have spoken about how the conference functioned. We were clearly closed out of the conference. In fact, the chairman, at the one meeting they had, said there was going to be a meeting over the weekend. I said: ''Mr. Chairman, I didn't quite catch that; when will the meeting be and where,'' preparing myself, of course, to attend the meeting the chairman indicated we were going to have over the weekend.

He was very blunt in his response. He said: ''You all are not going to be at the meeting. This is not a meeting for you. This is all going to be done by the Republican side.''

I regret that. I thought the ranking member of the House Budget Committee, Congressman SPRATT of South Carolina, a very able Member, made a very eloquent statement about how the product of the conference would be better if it went through a proper conference deliberation. We at least would have had the opportunity to get the benefit of thinking on both sides.

That was really brought home when the House last week had to suspend its consideration of the budget because they left a couple of pages out of the budget document. So much for handling it all on one side.

Surely if there had been a consultative process, it would have been pointed out that these pages were missing. But instead, they tried to rush this through, staying in until a wee hour in the morning trying to pass this thing, and all of a sudden they discovered two essential pages were missing out of the budget document.

That led Paul Krugman in the New York Times to write an article which I enjoyed called ''More Missing Pages.'' I ask unanimous consent this article be printed in the RECORD at the end of my comments.

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

(See Exhibit No. 1.)

Mr. SARBANES. There is a subheading called ''The Farce is With Us.''

It was, if you believe the official story, a case of farce majeure: House Republican leaders had to call off Thursday's planned vote on the budget resolution because two pages that were supposed to be in the document were accidentally omitted. . . .

Whatever really happened, the fundamental cause of the mishap was that the Republican leadership was trying to pull a fast one—to rush through a huge tax cut before anyone had a chance to look at the details.

Krugman, in this column, goes on to talk about, in effect, other missing pages in the budget document.

Now we have had a little chance to look at the details, and I want to ask the ranking member, my good friend from North Dakota, a couple of questions. First, on defense, am I correct in understanding that the way this document is drawn, there is a blank check for a defense figure that will be filled in later? Is there a defense number coming later that will simply be slugged into the budget?

Mr. CONRAD. The Senator is correct. This is a budget with many missing pieces. Not only do we have missing pages, we have missing numbers. The defense buildup that the administration will ask for next week, after we

finish with the budget, will ask for a massive defense buildup. So they have created a special reserve fund with a black hole in this budget that says whatever they decide later—whatever the President recommends—they can stick into this budget. They will not have a vote on it. We will sort of have a vote, we will vote now, before we know what the number is.

Mr. SARBANES. What does this budget do about education? We are voting on education this week, the President says we will not leave any child behind, and everyone is making terrific speeches about education and beating on their chests about education. But to do a lot of these programs, we need resources. What does the budget do on education?

Mr. CONRAD. It is interesting, it is mostly speeches. All the speeches that were given, all the votes that were cast when we had the budget resolution on the floor, all the money added for education, all of it has been taken out.

We are in the middle of a budget debate on the floor of the Senate, last week adding $150 billion. Meanwhile, we are passing a budget with no new money for education. The President said his top priority was education. The priority is every place but in the budget. There is no new money for education.

Mr. SARBANES. Defense is a missing piece; education is a missing piece. And this tax cut will create a problem, as I understand it, with the alternative minimum tax. I am told that there is no provision in this budget for alternative minimum tax reform, and that such reform may cost as much as $300 billion over the 10-year-period; is that correct?

Mr. CONRAD. Unfortunately, the Senator is correct. In fact, the alternative minimum tax that affects now 2 million Americans, if the President's plan is passed, will affect 35 million American taxpayers, nearly 1 out of every 4. Just to fix the part of the alternative minimum tax caused by the President's tax bill will cost nearly $300 billion.

Mr. SARBANES. That $300 billion is not allowed for in the budget?

Mr. CONRAD. That is a missing page.

Mr. SARBANES. I am told that, while there is some adjustment for inflation in this budget, there is no adjustment for a growing population and the additional stress and strain that places on program levels; is that correct? There is no adjustment for population growth, which we know will happen?

Mr. CONRAD. Not only is there no adjustment for population growth, in truth, there is not a full adjustment for inflation. This was done in the dark of the night in one of these closed rooms when none of us was able to be there. They actually took out another chunk of money, nearly $60 billion, so they don't even have an inflation-adjusted budget.

Mr. SARBANES. Imagine that. It is incredible to come out with a fiscal program for the country with all these missing pages and vanished pieces.

This conference report, which provides for this excessive tax cut, is premised on a projected surplus, two-thirds of which is in the last 5 years of the 10-year-period. And now we discover that there is no money for education, and the defense figure will rise by who knows how much? Clearly, it will rise. It will be slugged into this budget. We don't even provide for inflation, let alone a growing population, and there is no allowance for the alternative minimum tax fix.

I ask my friend from North Dakota, given all these missing pages, won't this budget plan eat into the Medicare trust fund and the Social Security trust fund? I don't see any other way. Once all the pieces are put into place, are we not going to be eating into the trust funds?

Mr. CONRAD. I think there is no question that is what will happen. There is no question that is why the budget has been presented the way it has. They don't want all the numbers put together in one place so we can add them up because it doesn't add up.

They have been presented with a difficult problem. They have a budget that does not add up. How do you avoid making that obvious? You avoid making it obvious by not having all of the elements of the budget in the budget resolution. That is exactly what we have. It is kind of a phantom budget. There is the budget we have been presented with, and then there is the real budget. One of them doesn't add up. That is why they don't want to present it to the membership.

Mr. SARBANES. It is absolutely irresponsible to be doing the budget this way. I think we are going to pay the price in the years to come. I thank my very able colleague for his constant effort to try to get the Budget Committee to come to grips with these problems.

We have a budget before the Senate based on projections that may never materialize. They made assumptions about growth and productivity which have been severely undercut by the report of the productivity figures in the first quarter, which failed to grow. They are assuming a growth of 2.2 percent in productivity as we project out, which is a very unusual growth. Now all of a sudden, we have a first quarter figure that was negative. Imagine what that will do to the surplus projections.

We are running the risk, by this excessive tax cut, that we will not pay down the debt at the rate we could have done. We won't invest in a number of important programs for the future strength of the country—education, the environment, health care. All will be undercut. There is no money here for education because instead, we give an excessive tax cut. It will knock the economy off track, and we will lose this magnificent opportunity we had to move forward in a reasonable, sensible, and constructive way.

I thank the Senator for his leadership. I regret this document before the Senate. I urge my colleagues to vote against it.

I yield the floor.

EXHIBIT 1

[From the New York Times, May 5, 2001]

MORE MISSING PAGES

(By Paul Krugman)

It was, if you believe the official story, a case of farce majeure: House Republican leaders had to call off Thursday's planned vote on the budget resolution because two pages that were supposed to be in the document were accidentally omitted. Strangely, the two missing pages happened to contain language crucial to the compromise that had persuaded moderates to agree to the budget. Just as strangely, the budget resolution contained only a 4 percent increase in spending—the amount George W. Bush originally wanted, not the 5 percent he had agreed to.

Whatever really happened, the fundamental cause of the mishap was that the Republican leadership was trying to pull a fast one—to rush through a huge tax cut before anyone had a chance to look at the details. Now the case of the missing pages has delayed things for a few days. So may I suggest that Congress—and Senate moderates in particular—check carefully around that Xerox machine? You see, there seem to be a few other pages missing from the budget plan.

For starters, we seem to be missing the page that factors in the likely cost of a missile defense system. (The page that explains how missile defense will work in the first place is missing from some other document.) Nobody knows how much this system will cost, but few think it will come in under $100 billion.

We also seem to be missing the page that explains how the conventional defense buildup being planned by Secretary of Defense Donald Rumsfeld—reports suggest an extra $25 billion per year on weapons systems alone, that is, $250 billion or more over the next decade—is consistent with a budget that makes no room for increases in defense spending beyond those already proposed by the Clinton administration.

Then there's the page about prescription drug coverage under Medicare—a solemn pledge by Mr. Bush during the campaign. Everyone in Congress agrees that the $115 billion allotted by the administration is laughably inadequate, that a realistic program would cost hundreds of billions more. But the extra money doesn't seem to be in the budget plan; maybe the missing page explains the discrepancy.

Somewhere near the page on prescription drug coverage we might find an explanation of the administration's position on the Medicare hospital insurance surplus—$400 billion that both parties have promised to put in a ''lockbox,'' but which the administration plans to devote to other uses. Presumably there's a missing page that explains why this isn't a naked plan to raid Medicare to pay for tax cuts.

Then there's the puzzle of how the administration plans to maintain government services in the face of a growing population while increasing spending no faster than inflation. Either some unspecified drastic cuts are planned or the spending numbers are at least $400 billion too small. I'm sure there's a page somewhere that explains what's going on.

Not all the missing pages involve spending. Everyone familiar with the issue knows that the Bush tax cut will cause a crisis involving the Alternative Minimum Tax, causing the much-hated tax to apply to tens of millions of additional taxpayers. The inevitable fix will reduce revenue by at least $300 billion,

but there doesn't seem to be any allowance for that revenue loss in the budget. I guess there must be a missing page that explains why.

Finally, there's the page on Social Security reform. Because Social Security has been run on a pay-as-you-go basis, with each generation's taxes financing the previous generation's retirement, the system has a huge ''implicit debt''—the money promised to people whose past contributions were used to support their elders. If Mr. Bush wants to partially privatize the system, he must pay off some of that implicit debt; to make his campaign proposal work would require infusing more than a trillion dollars into the Social Security system. But that money isn't in his budget plan. There must be a missing page with some explanation of the omission.

Oh, and there's one more page missing: the one that explains why moderates should support a tax cut that, while slightly smaller than Mr. Bush wanted, is still irresponsibly large—and why they should put their names to a budget resolution that is patently, shamelessly dishonest.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the senior Senator from Maryland, one of the most senior Members of the Senate Budget Committee, who has been a strong voice for fiscal responsibility on the Budget Committee of the Senate. He is one of the key reasons that we restored fiscal sanity in 1993 and put us on a program to reduce the deficits, ultimately eliminate them and start running surpluses.

I thank the Senator from Maryland who was named as a conferee on the budget because of the respect with which he is held.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. I thought when I was named as a conferee I would have important work to do as a member of the conference committee on the budget. As it turned out, there was nothing to do. We went to one meeting. The chairman told us there was nothing for us to do. He said, you are dismissed, you can leave now. Don't bother to come around again.

It was an incredible way to do business—an incredible way not to do business, to put it more accurately.

Mr. CONRAD. It was a disappointing way to do business. I think the result has suffered.

I will follow up on the point the Senator made about slower productivity growth. We saw in the first quarter, instead of 1 percent increase, it was negative one-tenth of 1 percent. If we were to have 1 percent less productivity growth per year, the projected surplus of $5.6 trillion would be reduced to $3.2 trillion. That is the hard reality of how dramatically affected the ultimate results are by very small changes in the assumptions in these forecasts. That is something we should all understand.

How much time is the Senator from Illinois seeking?

Mr. DURBIN. I ask the Senator for 15 minutes.

Mr. CONRAD. The Senator from Illinois wishes 15 minutes. The Senator from Minnesota?

Mr. WELLSTONE. I ask I follow the Senator from Illinois, just for 10 minutes.

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

The Senator from Illinois.

Mr. DURBIN. I thank the Senator from North Dakota for yielding to me.

Mr. President, during the course of this presentation, I would like to call on the Senator from North Dakota from time to time.

Let me thank the Senator from Maryland for coming to the floor. He made an eloquent statement to put in perspective the issue on which we now have to vote. It may be one of the most important votes we will cast this year.

People say: A budget resolution? What in the world is a budget resolution? What does it mean to my family or my business?

A budget resolution is basically the blueprint which says this is how far we can go and no further under the rules of the Senate and the House, in spending. So once you put that blueprint in place, when the Appropriations Committee sits down to put the spending bills in place, they look to this blueprint, this budget resolution, as does the Finance Committee when it looks to the tax consequences of this same budget resolution. So we have to pay careful attention to this blueprint.

I salute the Senator from North Dakota. I tell you, we are fortunate on this side of the aisle. In fact, the Senate is fortunate to have a man of his ability and commitment in the midst of this debate.

I have just spoken to my colleague from Minnesota. I will gladly speak to others and tell them I have been so proud of the job Senator CONRAD has done. He is good at this. He is extremely good at this. I never want to get on the other side of debate with Senator CONRAD when there is a row of numbers up on a page because I am going to lose. He understands them. He doesn't just see the numbers on the page, he sees the policy behind them. He can think beyond the box we are in many times, to the ultimate impact of some of these decisions.

I would like for a moment to reflect on what we have been doing for the last week and a half or 2 weeks on the Senate floor. We have been discussing the issue which the American people identify as their single highest priority, not just this month or this year, but for all time. At every level, when it comes to local government, State and Federal Government, their highest single priority is education—education, our schools. I often wonder why do we always keep identifying education as our biggest issue? I think the reason is fairly obvious. Education really defines this country. Education says we will give you an opportunity as a young child to walk into a classroom and prove yourself and improve yourself and then be a better person for it.

We happen to believe—I do not think it is uniquely American, but we sure believe in this country—if you give kids the right opportunity to prove and improve themselves, they will succeed. You are looking at one. My mother was an immigrant to this country. Neither my mother or father went beyond the eighth grade and I stand here on the floor of the U.S. Senate. That is because when I brought home a report card, it was an event in my house. We stopped everything and they pored over the numbers and the letters. They gave me a frown or a smile.

A lot of families in America know the same experience. So when we come to the floor of the Senate and debate education, we are debating something we know personally to be important, and every American family will identify as their single highest priority. So it is no surprise Democrats and Republicans come to the floor and want to stand up and talk about how to improve schools and education.

For the last 2 weeks, that discussion has ranged from accountability and standards to teacher improvement, the number of kids in a classroom, the quality of the school, the computers and the technology available to our children, how long the school day will last, will we give the kids an adequate lunch, what will we do after school to improve their lives and keep them safe, what are we going to do during the summer months, how can we recruit new teachers. This floor has just been alive with this debate on both sides and both parties believe they are committed to this.

The interesting thing is that debate for the last 2 weeks has been an important debate, but it may not be as important as the bill on the Senate budget resolution on which we are about to vote. Let me tell you why.

When I served in the U.S. House of Representatives, I served with a Congressman, still there, from Wausau, WI, by the name of DAVID OBEY. Congressman OBEY used to like to take to the House floor and admonish his colleagues for what he called ''posing for holy pictures.'' In other words, efforts made by Members of the House—and it applies as well to the Senate—to be on the side of the angels, to put a halo above their heads, to say they were for all the right things.

For the last 2 weeks, there has been a lot of debate about education and a lot of effort to be on the side of the angels, on the side of American families, when it comes to education.

But mark my words, all of that debate is worth nothing, absolutely nothing, if tomorrow we vote for this budget resolution because this budget resolution which was proffered by the Republicans provides no additional funding for education—none.

You look at it and say, How can this be? President Bush came to office. He invited Senator KENNEDY and Congressman MILLER and all the Democrats. He wrapped his arms around them. He invited them to movies and lunch and gave them all nicknames and he said: I

just love education. I can't wait to make it the linchpin of my Presidency.

He convinced a lot of people in this town and a lot of people across America that he was genuine. But in this town you have to look beyond the holy pictures. You have to look at the facts. When you look at the facts of this budget resolution, you find there is no money there.

All the promises have been made: We are going to test the kids year after year after year; we are going to hold them to high standards, as we should; we are going to demand accountability; we are going to want the very best teachers, the very best technology. Then take a look at this budget resolution.

I ask the Senator from North Dakota, if I might, if he will answer a question. I want to make certain it is clear on the record. In the budget resolution before us, House Concurrent Resolution 83, which projects spending over the next 11 years, would the Senator from North Dakota, having analyzed this, tell me what commitment is being made by the Republican leadership and the Bush administration to new funding for education to improve the schools and the lives of children across America?

Mr. CONRAD. There is no increase for education beyond simple inflation. I think the most honest direct answer that I can give is that there is no real increase for education, period.

In addition to that, the pool of money from which education spending comes is actually below inflation. The cuts are going to have to come from somewhere.

Mr. DURBIN. I ask the Senator from North Dakota, so there is clarity on the record: We have been debating for 2 weeks about education on the floor of the Senate. But it is a debate about authorizations and this is a debate about a budget resolution.

Will the Senator from North Dakota explain the difference, if we say we are going to commit hundreds of millions of dollars to education as part of the elementary and secondary education authorization, will that money then automatically go to the schools and improve the schools for our children?

Mr. CONRAD. No. The way it works, authorizations mean nothing without appropriations. And the money for appropriations is not available unless it is made available by the budget resolution.

The hard reality here is all of this talk about money for education is just that, it is talk. We can pass 100 amendments that say we are going to provide money for education, but if the money is not in the budget, it does not get allocated to the Appropriations Committee to be available for actual expenditure. We have a lot of great speeches out here, but without the money in the budget resolution, they don't mean much.

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

Mr. CONRAD. Yes.

Mr. SARBANES. Mr. President, I draw the analogy: For 2 weeks now we have been out on the floor on this education authorization bill. It is like putting the sides of a box into place. You put the sides of a box into place like this. You build up your education box. But then you need a budget resolution because you need the resources to make this work. You look in the box when the budget resolution comes along after 2 weeks of putting up these sides, and the box is empty. It is empty. There is nothing in here for education. It is a phony box. People need to understand that.

Mr. DURBIN. Mr. President, I would like to ask the Senator from Minnesota, because he has followed this education debate. He and I may disagree to some extent on this. We believe testing is an important part of education. It has proven itself in the city of Chicago with our public schools. But if we in fact agree to test students as we have debated for a long time, and don't provide any resources once we have identified the problems those kids are running into so they can improve their reading and math scores, what kind of situation are we going to be in when we talk about education reform? We will have the standards and the testing, but with this budget resolution we will not have the money to provide good teachers, good resources, and good class time to improve the kids.

Is that how the Senator from Minnesota sees it?

Mr. WELLSTONE. Mr. President, I thank my colleague. I thank him for the question.

This also goes to what the Senator from Maryland says. It is not just a question of nothing in the box; it is how it affects the lives of people. I am heartbroken. I don't mean to be melodramatic, but I am heartbroken about what is going on here because I say to the Senator from Illinois that it is quite one thing to have our picture taken with children—we all love to do that; we all love to be in the schools—it is quite another thing to make a real investment to help improve their lives.

The Senator is quite right. If all you do is tell every school and every school district and every State you will have these tests age 3 to 13 every year, and you don't provide the resources, and we don't live up to our commitment, in fact we provide a pittance—next to nothing—to give them the tools so the teachers and the schools and, most important of all, the children, do you want to know something? This is cruel. It will be cruel and it will be punitive. It will be downright dishonest. It is symbolic politics, with children's lives, at its worst.

Mr. DURBIN. The President's motto is ''Leave No Child Behind.'' Only one out of three kids is currently enrolled in Head Start—that early learning experience which gives kids a chance to be successful in the classroom. Only a third of the kids who are struggling in school because of poverty in their family and circumstances beyond their control receive any help whatsoever from the Federal Government. What we are told by the Senator from North Dakota is there are no additional funds; we will still be stuck at one out of three when this is all over. I say to the Senator from Minnesota, two out of three kids are going to be left behind by the Republican budget resolution which we are going to be asked to vote for tomorrow.

I do not know if the Senator sees it that way. We certainly aren't getting the resources necessary to making sure no child is left behind.

Mr. WELLSTONE. Mr. President, I can say to the Senator from Illinois that at least 100 times I have said on the Senate floor you cannot realize a goal of leaving no child behind if you cut budgets. You can't.

Again, think about it for a moment. Then I will promise not to take much time. We are going to start testing these children. Let's have the best test. Let's make sure it is done the right way so you know how these children are doing. Take 8-year-olds. You have two, and one of them has 4 years of schooling—grades 1, 2 and 3, then also kindergarten. The other child is probably receiving 7 years of early schooling because he came from a family with a lot more income, and you can count on the home. There was all the intellectual stimulation, with reading to them, and where there was really good child care. They came to kindergarten ready to learn.

If you are going to fund Head Start—not at the 50-percent level—and Early Head Start, grades 1 and 2, at the 3-percent level, and that is all, do you know what you are measuring with 1- and 2-year-olds when you do these tests? It is poverty. You are not measuring anything else. This is a really critical time. I hope people in the country will realize that.

I thank the Senator for his question.

This is all about who we are. It is all about priorities and values. This budget reflects the most distorted and perverted values imaginable because it is Robin-Hood-in-reverse tax cuts, with over 40 percent of the benefits going to the top 1 percent, and not the investment in children and education.

Mr. DURBIN. I thank the Senator from Minnesota.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute, 10 seconds.

Mr. DURBIN. I ask the Senator from North Dakota for 2 additional minutes.

Mr. DOMENICI. I have no objection. I would like to make sure that under the current time agreement, when the time agreed upon time has expired, the next Senator to speak from our side, Senator INHOFE, has 10 minutes.

Mr. WELLSTONE. Reserving the right to object, I believe I was in order to follow. To give other Senators time, I have had an opportunity to speak. So

if you want to go to the other side after the Senator from Illinois, that is all right.

Mr. CONRAD. After the Senator from Minnesota, because he has time, we will give 2 additional minutes to the Senator from Illinois.

Mr. DURBIN. With my 3 minutes remaining, Mr. President, let me say to my colleagues and those who are following this debate that I want to give you a political science 101 introductory course on how you can evaluate what politicians say and what they mean.

Don't pay attention to the words coming out of our mouths because many times we give speeches that may lead you to conclusions that may not be factual. Instead, look at what we do. Read the conference report for H. Con. Res. 83, the budget resolution. Ignore, if you will, some of the great speeches and some of the posing for holy pictures on the floor of the Senate and this commitment to education we have heard about for 2 weeks. Instead, look at the budget resolution we will vote on tomorrow.

The budget resolution we will vote on tomorrow has no commitment to improving education in America. The speeches notwithstanding, we have walked away from that rhetoric. We have not backed it up with reality. We have not backed it up with facts. We have given our speeches. We have heard the applause. Many of us have been elected and reelected as education Senators. Then tomorrow, watch the rollcall on H. Con. Res. 83 and find out how many are voting yes or actually voting against any increases in funding for education.

Why? Because this White House and this President have a higher priority than education. What is it? A tax cut for the wealthiest people in America. President Bush has proposed a tax cut that gives to people making over $300,000 a year a $46,000 tax break. Imagine. You have $25,000 a month coming in, and the President says you need a tax break.

I will tell you who the people are who need a tax break. It is the folks who are paying for gasoline in the Midwest and heating bills during the winter and families struggling to put their kids through school. We need a commitment in this Congress from Democrats and Republicans to get beyond campaign rhetoric and put money into education.

This budget resolution does not deserve the vote of those who claim to be standing for education.

I yield the floor.

Mr. WELLSTONE. Mr. President, the Senator from New Mexico wants to go to the Senator from Oklahoma; is that correct?

Mr. DOMENICI. That is correct.

Mr. WELLSTONE. I wonder if I might have 3 minutes after the Senator from Oklahoma.

Mr. DOMENICI. I ask for 3 minutes now and then 3 minutes for Senator WELLSTONE.

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

Mr. DOMENICI. Mr. President, I want to answer the distinguished Senator from Illinois who just spoke.

We haven't said very much about who is responsible for gasoline prices. The fact is we don't have enough electricity for America. But to come down here and talk about it as if this President has anything to do with it or this budget has anything to do with it is absolutely wrong.

What happened is the previous President who was in for 8 years—we don't like to be partisan, but he sure wasn't a Republican—did absolutely nothing to give America an energy policy. It was a nothing policy. It finally caught hold and gave us California, giving us higher prices for gasoline. And we are going to have to fix it—this Congress and this President—because no one did anything about it during the last 8 years.

I gather Senator INHOFE is next.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from New Mexico for yielding.

Let me be the first to say, I am not on the Education Committee. I am not on the committees dealing with this resolution. But I have been listening to some of this debate. I feel compelled to at least share some thoughts that I have as someone who does not serve on all these committees.

First, I want to respond to the distinguished Senator from Illinois, who was talking about the tax cuts for the wealthy. I just wish that President Kennedy were still around so he could hear this debate because I can remember so well back in the 1960s when we had new programs. I say to Senator WELLSTONE, they had decided that they were going to expand into areas, expand into the Great Society.

I remember the exact quote, just from memory, of President Kennedy. He said: We have a desperate need for more revenue. We have to have more revenue to take care of some of the needs that we have. He said: The best way to increase revenue is to reduce marginal rates. And he did it. In fact, the tax reduction during the Kennedy administration was twice the reduction that is being advocated by President Bush right now. And it worked. At the end of that period of time, the increase almost doubled over the next 5 years as a result of cutting marginal rates.

Let's remember some of those rates. They were cutting down the highest rate from 91 percent down to 70 percent. It did stimulate the economy. And it did increase the revenues that came from that. But that is not supposed to be the discussion today. The discussion is supposed to be on education.

The budget resolution that we are talking about provides a total of $661 billion in discretionary spending. It provides an additional $6.2 billion above the President's request for nondefense programs. This $6.2 billion can be used for additional spending on our domestic priorities. Everyone agrees that education is one of these priorities. Certainly we have heard the President say this over and over again, both during the campaign and currently.

At the bare minimum, this resolution will fully fund the President's request for education, which is an 11.5-percent increase over last year, the largest of all Federal agencies.

Just so Senators understand the minimum in education spending they will be voting for if they vote for this resolution, the President's request will support the highest ever level of funding for the education of disabled children; a $460 million increase for title I, including a 78-percent increase in the assistance to low-performing schools; a $1 billion increase in Pell grants for low-income college students; $1 billion for new reading programs, a tripling of current funding; $320 million to ensure accountability with State assessments; $2.6 billion for quality teachers, a $400 million increase; a 14-percent increase in Impact Aid; doubling funds for charters schools; $472 million to encourage school choice and innovation; a down payment on increasing aid to black and Hispanic-serving colleges and universities by 30 percent by 2005; $6.3 billion to serve 916,000 children under Head Start; and under the National Science Foundation, $200 million for new K–12 math and science partnerships.

In addition to all of the above, we have up to $6.2 billion for further increases to high-priority education programs, such as IDEA, title I, class size, school construction, assessments, and reading—whatever priorities emerge from the current debate on ESEA reauthorization.

For example, the conference report has singled out IDEA as a particular priority, so we say that an additional $250 million should be added to the President's request of $1 billion for grants to States to educate disabled children.

I listened to the statements in this Chamber where Senators were saying: We have cut every penny of money to strengthen these programs. That is just not true. We are increasing funding. One of the increases, as I have listed, is a 14-percent increase for impact aid. That happens to be what my amendment did. In looking at impact aid, I think it is very important that we realize this is a part of this program.

Back in the 1950s, we established impact aid. This is a program with which I heartily agree. It said simply that if the Federal Government comes along with either a military base or Indian lands, something that the Federal Government has required to be taken off of the tax rolls, that impact aid should replenish that portion of the money that would go to education. There is not a Senator who would disagree with that. However, because we are all kind

of sneaky, and have been over the years, different politicians have gone down, since the 1950s, and taken money out of impact aid. So it dropped down to about a 20-percent funding level. In my State of Oklahoma, I have five major military installations. We have a lot of Indian land there. It is something where we should live up to the obligation that we said we would live up to back in the 1950s and fully fund impact aid.

I started lasted year, with the help of some Democrats, and virtually all the Republicans, saying: Let's go ahead and fully fund impact aid over a period of time. I want to do it over 4 years, but it looks as if it is going to be closer to 7 years. I had the amendment last year. I have the amendment this year. It has been very popular.

I have some letters that I pulled out of a long stack of letters coming from the various States. I know the Senator from North Dakota has been in this Chamber talking about it. I have a letter from the superintendent of Garrison Public School district in Garrison, ND, saying:

> Again, thank you for taking on the challenge of putting Impact Aid on a time line that hopefully will get it to a point where the federal obligation of full funding is realized.

That is from Garrison Public School district in North Dakota.

Here is one from the Minot public school system in North Dakota:

> The amendment you offered on the Senate floor to the Fiscal Year 2002 Budget Resolution is appreciated by federally connected school districts all across the country.

We have another one from Cass School District 63. They are in Illinois. I know that the Senator from Illinois has been talking about this. The superintendent writes: Thank you for doing this.

Mr. President, I ask unanimous consent that those three letters be printed at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. INHOFE. I guess what I am saying is, we have letters from every State saying this is something that should be done.

This budget resolution stays on line to ultimately fully fund the impact aid.

I want to share an experience that I am going to abbreviate because I know we are short on time. I do not have that much time.

I was having a townhall meeting in Frederick, OK. Frederick, OK, is in the southern part of the State. At the meeting, I noticed on the sign-in sheet—I know the Senator from North Dakota and Senators from all the other States have townhall meetings. People sign in so we know where they are from.

There were two ladies there in Frederick, OK, who were from Texas. I said: I am glad to have you ladies here. You are certainly welcome to stay; however, I am a Senator from Oklahoma. I don't have a lot of say about what goes on in the State of Texas. They said: No, we want to be here because we want to give a testimonial. These two ladies stood up and they said: We are Democrats. We are very strong supporters of the NEA. When Governor Bush came out with some new programs we were violently opposed to them because they deviated from the programs we have been used to. The values have been increased. And we decided, since we were leading the opposition to what Governor Bush was trying to do in Texas, we would now come up here and say to you, in every place we can, that we were wrong, because essentially what we have been doing—and what I hear a lot of these Democrats over here talking about—is taking a failed system, a system that has not worked, and just pouring more and more money into it.

The criticism I hear on this budget is that we are trying to pour on more and more money without making major changes. I think we ought to have vouchers. We ought to do a lot of things we are not doing. At least we are trying some things that are new and different. That is what President Bush was doing when he was Governor Bush in the State of Texas.

These two ladies, these Democrats came up to make their testimonial at my public hearing in Frederick, OK. They said: What he has done is try new things. It is having a huge, positive impact on the quality of education, on testing in the State of Texas.

We need to try something new and innovative, and we are.

I will share an experience. Some of these things that are new and innovative really go back and latch on to things that have been discarded over a period of time. I happen to have four children and eight grandchildren. Back when my kids were young, I can remember coming home after I had been out of town. My older son at that time, Jimmy, who is now in his forties, was 7 years old or something like that. He came up to me and he had a smile across his face. I said: Jimmy, you look like something good happened.

He said: Yes, you know, daddy, I am in the fourth grade.

I said: Yes, Jimmy, I know that.

He said: Did you know that in reading and in arithmetic I am in the fifth grade?

I said: No, how does that work?

He said: Well, it is something that is brand new and innovative. What they do is, if you excel in one particular area, they move you up a grade so you can compete with those who are at your level, and you are not down there competing with someone who is at a lower level. He said: It is brand new and innovative.

I said: That is really great, Jimmy.

Then I remembered back. I always remember the timeframe of this because it was during the bombing of Pearl Harbor. I happened to be going to a country school. It was called Hazel Dell. And in this school there were eight grades in one room. There was a big potbellied, wood-burning stove. The school master's name was Harvey Bean, a giant of a man, I thought. Probably he wasn't all that big after all, if I were to meet him again today, if he were still alive. But I remember that they had eight grades in one room.

The first row was for the first grade; second row for the second grade, on up. So my brother was in the second row. I was in the first row. My sister was in the eighth row at this country schoolhouse called Hazel Dell. Every time you missed a spelling word, you would have to go up in front of the class and Harvey Bean and you would have to bend over. He had a big wooden paddle and he would swat you.

I tell my colleagues, I was the best speller in the first row. And so I was moved up to the second row so I could spell with the second graders, with my brother and some of the rest of them. So that program that my son called brand new and innovative was alive and well back in the early 1940s.

I understand in the State of Texas some of these things that they have tried that deviate from what we are trying to do now is just going back and getting things that worked in the past. I have to say that this President is going to do things that are new and innovative. He is going to try things that haven't been tried before. Our system has not worked. Our test scores have not gone up. Rather than just pour more money on a failed system, we need to try these things that worked in Texas. I think they are going to work in our Nation.

It is high time we try something new and that we get in a position where we can actually compete now with some of these other industrial nations.

I yield the floor.

EXHIBIT 1

GARRISON PUBLIC SCHOOL,
Garrison, ND, April 23, 2001.

Hon. JAMES M. INHOFE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR INHOFE: On behalf of the Garrison School District including the students and the community we serve, I want to thank you for your leadership and support for the Impact Aid Program. The amendment you offered on the Senate floor to the Fiscal Year 2002 Budget Resolution is appreciated by federally connected school districts all across the country. You have consistently been there for the Impact Aid Program, but the leadership you have brought to the Senate floor the past two years has put Impact Aid on the list of priority education programs among your Senate colleagues. Although the program does enjoy a broad base of bi-partisan support in the Senate, because of your role Impact Aid has been taken to a new level.

All of us working with Impact Aid realize that much work still remains if the $1.293 billion figure you placed in the Senate Budget Resolution is to become reality. Please know you can count on our school district and the community it serves to do whatever it takes to help make that happen. You have been there for us and now is the time for the

Impact Aid community to be there for you. Again, thank you for taking on the challenge of putting Impact Aid on a timeline that hopefully will get it to a point where the federal obligation of full funding is realized. Not since the late 1960's has the program been fully funded, but due to your efforts we find ourselves at the threshold of a new era for Impact Aid.

Sincerely,

MIKE KLABO
Superintendent.

MINOT PUBLIC SCHOOLS,
Minot, ND, April 27, 2001.

Hon. JAMES M. INHOFE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR INHOFE: On behalf of the Minot Air Force Base School District, including the students and the community we serve, I want to thank you for your leadership and support for the Impact Aid Program. The amendment you offered on the Senate floor to the Fiscal Year 2002 Budget Resolution is appreciated by federally connected school districts all across the country. You have consistently supported the Impact Aid Program. The leadership during the past two years has put Impact Aid on the list of priority education programs among your Senate colleagues. Although the program does enjoy a broad base of bi-partisan support in the Senate, because of your role Impact Aid has been taken to a new level.

All of us working with Impact Aid realize that much work still remains if the $1.293 billion figure you placed in the Senate Budget Resolution is to become reality. Please know you can count on our school district and the community it serves to do whatever it takes to help make that happen. You have been there for us and now is the time for the Impact Aid community to be there for you. Again, thank you for taking on the challenge of putting Impact Aid on a timeline that hopefully will get it to a point where the federal obligation of full funding is realized. Not since the late 1960's has the program been fully funded, but due to your efforts we find ourselves at the threshold of a new era for Impact Aid.

Sincerely,

RICHARD LARSON,
Superintendent of Schools.

CASS SCHOOL DISTRICT 63,
Darien, IL, April 25, 2001.

Hon. JAMES M. INHOFE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR INHOFE: On behalf of the Cass #63 School District including the students and the community we serve, I want to thank you for your leadership and support for the Impact Aid Program. The amendment you offered on the Senate floor to the Fiscal Year 2002 Budget Resolution is appreciated by federally connected school districts all across the country. You have consistently been there for the Impact Aid Program, but the leadership you have brought to the Senate floor the past two years has put Impact Aid on the list of priority education programs among your Senate colleagues. Although the program does enjoy a broad base of bi-partisan support in the Senate, because of your role Impact Aid has been taken to a new level.

All of us working with Impact Aid realize that much work still remains if the $1.293 billion figure you placed in the Senate Budget Resolution is to become reality. Please know you can count on our school district and the community it serves to do whatever it takes to help make that happen. You have been there for us and now is the time for the Impact Aid community to be there for you. Again, thank you for taking on the challenge of putting Impact Aid on a timeline that hopefully will get it to a point where the federal obligation of full funding is realized. Not since the late 1960's has the program been fully funded, but due to your efforts we find ourselves at the threshold of a new era for Impact Aid.

Sincerely,

KELLEY M. KALINICH,
Superintendent.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me say to the Senator, I appreciate his comments. It is good to have somebody who understands the overarching activities that this budget resolution provides, and his constant concern about overspending and his concern about the taxpayers has been evident from the day he arrived. I am very pleased because we need to get this finished so we can start down the path of finishing the year, working with a President who is going to try to help us get a tax bill that is representative of the Senate.

People keep talking about a rich man's bill. Before you arrived, I read the names of the members of the Finance Committee. I think you know it has had a lot of changes of late, but clearly they will produce a tax bill. It is going to be representative of this Senate. It is not going to be one little faction's bill because of the makeup. So that is going to be a good thing. That will prove out the contentions in the Chamber about rich versus poor and what kind of tax cuts we do.

Clearly, it is going to have a marriage penalty. Clearly, it will have some rate reductions. Clearly, it is going to have childcare credits. However they do that, they are going to be there for American families with children. Obviously, there is going to be some estate tax reform of significance because we have already voted on that.

Mr. INHOFE. If the Senator will yield, particularly in western Oklahoma, when I have my townhall meetings, these farmers out there, they work 7 days a week. They are not wealthy people. For 13 townhall meetings in a row in western Oklahoma, at least one person stood up and said: Our family farm has been in our family now for three generations. We won't be able to do it anymore because maybe on paper, maybe on the IRS evaluation it is worth $1 million but not to us.

Then when all the corporate farms are buying up this land, 25 cents on the dollar, that is the greatest thing we could do for the farmers. It is not just in Oklahoma. I am sure it is in New Mexico and North Dakota, too.

Lastly, I hope you didn't miss the point, it was not a Republican but a Democrat who observed that the best way to increase revenues is to have marginal tax reductions. That was President Kennedy.

Mr. DOMENICI. Joined by Dr. Alan Greenspan, saying that is the best thing for the American economy. I thank the Senator and yield the floor.

What would the Senator like to do next?

Mr. CONRAD. How much time would the Senator from Iowa like?

Mr. HARKIN. Fifteen minutes, maybe.

Mr. CONRAD. And the Senator from Florida?

Mr. GRAHAM. Fifteen.

Mr. CONRAD. I wonder, could we give 12½ to both? Would that be all right? At this point we are starting to run out of time.

Mr. HARKIN. That is fine.

Mr. CONRAD. I yield the Senator from Iowa 12½ minutes and I yield the Senator from Florida 12½. And can we lock that in at this point?

Mr. DOMENICI. We will do that. If we have no Senators to go on our side, they can go sequentially, the two of them? That is our unanimous consent request.

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

Mr. HARKIN. Mr. President, I understand I have been yielded 12½ minutes. I thank the Senator from North Dakota for yielding me some time to speak on this budget.

I guess you could sum up this budget in very few words. It is bad for what ails us in this country. It is bad for our people. It is bad for our future. It is bad for our kids, and especially bad for our elderly.

Hubert Humphrey, one of my great political heroes, once said that the moral test of government is how the government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; those who are in the shadows of life, the sick and the needy.

Let's be clear: This conference report flunks the moral test of government. It turns its back on far too many of these Americans. And to the extent that it implements the Bush tax proposal, it basically says: If you earn $1 million a year, if you are very secure, we are going to help you get wealthier. But if you are in the dawn of life and you are a child, perhaps, who needs some help because you are in the lower socioeconomic strata of America, if you are poor, sick, elderly, if you are one of the baby boomers getting ready to go on Medicare, well, they are telling you, so long, sucker, we will see you later. That is what this budget to the extent that we stick to the President's plan, says.

I think stacking the deck even more against those who already have the deck stacked against them, through no fault of their own, is not the purpose of government. It is not why I came here, and I don't think that is what we ought to be about. I hope we will see a strong shift from this Bush budget.

This budget was fashioned under a plan to make room for huge tax cuts that to far to large an extent go to the wealthiest. In my saying these things, you might say that is just rhetoric. I am just saying those things. I am a Democrat, and the people who put this together are Republicans, so I am just saying these things.

But let's look at the facts. Don't accept what I say, look at the facts. This

Senate, by a majority vote, said that we wanted to cut the Bush tax proposal by $225 billion and put that into education. That was the amendment this Senator offered, and it was adopted by the Senate. Senator JEFFORDS and Senator BREAUX offered an amendment that also put $70 billion into education over the next 10 years. Well, that adds up to almost $300 billion—$295 billion—and that was in the Senate-passed budget. The House of Representatives had only provided $21.3 billion for education over those next 10 years. That was what President Bush wanted, $21.3 billion.

Well, now, you would think that, since we passed $225 billion over 10 years and the House passed $21.3 billion, they would compromise somewhere. Well, they compromised all right—at zero. Not only did they take out the $225 billion over 10 years under my amendment to zero, they took out the Jeffords-Breaux amendment of $70 billion down to zero, and the Bush plan of $21.3 billion.

They say they put it in a contingency fund. Good luck in getting anything out of that contingency fund. Why do I say that? Because also last week the Senate passed, on a bipartisan vote, a unanimous vote—a voice vote, and no one objected to it—we appropriated for the next 10 years about $181 billion to fully fund the Individuals With Disabilities Education Act, to move towards and meet our obligation of 40 percent of the average per pupil expenditure for IDEA over 10 years. A welcome sigh of relief echoed from our local school districts and our State boards of education. Finally, the Federal Government was going to provide this money for special education. We just did that last week here in the education bill that is in front of us. But this budget, with its projected contingency fund, is not going to allow us to meet our obligations in other areas.

This is kind of a busy chart. But what this chart really points out is that if we pass this budget as it is presented to us, doing the things that are talked about, we are going to raid Social Security and we are going to raid Medicare. The facts are here. If we take the final conference and look out over the next 10 years to what we are going to spend on defense—we are not going to cut defense; let's not kid anybody around here. We are not going to cut defense below this. The alternative minimum tax is going to be paid by an ever growing number of people exasperated lowering the top tax rates, creating a pressure to change the AMT. Look at special education that we passed last week, which is mandatory. It is mandatory spending. We have to spend this money if we are to meet a commitment that this Senate has voted without objection to finally meet. Think about the emergencies that will occur. We always have to come up with additional money for emergencies. Then there are the interest payments we have to make.

So when you add all of this up, they gave us a $504 billion surplus in this budget—they say. OK, it looks like a nice little slush fund we can use for all these things, but when you add up all of the mandatory things we are going to be spending over 10 years, it comes to a deficit of minus $552 billion.

So that means in order to make up this deficit in each of these years, we are going to have to take money out of Medicare for the first 3 years and then, from year 4 on, both Medicare and Social Security. Again, this is not rhetoric; the numbers are there.

What the House of Representatives gave us, what they voted on in the House of Representatives—every Congressman and Congresswoman who voted for that budget voted to raid Medicare and to raid Social Security over the next 10 years. Make no mistake about it. That is what they did, and that is what we have in front of us here.

So if you vote for this budget, you are voting to take money out of Medicare and you are voting to take money out of Social Security, to pay for what? The House has already passed a set of tax cuts that dramatically favor tax break that goes to the wealthiest in our society.

President Bush is always talking about waitresses and the people working out there and how they need a tax break, too. Here is a letter which appeared in the Des Moines Register on May 3. It was written by Deb Stehr of Lake View, IA. She is a waitress. She wrote this. The headline is ''Bush's Tax Cut Won't Help This Waitress Mom.'' I ask unanimous consent that this entire letter be printed in the RECORD.

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

[From the Des Moines Register, May 3, 2001]

BUSH'S TAX CUT WON'T HELP THIS WAITRESS MOM

IF HE'S NOT GOING TO TALK TO ME, SHOULDN'T HE STOP TALKING ABOUT ME?

(By Deb Stehr)

President Bush has said his tax plan would be great for a waitress with two kids and income of $26,000.

I'm a waitress, married, with one child still at home and a family income that's a little lower than $26,000 in most years.

If Bush visited the cafe where I work in Lake View, I would tell him that when it comes to my family and folks like us, he has it all wrong.

The fact is, we wouldn't get anything from his tax cuts. Instead, they would hurt programs we depend upon and gladly pay taxes to support, such as Medicare and Medicaid. They would kill the chances for programs such as prescription-drug coverage for our parents, which would make all our lives a little easier.

I'm the kind of person the politicians woo like crazy when there's an election coming up, and then forget about the rest of the time. So let me explain a little about my life to help them remember moms like me.

I am a waitress who has worked in the same local cafe for 13 years, and my husband owns a small auto-body repair shop. We don't have private health insurance so, like lots of working families, we have to rely on Medicaid. It has been a lifeline for one family member.

Our youngest son, Jonathan, was born with severe cerebral palsy 18 years ago. He receives Medicaid because of his disability, a program that has covered his extensive health-care needs over the years. For now, it also covers the necessary support services that enable us to keep him at home. Jon, like most young adults, looks forward to finishing his education, getting a job and living on his own. He will need Medicaid to help him become independent.

We're part of the ''sandwich generation''—baby boomers who care for aging parents as well as our kids. For the past year, my dad has been treated for a rare cancer. Fortunately, Medicare has paid for what would have been tens of thousands of dollars of medical bills. Ironically, the largest out-of-pocket expenses he had to pay were for prescription drugs.

That's my story, and when I hear Bush talk about families who would benefit from his tax plan, I know he's not talking about me. He might think he is talking about a waitress mom. But I know better. We pay payroll taxes, sales taxes and other taxes. I make more in tips on a bad day than I would ever get back from his tax cut. I don't think most of the customers who come to the cafe—mostly working people and seniors—would make out any better.

I am afraid that we'd lose out because Bush would have to cut programs that help our families survive. When I read that he plans to cut $17 billion from Medicaid over 10 years and ''borrow'' from the Medicare surplus, it makes me scared and angry. What would happen to my son if they cut Medicaid? What would happen to my dad, and many of the seniors I care about, if they cut Medicare?

Bush likes to say that the money the government gets from income taxes is the people's money. Some of the money in the Medicare surplus came from my payroll taxes and the taxes of workers in situations similar to mine. I'd just as soon see that money help people like my dad who worked hard and paid taxes all their lives.

Worst of all, I'm afraid Bush's tax plan would make the future less hopeful for working families like mine. This is a good country, with a big heart and supposedly a helping hand. Now that we finally have a surplus, we should use some of it to help seniors buy prescription drugs by adding a comprehensive, prescription-drug benefit to Medicare. We should provide health-care coverage for the uninsured and invest in education for all students. It makes more sense to help millions of people than to give millionaires a tax cut.

That's what I'd tell Bush if I ever had the chance. Even though he likes to say his plan would help someone like me, he's not likely to visit with a waitress in a small town in northwest Iowa. But if he's not going to talk to me, then shouldn't he stop talking about me?

Deb said:

President Bush has said his tax plan would be great for a waitress with two kids and an income of $26,000.

I'm a waitress, married, with one child still at home and a family income that's a little lower than $26,000 in most years.

If Bush visited the cafe where I work in Lake View—She goes on to say later that she has worked there for 13 years, and she also has a son who was born with severe cerebral palsy and lives at home. She said:

If Bush visited the cafe where I work in Lake View, I would tell him that when it comes to my family and folks like us, he has it all wrong.

The fact is, we wouldn't get anything from his tax cuts. Instead, they would hurt programs we depend upon and gladly pay taxes to support, such as Medicare and Medicaid. They would kill the chances for programs such as prescription drug coverage for our parents, which would make all our lives a little easier.

Deb goes on to say that she has been a waitress for 13 years and her husband owns a small auto body repair shop. They don't have private health insurance. They have to rely on Medicaid because their son Jonathan was born with severe cerebral palsy 18 years ago. He receives Medicaid because of his disability. Medicaid helps him to be independent. She has an elder parent who has cancer, and he relies upon Medicare money.

Well, she said in the end:

That's what I'd tell Bush if I ever had the chance. Even though he likes to say his plan would help someone like me, he is not likely to visit with a waitress in a small town in northwest Iowa. But if he is not going to talk to me, then shouldn't he stop talking about me?

I think that sums it up, Mr. President. If you want to help the working people of America who are out in the small towns and communities, who have their small businesses and are working hard to keep their families together, this is not the budget you want for their future. This budget is going to hurt them. This is not the budget you want to help educate our kids and to make sure they are going to have the funds necessary for their future growth and development.

If you want to make sure our elderly get the prescription drugs they need so that their lives are healthier and better, this is not the budget you want. If you want to make sure that we secure Social Security for the baby boomers and that we have the ability to make sure the Social Security System is sound for the next 40 to 50 years, this is not the budget you want.

This budget has everything in there for people who have everything in this country. The President likes to say he wants to ''leave no child behind.'' I think we have to revise that. What he really is saying is he wants to leave no child in the wealthiest suburbs behind, no child whose parents have a great income; he doesn't want to leave them behind. But if you are poor, black, Hispanic, and you are from the lower socioeconomic strata, if you in elementary school, if you nearing retirement with an average income, you are left behind with this budget.

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

Mr. President, the other thing I want to say is if you are interested in reducing the national debt, because we also put $250 billion in the Senate bill through the amendment I proposed to reduce the national debt so that our kids are not saddled with interest payments every year of their lives, if you are interested in paying down the national debt, this is not the budget for you because this budget does not pay down the national debt.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for 12½ minutes.

Mr. GRAHAM. I thank the Chair.

Mr. President, a week ago today on May 2, the front page of the Washington Post had three significant articles about the debate we are conducting tonight.

The first says, ''Bush Calls for Missile Shield.''

The second says, ''Bush to Unveil Panel on Social Security Change.''

And the third says, ''Tax Cut Compromise Reached.''

What is the relationship of those three articles? The relationship is that the decisions we are going to be making tonight, tomorrow, and next week on the tax cut compromise which has been reached will have significant effects on our ability to finance the missile shield and the Social Security changes which, on the same front page, the President has asked our Nation to consider.

Although we do not have a number, we have heard that the Secretary of Defense may be asking for as much as $250 billion above the amount in this budget resolution for additional defense expenditures. Whether that includes the national missile defense is a question mark.

We do not know the exact number, but the projection is, to pay for the privatization of a portion of Social Security as this Commission has been charged to develop will cost upwards of a trillion dollars over the next 10 years in the transition costs.

What these three stories show is the need to set priorities and to set priorities at the same time so that, just as any family, you would know how much you were going to spend for every component of the family's budget as you started the new year, as you began the new intelligent planning for your family's resources.

I suggest one intelligent step to take tonight is not to take one 10-year tax cut based on projections of what the Federal Government surplus will be from this year through the year 2011 but, rather, to take a step-by-step approach. Yes, passing a significant tax bill—and I will discuss later what I think its components should be—then reviewing what the state of the economy is after that tax cut, evaluating what our projected surpluses would be after that first tax cut, and deciding whether, when, and for what purpose a second tax cut would be prudent.

It has been said that we are engaged in a zero-sum game, and we are. Much attention has been given over the last several weeks to how big a tax cut Congress should build into the budget. Much less has been given to the fact that these budget decisions are a zero-sum game. Every dollar we spend on a tax cut is a dollar we cannot spend for something else. Every dollar we spend for something else is a dollar we cannot spend on the tax cut. The greater the tax cut, the fewer dollars are available for other priorities.

What are some of those priorities? In my opinion, they would be paying down the $5.5 trillion national debt we have developed over the last 20 years and have just started the process of reducing so we do not leave to our children and our grandchildren a credit card bill of ours to pay; meeting the No. 1 priority, which the President has stated and which this Congress has reaffirmed, and that is education; providing prescription drug coverage for older Americans; dealing with the serious issues of energy security and the contractual responsibilities we have for Social Security and providing for an adequate national defense.

In addition to being a zero-sum game, there is also a zero-sum minus because one of the flaws in this budget resolution that includes using the Medicare trust fund without a question, and arguably also the Social Security surplus trust fund as a means of being able to finance this enormous tax cut.

This violates the fundamental spirit of the agreement that we have with Medicare taxpayers, with Medicare beneficiaries, and with our Social Security beneficiaries.

Congress, instead of spending those trust funds or making them vulnerable to being spent, should use this opportunity to place the Medicare trust fund in a protected status and to recommit ourselves to do the same for the Social Security trust fund.

Senator STABENOW and I will be offering legislation, to be introduced shortly, which will do just that by providing a point of order against any attempt to use the Medicare trust funds for any purposes other than for paying current Medicare Part A benefits. So part of this game is zero-sum minus, minus the proposal of using the Medicare trust fund and the Social Security trust fund to pay for this.

Another part is zero-sum plus, and that is we are looking at the world as if it ends in the year 2011. Taking such a narrow focus prevents us from addressing the longer term budget challenges facing this country.

I understand that under the Budget Act we look at our Nation's finances for 10 years, but that does not put us in unneeded handcuffs to recognize the fact that there are responsibilities just beyond that horizon.

A very significant event in world history occurred in late March of this year. My daughter, Suzanne, and her husband, Tom, hosted a sixth birthday party for their triplet daughters, my triplet granddaughters. Ansley, Adele, and Kendall Gibson all became 6 years old on the same day. What is the significance of that for this debate? The significance is they are all going to become 16 10 years from now. If the Gibson family looked at the life of their triplets and said, let's just plan for the next 10 years, it would be a fairly smooth ride because the expenses from 6 to 16 are not that daunting.

The problem is that 2 years later, in the year 2013, those triplets are all going to want to go to college at the same time. Anybody who is putting one child through college can appreciate what the challenge is going to be to put through triplets at the same time.

That is almost an exact parallel to what our Nation is facing. We are on the verge of one of the most significant demographic surges in the history of America, and it can be seen in this chart.

If we just use as our amount to pay down the national debt the sums in the Social Security surplus, we are going to go back into deficit in the year 2017. The reason we are going to go back into deficit is because we will be 5 years into the baby boomers reaching their retirement age and starting to draw down Social Security.

Conversely, if we put all of the unified surplus into paying down the national debt, we will stretch that out to the year 2050 before we will be back into a deficit position. But we are just looking at this narrow window into which we are now entering and saying things look great for the next 10 years, but it is the period just after the 10 years that is going to be the challenge for Congress and for this Nation.

What are some of the implications of this chart? In the year 2017, the year we are going to go back into deficit, 52 million Americans will be receiving Social Security retirement benefits. That is up from 36 million in the year 2000, a 16 million increase in the number of Social Security retirees in just a 17-year period. Mr. President, that is 44 percent above current beneficiary levels. In addition, 56 million Americans will be eligible for Medicare benefits, up from 39 million in the year 2000.

Those are some of the challenges in the zero-sum-plus game. We have to add a longer vision to our fiscal telescope than just the 10 years immediately ahead.

I am also concerned in this approach of one humongous tax bill. We are not putting first priorities first in our Nation's economic life. I think the most challenging issue for America today is the fact we are facing the potential of a further and even more serious economic decline. There have been mixed economic figures in the past few weeks. The figures of last week show unemployment has risen to 4.5 percent, with a whole series of major American companies announcing yet another round of layoffs. Certainly that sends alarm signals. We ought to be using our energy and using the people's resources to help buy an economic insurance policy to do everything we can on the fiscal side of the American economy as the Federal Reserve Board is doing on the monetary side in order to give the American people the greatest confidence that they will not be facing a hard, perhaps a crash landing.

My suggestion is rather than pass the $1.35 trillion, 10-year ''spend it all right now'' tax plan, which I think will be seen quickly in history as being the equivalent of the 1981 tax cut which brought these enormous deficits and now a $5.5 trillion national debt, we ought to be patient and proceed step by step.

I suggest the first step ought to be to buy an economic insurance policy by passing a simple, immediate, broad-based and substantial tax cut of approximately $60 billion this year and in the next years, which will go, primarily, to American families in a sufficient amount to provide a $950 per year, or approximately $35 every other week in the paycheck, increase in the disposable income of American families so they will have not only the additional dollars to contribute to strengthening the demand side of our American economy but also the psychological reassurance that they are going to be that much better off on a permanent basis.

That is the kind of tax plan this Senate ought to be considering. The American people have worked hard for the last few years to get where we are. In 1992, we had the largest single deficit in any year in the history of the United States of America, almost $300 billion. Now we are in the happy circumstance of surplus. We are facing the prospect of surpluses for the foreseeable future. We have the potential of making that future stretch all the way to the middle of the 21st century if we act prudently tonight, tomorrow, and next week. This is not the time to go back where we have been and where we do not want to go again, a nation on its economic knees through deficits and excessive debt.

Mr. CONRAD. I yield 12½ minutes to the Senator from Florida.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, the chairman of my committee has given courageous leadership in trying to sort through all of the funny money and the distorted figures as we try to make some sense out of this budget resolution. I thank the Senator from North Dakota for his leadership.

I strongly support a tax cut that would benefit all Americans fairly, but I support a tax cut that doesn't sacrifice the fiscal discipline that enables us to provide tax relief for this year. I support a tax cut that doesn't abandon our commitment to such critical areas as Social Security, Medicare, education, national defense, and the environment. I was among those voting for such a tax cut when we first debated the budget a few weeks ago. It would have given taxpayers substantial relief—$900 billion over 10 years—while enabling us to meet our Nation's most pressing needs.

With the administration demanding $1.6 trillion instead of $900 billion, that sensible proposal of a balanced way of approaching the budget for all of these different needs that I want to talk about, and that my colleague, my senior Senator from Florida, has already talked about, was rejected. Instead, we are now considering a budget resolution calling for a $1.4 trillion tax cut over 10 years that is certain to cost far more if it is carried out.

We are about to vote for an illusion, a political head fake, because this budget before the Senate provides none of the additional money we approved for educational reform. Every day now we are on the education bill, S. 1. We have added needed money for lowering classroom size, as we are about to vote on the amendment from the Senator from Washington. We have added money to bring title I up, fully funded, over the course of the next decade. We have put additional money into Head Start, to get children ready to start school at the kindergarten and first grade level.

Yet this budget doesn't provide any of that money. This is one of the most inconsistent, legislative decision-making times we have ever seen. On the one hand, we are considering a budget resolution that strips out all of the additional money we promised our people last year in the election that was going to be invested in education while, at the same time, we are voting on an educational bill that adds all of this additional investment into education.

There is no money here for the public school improvements we all agreed were critically needed. This budget conveniently overlooks anticipated costs for such big ticket items as the President's plans for overhauling the military and the President's plans for building a missile defense system. It is based on distant revenue projections that are uncertain in the best of times and, increasingly, revenue projections of surplus that are very unlikely in our slowing economy.

My senior Senator from Florida, who is so kind to be here, knows that I made promises to our people in Florida. I promised to fight any raids on Medicare and Social Security trust funds. Instead of strengthening Medicare and Social Security, which we must do, this unconscionable budget would raid them.

Look at the chart referred to in an earlier speech. With everything in this present budget at the end of 10 years, there isn't enough left in the present budget projections, to the tune of $½ trillion. At the end of 10 years, where will we get it? We will get it by raiding the Medicare trust fund, $326 billion over 10 years. I promised I wasn't going to do that.

We are going to get it by raiding the Social Security trust fund, $225 billion over 10 years. I promised I would not do that, and I will not.

And I promised to give all children a chance for a quality education. And we are stripping out that money for education.

I promised to protect our precious natural resources. There is not any money for that.

I promised to strengthen our Nation's military. And there is not any money for that, either.

I promised to modernize Medicare with a real prescription drug benefit, and there is no money for that. I promised one of the most sacred promises to all of the people of Florida who have labored under budget deficits and who have worried, as they worry about paying off their mortgages on their homes—I promised to pay down the national debt with this surplus so our economy can grow and prosper. We are not doing that with this budget.

No, the budget plan before us would eat up our entire surplus. It would cripple our ability to do all of those things I promised our people in Florida. So I am going to vote against it. Because of the promises I made to our people in Florida, I will continue to fight for reforms and I will continue to fight for tax cuts in the days and the weeks ahead. I will continue to fight for those reforms and tax cuts that will better serve all of our people.

I say to the chairman of our committee, my senior Senator, the distinguished Senator from the State of Washington, it has been a privilege to be a part of this process. Thank you for letting me express some very deeply felt convictions, most of which were discussed in detail as I had the privilege of visiting all of the back roads and cities, the rural areas, and the backwaters of Florida as I traversed the State last year in the campaign. What a high honor it was to be elected to represent the State of Florida. I came here with those promises. I intend to keep them.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. If the Senator will yield for just a moment—

Mr. SESSIONS. I will be glad to.

Mr. CONRAD. I appreciate the courtesy of the Senator very much. I would like to say that Senator NELSON of Florida has been a very valuable member of the Senate Budget Committee. Nobody has been more serious about the work of the committee. I think nobody is more dedicated to fiscal responsibility. His senior colleague as well, who sits next to me on the Senate Finance Committee—I think on the questions of fiscal responsibility, they are two of the most sound thinkers who come before the Senate. I admire the remarks of both tonight.

I especially want to say to the junior Senator from Florida, Mr. NELSON, how much I appreciate the effort he has extended to be involved in the budget process. It has been a great help to me, and I will not forget the assistance he has provided.

I yield the floor. Again, I thank the Senator for his courtesy.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DOMENICI. How much time did the Senator ask for?

Mr. SESSIONS. I haven't asked but 7 minutes.

Mr. DOMENICI. I yield 10 minutes, if you like. Will you yield me 1 minute of that time—or let me ask consent that the Senator be permitted to speak for up to 10 minutes.

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

Mr. DOMENICI. And then who is next? Do we have another Senator?

Mr. CONRAD. We are ready on our side with Senator MURRAY.

Mr. DOMENICI. How long would she like? Why don't we just set it in place.

Mr. CONRAD. I yield 12½ minutes for Senator MURRAY, and then Senator CORZINE on our side, 12½ minutes as well.

Mr. DOMENICI. We will do that following the Senator from Alabama, and if any other Republicans want to speak, any way that is fair. Does the Senator yield me 2 minutes?

Mr. SESSIONS. Yes.

Mr. DOMENICI. Mr. President, it is just amazing to this Senator. I don't know where they get the numbers. Somebody is giving them to them. Somebody is making a lot of assumptions that are not in this budget resolution.

We do not need a lesson from anyone about whether or not we should dip into Social Security trust funds for purposes of spending in this budget. We were the first to put before the Congress of the United States a lockbox concept. By the time we were finished, everybody took credit for it—lock in the Social Security trust fund. That is a lockbox. Before we were finished, President Clinton was for it. He had not been for it before. We start it; everybody takes credit.

Let me say to the American people, whenever you want to give the American people a tax cut of sizable proportions—not as big as the Kennedy tax cut, not as big as the Reagan tax cut—just try to give the taxpayers some of their money back out of this huge surplus, there is no end to excuses as to why we cannot do it.

The latest one is: Seniors, you ought to be angry about this tax cut, even though it is going to your children and grandchildren and to your friends because, they are saying on that side, we are spending it; we are spending part of your trust fund money for tax cuts.

Not true. And it should not be a condition precedent to cutting taxes.

Next, what do they insist on? You can't touch Medicare. We didn't have to learn that from anyone. We did not, we do not, and wherever those numbers came from, they are not the numbers in the budget. They are not what we assume will be spent. They are assuming the alternative minimum tax will be passed. They are assuming defense will get $370 billion. They are assuming education will get $146 billion more. How are we responsible when we do not even have that in our budget? We don't know what is going to happen there. What is in our budget does not use Medicare, does not use Social Security.

I believe every time we have a significant tax cut going to Americans so the economy will keep going, that is the best thing for seniors. Keep an economy that is booming. What do we boom on? Low tax rates. That is what America's economy expects. So you do that to help over the long run, and you get excuses that you have not done everything yet that is necessary.

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

Mr. DOMENICI. I am pleased to yield on your time.

Mr. SESSIONS. This tax cut that you proposed and the analysis that has been made of it, does it have dynamic scoring? Does it provide any projected boost in the economy by virtue of the tax cut?

Mr. DOMENICI. No, it does not.

Mr. SESSIONS. That is a very conservative posture to take.

Mr. DOMENICI. Also, let me say the economy is not booming as much as we like, and there is $100 billion in it that was sought after by Democrats for upfront stimulus between this year and next year. That is going to go right into the pockets of Americans. It is going to go into the pockets of the neighbors and nephews and grandchildren of the seniors whom they are trying to scare in that we cannot keep our faith with Social Security and give people back some of their money. We can. We will. And it will not touch Social Security. So don't get worked up about it, our friends who are seniors. If you want to call our offices, we will give you the numbers.

Those numbers are invented. Since they use all kinds of invective here on the floor about our budget resolution, they are invented numbers. That is not accusing anyone. They just borrowed them from somewhere. They are not in the budget.

I will be pleased to yield the remainder of my time, except I want to say we were asked to balance the budget before we would give any tax relief. We have. It will be. We were asked to reduce the debt. We have. It will be. It will be reduced dramatically.

The real numbers are $3.2 trillion in debt. It will be down to $0.8 trillion under this budget resolution, a huge reduction in debt. What are we arguing about? It is as big as you can get. Probably you cannot do any more.

Go onto everything they ask, that everybody says this budget should do before we give Americans a tax break. We have done them all. We tried. They are inventing new ones. Every time we are on the floor, they are inventing new ones.

I don't kid anybody. This is not a budget that Senator HARKIN would put forward. This is not a budget resolution he would write. I don't know what he would write, I don't know what he would support. Clearly, he came and spoke his piece, and that is fine. He didn't vote for it even when it left the Senate when 15 Democrats did. Nor did most of the people who are speaking

against it. They didn't even vote for it when it passed the Senate with 15 Democrats in support of it, with a lower tax number than the President wanted and that we wanted.

So I want to wrap my arguments up very simply. Everything a budget could be asked to do before we give any money back to our American people to grow our economy even better, we have done it all.

Every time we try to do a reasonable tax reduction plan, we find new conditions and new things we ought to be doing as a Government. What? Before we can give the American people a tax break? Give us a break. How many more conditions? There will be more tonight. We have a couple of hours. There will be more tomorrow morning. We have an hour or so. There will be more things we should have been doing before we give the American people a tax break. I guarantee you that is what it will be about—more things the Government ought to do and less and less about what people should get. Give back to them some of their money.

I yield the rest of your time. I am sorry I used it. I ask unanimous consent that he have 10 minutes nonetheless.

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

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Chair and the distinguished Budget Committee chairman. There is no one who has given more of his heart and soul to battling for a sound economy in this country and a sound balance between the individual American citizen and our Government than the chairman of the Budget Committee.

We are looking at numbers. They are extraordinary. Money is pouring into our National Government. Even in this time of slowdown, preliminary numbers I heard recently indicate that we will still have more money coming into the Government this year than was projected even last year. All the projections for the last 4 years have been below the size of the actual surplus.

What are we talking about? We are talking about an unusual period of time in which the Federal Government is growing at an unprecedented rate.

It is a fundamental period for us to make a decision. Are we going to go down the road of the socialistic economic philosophies of European nations and others in the world, or are we going to maintain the great American tradition of individual freedom and free enterprise? It is a fundamental question. There are Members of this body who either have not thought about that, or have thought about it and won't admit it and want to see us go in that direction because every time a tax cut is proposed, they say: No, we can't trust the American people with their money. We have to take it and spend it on this program, this program, this program, and this program.

Are there not families in America and senior citizens in America who need to put a set of tires on their car and need a $75-a-month tax reduction to help them do that? Are there not people who will benefit from that? Aren't children going to benefit from the tax credit that families will have with two children with a $1,000-a-year tax credit?

I don't mean you get $1,000 and have to pay taxes on it. I mean they get to keep $1,000, if they have two children, for the year. It adds up to almost $100 a month to help them raise their children, to take care of us when we retire, educate their children, and raise them in the proper way.

But the most important thing for us to know is that in 1992 this Federal Government alone took 17.6 percent of the total gross domestic product in the form of taxes. Mr. President, 17.6 percent of all the goods and services produced in this country were sent to Washington, DC. Since 1992, it has grown every single year. We are now at 20.7 percent of the gross domestic product going to the Federal Government in Washington.

Is there any wonder why we have a surplus? There is no doubt about it. The Government is taking a larger percentage of America's wealth. Are we going to let it go to 22 percent or 25 percent so politicians can spend it and go out and claim they did great things for you, and have buildings named for them that they built with your money? I don't think so. I think this is a defining moment of great historical importance.

The bipartisan majority, I am confident, will approve this budget of $1.3 trillion in tax reductions over 10 years, with $100 billion in the first 2 years for an economic stimulus to help get this economy moving again, and to help do something about these high energy prices which are a direct result of a no-growth environmental extreme policy that did not allow production of energy sources and left us in a shortage and left us with high prices. We do not need that kind of shortsighted mentality, in my view.

We are in a position to do something very special. We are in a position to allow the American people, vis-a-vis their central government, to have a little bit more money, to be able to keep a little more of what they earn, and to reverse that trend. Because when money is taken from an individual, a free American citizen, and is sent to Washington, Washington is empowered. Washington is enriched. Washington is strengthened. And the individual American is diminished. His wealth is diminished; his freedom, his autonomy, his ability to do as he or she wishes is diminished.

I think we are at a point where we are sending enough here. I don't believe the people who elected me said, Jeff, go up there and preside over one of the greatest increases in accumulation of wealth in Washington, DC, in the history of our country. I don't believe that is what I was sent here to do.

The 20.7 percent coming to this Government right now as a percentage of gross domestic product is the highest figure since the height of World War II. One year in World War II it hit 20.9 percent.

We are drifting into a state-dominated, socialist-type economy, if we don't watch it. The trends are not healthy. Let's slow that down.

Compared to the Reagan tax cut, this one is small. Compared to the John F. Kennedy tax cut, this is small. It is not a breathtaking tax cut. We are looking at it over 10 years. But it is significant. I believe it will help contain that trend of ever increasing concentration of wealth in Washington, with more and more Federal programs—all for the greatest sounding good that seldom produces the results they set out to do.

I think we are on the right track. I believe we are going to have a strong vote for this. I think it is the right direction for our country to go in. I could not be more excited about it.

I have no doubt that we will not cast a more important vote. We will not deal with a more important governmental issue than trying to contain this powerful growth in spending and wealth in this Nation's Capital.

By the way, we are paying down the debt as fast as it can be paid down without paying penalties on the Treasury bills that are out there. It is a tremendous reduction of wealth. The estimates are that instead of paying 14 percent down now to fund our debtload, we will be down to under 2 percent at the end of this budget projection at the rate we are going. It is a good trend to be on. Less than 2 percent for debt service is a healthy trend for us. In a couple more years, we could have all the debt eliminated. That is a wise economic step for us to take at that time.

I certainly believe in paying down debt. I certainly believe we ought to lock up the Social Security surplus and not spend it.

Senator DOMENICI is correct. Senator DOMENICI founded the idea of a lockbox, and fought for it on this floor. I supported him. Senator Spence Abraham of Michigan supported him. We worked hard on the lockbox. We didn't get it passed. The Democrats opposed it. The Democrats opposed that lockbox.

Then, stunningly, we were in a political campaign and the Vice President said he was all for a lockbox. He should have told some of his friends in the Senate.

But we are going to do that. We are locking that money up.

I will say one thing. I am not voting for a budget that is going to spend the Social Security surplus. That debt needs to be paid down. It should be for that purpose and should not be spent. I will oppose any spending or any tax program that reduces or spends any of that surplus. It is not going to happen. It is a commitment on both sides of the aisle not to allow that to happen. We are not going to allow that to happen. That would be wrong. We have done

that too long. It is time to end that. In fact, a good frugal congressional battle has resulted in better spending ideas and the containment of spending which has helped produce this surplus.

The budget is pretty good on spending increases. The President wants us to hold to 4 percent. It looks like the budget is going to have us at a little over 5 percent. We have to watch ourselves. It is so tempting to spend. If we can just maintain spending at the rate of inflation, or only slightly above the rate of inflation, I think we can do well. But if we go crazy and we spend like we did last year—nearly an 8-percent budget increase in spending—and do that every year, we are not going to have any Social Security or tax cut possibilities.

I am excited about what is happening. I think we will have bipartisan support for this. I know some people just cannot stand the thought of a tax cut. I think it is a great idea. I think it is time, and we have the money to do it. We ought to let the American people keep some of their money, and quit this unprecedented growth in the accumulation of wealth going to Washington, DC.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. I thank the Senator from Alabama.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask if Senator MURRAY will yield to me briefly, so I can respond to a number of points that have been made.

The PRESIDING OFFICER. Does the Senator yield?

Mrs. MURRAY. Yes.

Mr. CONRAD. Mr. President, the Senator from Alabama used some pretty strong language out here. Socialistic? Please. I do not know of a single socialist in the Senate or anybody that has any thought of proposing anything socialistic in this Chamber. That is talk that is a little beyond the pale.

Let's review what has happened in fact—not the rhetoric, the fact. This chart I have here demonstrates what has happened to Federal spending as a share of national income since 1966. Ronald Reagan took over in 1980. I do not think he was a socialist. But look what happened to Federal spending as a share of national income under Ronald Reagan and, effectively, Republican control of both the House and the Senate. Federal spending as a share of gross domestic product shot up under President Reagan.

Now look what happened when a Democrat took over in 1992. Federal spending as share of GDP plunged. We have gone from 22 percent of GDP going to the Federal Government when Bill Clinton came into office to last year going down to 18 percent—a dramatic reduction of money coming to Washington for the Federal Government as a share of national income. Those are facts. As President Reagan used to say, facts are stubborn things.

The Senator from Alabama said the Democrats defeated the lockbox. You bet we defeated the lockbox they proposed because the lockbox they proposed would have prevented us from honoring our national debt. The Secretary of the Treasury wrote us and said that would endanger the ability of the United States to meet its financial obligations. I was the author on this side of the lockbox legislation that passed, with the strongest vote in the Senate on a bipartisan basis. That lockbox passed.

So when they say the Democrats opposed the lockbox, we opposed a fiscally irresponsible lockbox, and we supported the lockbox that with bipartisan support passed in the Senate. Facts are stubborn things. Senator DOMENICI said, in answer to Senator NELSON, that Senator Nelson put up a chart that had things that were not in their budget. That is exactly the point. The defense buildup they are calling for, this administration is calling for, is not in the budget. The strengthening of Social Security that this President is calling for are not in the budget. The additional resources for education this President is calling for are not in the budget.

That is the problem with this budget: It is not a true accounting of what is going to happen here. The result is precisely what Senator NELSON described: We are going to be deep into the Medicare trust fund, deep into the Social Security trust fund, because what we have here is not a real budget.

I thank the Senator from Washington for the time.

Mr. President, I ask unanimous consent that the Senator from Washington be given an additional 5 minutes because I used her time.

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

The Senator from Washington.

Mrs. MURRAY. Mr. President, how much time do I have total at this point?

The PRESIDING OFFICER. The Senator from North Dakota used 3½ minutes. The Senator had 12½ minutes reserved. So now the Senator has about 16 or 17 minutes.

Mrs. MURRAY. I thank the Presiding Officer. And I thank the Senator from North Dakota for his tremendous leadership on this issue and for working with us who serve on the Budget Committee in one of the best ways I have ever seen, including, in the process, helping us to understand the true impact of this budget. I really want to let him know how much I appreciate that.

Mr. President, as my colleagues know, the budget resolution before us provides the framework for Federal budget priorities for the coming fiscal year. In fact, this debate and this budget are the most important things the Senate will do this year. The vote we take will have a significant impact on our Nation's ability to meet our challenges and to provide opportunity for America's working families.

But this vote isn't just about what happens to Americans a year from now. It is about what happens to our country generations from now because this budget will have a major impact on the projected surplus and on future budgets.

Over the last 8 years, we learned what a difference a responsible budget can make. We learned it starts with the basics—such as using real numbers and not ''betting the farm'' on rosy projections. We learned that if we invest in the American people and their needs, our country and our economy will also benefit. We learned we need to be fiscally responsible. That means making tough choices and holding the line on deficit spending. And we learned that we have to work together to get things done.

The last 8 years have shown us that if we follow those lessons—using real numbers, investing in people, meeting our needs, being fiscally responsible, and working together—we can turn deficits into surpluses, and we can transform the American economy into a job-creating machine.

Today, there is a new President in office. There is a new Congress. And there are new economic challenges as our economy slows and an energy crisis grows.

Mr. President, the times are different, but the lessons are the same.

This isn't the time to throw away the handbook we have used for the past 8 years. It is time to follow the lessons it offers. Unfortunately, the administration and the Republican leadership are running in the opposite direction. And I fear we are going to repeat the same mistakes of the past—mistakes that we are just now getting over. Let me say that again. The Republican budget ignores the lessons of the last 8 years. Instead of focusing on real numbers and realistic estimates, the Republican budget puts all its faith in projected surpluses that may never materialize.

The things we know so far about this budget are disturbing. We know it is based on surplus estimates that may not come true. We know that it abandons fiscal responsibility in the name of a tax cut primarily benefitting a few. We know that it fails to adequately meet the priorities and needs of the American people and the people of my home State. We know it fails to invest in our future economic security and competitiveness. And we know it fails to eliminate the $5.3 trillion in debt that has accumulated over the past 20 years.

What we already know about this budget is enough to give us pause, but what we don't yet know about this budget is enough to stop it cold. We don't know what the surplus or the overall economy will look like a few years from now. And today there are very real reasons to be concerned. In my home State, and up and down the West Coast, we are experiencing an energy crisis. Gasoline prices are skyrocketing, factories are closing down,

and energy bills are up significantly. This energy crisis is having a negative impact on the economy of the country—but this budget resolution and its projections do not take any of that into account.

This budget resolution is also silent on two major Bush proposals: developing an unfettered missile defense system and privatizing Social Security.

Now, what is significant about these announcements is not just that they represent major departures from past policy, but that they came with no price tag. So, we have the President proposing to spend huge sums on these initiatives, but they are not accounted for in the budget proposal, that he presented, nor in the one being considered by this Congress.

Why would we as a country pass a budget that we know is based on shaky projections, that excludes huge bills we know we are going to have to pay, and that forces cuts in vital services just to fund a tax cut that is tilted to just a few? Why are we proceeding down the slippery slope of rosy predictions and fiscal irresponsibility? Frankly, it is because it is the only way this President can pay for his tax cut.

Democrats support a fair tax cut. All of us have been working on that. We want a fair tax cut for middle-class Americans, and we are fighting for an immediate tax rebate that would put an average of $600 in your family's pocket this year. A tax cut is one of the many things Americans deserve, but it is not the only thing. We also deserve a Government that stops corporate polluters, that supports the hiring of more police officers and good teachers, and that strengthens Medicare with a real prescription drug benefit. Americans do deserve to get a tax cut this year. After all, it is our money. But it is also our national debt, our overcrowded classrooms, our prescription drug costs, and our drinking water. And we cannot walk away from those responsibilities.

Finally, this budget does not address the needs of the American people. I want to talk about some of those.

This budget eliminated the amendment that this Senate passed to increase our investment in education. This budget falls short of our targeted debt reduction goals. It fails to give communities the tools they rely on to prepare for natural disasters and to limit their damage. In fact, President Bush's budget eliminated a program called Project Impact, which is a predisaster program that saved lives and prevented damage during the February 28 earthquake that occurred in my home State of Washington.

The President's budget also cut the Federal share of a program that helps communities rebuild after disasters strike. The Senate passed my amendment to restore those vital programs, but this budget resolution took them out.

This budget eliminates the successful community-oriented COPS Program and other law enforcement programs that have helped thousands of communities achieve some of the lowest crime rates in a generation. The police on our streets have worked to restore a measure of safety and security in our communities, and this budget takes away that funding.

This budget also cuts the budget for Eximbank which allows our Nation's industries to compete with highly subsidized foreign competitors. This budget also jeopardizes the Federal class size initiative which has helped school districts hire 40,000 new qualified teachers so our kids can learn in a safe environment.

This budget cuts rural health care initiatives, including telemedicine grants that literally provide a lifeline for remote and underserved areas, and it cuts support to our family farmers who need it now more than ever. This budget does not invest enough in environmental restoration and conservation. It cuts research and development of renewable energy sources and energy conservation efforts.

This budget does not provide adequate funding for veterans programs for which the House and the Senate voted. In fact, both Chambers told the budget conferees to do better than the President's funding level. The Republicans met behind closed doors and stuck us with the President's insufficient number. Not only did the conferees refuse to honor the increases for veterans programs that were approved by both the House and Senate, but they also discarded an amendment that I proudly cosponsored about concurrent receipt. The amendment that was offered by Senator REID would have allowed our military retirees to collect both their retirement pay and their disability benefits. Today, we single out veterans by denying them these benefits.

The Senate passed an amendment that would have corrected that injustice, but the Republican conferees, behind closed doors, when no one was looking, dropped that critically important provision. America's veterans are big losers in this budget.

To me, that is another example of why this process should have been bipartisan and open from the start. By closing the door on bipartisanship, the conferees have left America's priorities behind.

Let me mention two more: prescription drugs for seniors and the Federal Government's obligation to clean up nuclear waste. On prescription drugs, we all know that the lack of affordable drug coverage is a problem not just for those with low incomes, all seniors and the disabled face the escalating costs of prescription drugs and lack of affordable coverage. This issue did not go away the day after the election. We know that a prescription drug benefit was estimated to cost $153 billion; that was originally. Now estimates show that it will take about twice that amount to provide a real benefit. We know that seniors need an affordable drug benefit that is part of Medicare. The Republican budget that we are looking at does not set aside enough money to provide that budget and that benefit. That is a promise all of us made in the last several years.

Let me turn to another example. This budget reduces the Federal Government's responsibility for the cleanup of nuclear materials and waste. In Washington State, we face a tremendous challenge of cleaning up the Hanford Nuclear Reservation. Hanford cleanup has always been a nonpartisan issue, and I hope we can keep it that way. There were some press reports back in February that the Bush budget was going to cut these important critical cleanup funds. I talked to the White House budget Director, Mitch Daniels. He assured me there would actually be an increase in funding for the Hanford cleanup.

The President's proposed budget cut the nuclear cleanup program, which is assumed, by the way, in this conference report, and that would make it very difficult to meet the Federal Government's legal operations in this area. Any retreat from our cleanup commitment will result in a legal action by the State of Washington. To avoid that and to meet our legal obligations to clean up the Hanford Nuclear Reservation, we need an increase of approximately $330 million. The price of America's victory in World War II and the cold war is buried in underground storage tanks and in facilities, and we have a responsibility, both morally and legally, to clean it up. That is not in the budget we are considering.

As you can see, this budget leaves a lot of American priorities behind. It takes rosy projections. It leaves out major bills we know will come due, and it puts a squeeze on hard-working families. We can do a lot better.

We ought to be working together to come up with a proposal that is fair and balanced, that meets the needs of the American people.

This administration came to town and promised to restore bipartisanship and promised to reach across party lines to meet the challenges of governing. This budget doesn't do that. As a member of the joint House-Senate conference committee, I can tell my colleagues, Senator CONRAD and I were not invited to that table. We were told our presence was not necessary. This partisan, back room dealing spells disaster for the entire budget process. Adoption of this budget resolution is only the first step in a lengthy budget process. It is far too early for this bipartisanship to break down now.

I am really disappointed in the decision to ignore many of the bipartisan amendments that were adopted in the Senate. As a member of the Senate Appropriations Committee, I fear this kind of partisan tone will make past budget battles pretty mild.

We have learned a lot about responsible budgeting over the last 8 years. I

think those lessons are being ignored in this budget resolution. I fear that it is going to put us on the road to repeating the same costly mistakes of yesteryear.

I urge my colleagues to reject this budget agreement. I hope we can sit down and work on a budget agreement that is bipartisan and that works for the needs of the American people.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Washington for her contribution tonight and, more importantly, for her contribution on the Senate Budget Committee. She is one of the most valued Members on our side of the aisle. I believe she could have made a significant contribution in the conference committee but, of course, we were excluded from the conference committee.

Again, I thank Senator MURRAY for everything she has done as a member of the Budget Committee.

I believe the Senator from New Mexico wanted to deal with a unanimous consent request.

Mr. DOMENICI. Would the Senator permit me to talk to Senator MURRAY about a mutual problem?

Mr. CONRAD. Certainly.

Mr. DOMENICI. I know we have an area of mutual concern with reference to defense cleanup that has to do with your State and has to do with two or three others, not as much with my State as other defense issues. I told you awhile ago that I was going to do my very best. We are short a significant amount of money in the President's budget in terms of cleanup which will have a big effect on Idaho, your State, and South Carolina. I want you to know, I am still working on that.

Contrary to what some people would think, we can do it under this budget. We are going to work very hard with you to see that we can.

Mrs. MURRAY. Mr. President, if I could respond quickly, I thank the Senator from New Mexico. He has been a champion for our State in assuring that we have the cleanup dollars that are so drastically needed. I know he understands the moral obligation we have to clean up that site. So I thank him for his comments.

Mr. DOMENICI. On behalf of the leader, I have a unanimous consent request in hand. I ask unanimous consent that all time be used or yielded back by the close of business this evening with the exception of the following: 40 minutes under the control of Senator CONRAD or his designee, 30 minutes under the control of Senator BYRD or his designee, and 40 minutes under the control of Senator DOMENICI or his designee, with 15 minutes of that time consumed just prior to the vote.

I further ask consent that when the Senate resumes consideration of the conference report at 9:30 a.m. on Thursday, tomorrow, the vote occur on adoption of the conference report following the use or yielding back of the time as described in this unanimous consent agreement.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. We have no objection.

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

Mr. DOMENICI. Mr. President, in light of this agreement, there will be no further votes this evening. I think most Senators will not be surprised by that announcement. The next vote will occur at 11:30, or thereabouts, on Thursday, on the adoption of the budget resolution conference report. It is also my understanding, and the Senators should note, that the two leaders would have leader time available for their use prior to the vote. However, we would still expect the vote to occur at 11:30, or shortly thereafter, if the leaders use their allotted time.

Mr. President, with that, I inquire, how many more Senators might speak tonight?

Mr. CONRAD. I am pleased to report that Senator CORZINE is next for 12 and a half minutes, and then we have Senator LEVIN, who has reserved 12 and a half minutes. We are told by his staff he should be on his way. So then we will be able to wrap up quickly thereafter.

Mr. DOMENICI. Fine. I have no objection to finishing up with two more Democrats in a row. We have no Senators desiring to speak. They may speak as part of my 40 minutes tomorrow.

With that, I thank the Senator for his cooperation today and his side of the aisle for the way they have handled the use of time, and I thank my side of the aisle for placing so much faith in me that you left it all up to me. I wish you could have come down and I could have taken a rest.

I will have substantially more to say tomorrow with reference to education, and one other item—the $500 billion contingency fund that remains in the budget to be used for other items beyond this budget. That will be part of my wrap-up tomorrow.

I yield the floor.

Mr. CONRAD. Mr. President, I yield 12 and a half minutes to the Senator from New Jersey, Mr. CORZINE. Before he starts that, I say to my colleague, Senator DOMENICI, I think we have moved pretty well today. I thank the Senator very much for his leadership and his graciousness during the day.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I rise in strong opposition to the conference report on the budget resolution.

Before I make specific comments on the resolution, let me express my sincere appreciation to the distinguished senator from North Dakota for his leadership in revealing the hard truth about this budget. He has done a truly outstanding job of analyzing, clarifying and revealing this budget proposal for what it is—a overreaching, transparent defense of a misguided and oversized tax cut.

I know all of us on this side of the aisle are grateful for Senator CONRAD's and his staff, disciplined and intellectually honest efforts.

I am new to the federal budget process. But I find virtually everything about this resolution, and the so-called process by which it was developed, utterly mystifying. It appears to have been produced in a partisan way with no meaningful input from Democrats—and with little regard for the Senate-passed version of the budget resolution. The conference report now has been put on the Senate floor with little opportunity to study the final numbers and language. And it leaves more questions than it answers.

What we do know, is that its numbers are based on surplus projections that are little more than guesses based on assumptions with incredibly real world variability. What we do know, is that the resolution puts no new money into education, the environment or other priorities. What we do know, is that the resolution raids the Medicare Trust Fund.

What we do know, it that it does nothing to prepare for the future of Social Security and the retirement of the baby boomers. And if changes in productivity and economic growth lead to a reduction in future revenues, and Congress later, as expected, increases defense spending substantially, we clearly will be invading the Social Security Trust Fund—an outcome anathema to senators on both sides of the aisle.

Mr. President, as most of my colleagues know, I used to run a major investment banking firm. We didn't plan with abstract numbers or set inflexible budgets that fixed policies for ten years without review. And I can tell you that if I ever presented a prospectus or budget plan to my management team or the investing public, and gave them 24 hours to review and approve it, I'd be opening myself up to an enforcement action by the SEC. And if I produced prospectus which ignored major costs or risks that I knew our company would be facing, I could have faced potential criminal liability.

Unfortunately, that's what's happening here in the United States Senate as we debate this budget resolution. And it's simply wrong.

We haven't had time to study it. There are a whole bunch of risks that are ignored, and we are making commitments that go on far too long relative to the priority mix that I think the country needs to address.

There are so many unanswered and unaddressed issues in this resolution that it's hard to know where to begin. But I'm profoundly concerned that it fails to make needed investments in education. In my view, the people of New Jersey believe that nothing is more important for the future of our country than investing in our kids, and

they want a real partnership between the federal, state and local governments to pay for that investment.

New Jersey's citizens are fed up with property taxes having to bear the major brunt of the costs of education. They want relief. They expect the unfunded mandate of special education to be paid for by those who create the mandates.

Unfortunately, the conferees rejected the Harkin amendment, a bipartisan effort to increase the Federal government's investment in a variety of education programs. And the end result is a totally inadequate commitment to the many educational needs facing our country, from dilapidating schools to the need to reduce class sizes, to the need to fully fund IDEA and Title I.

Unfortunately, education is just one of many priorities being ignored by this conference report. It also does too little to move forward in protecting our environment, to keep our air and water clean, too little to provide prescription drug coverage for our seniors, too little to expand health care coverage for the uninsured, and too little to strengthen our national defense.

And, incredibly, we are turning our backs on the successful economic formula of the last few years: paying down the debt, and keeping interest rates low so that the private sector isn't competing with the federal government for scarce investment dollars.

All of these priorities have been sacrificed on the alter of huge tax breaks—tax breaks that, in all likelihood, will be provided disproportionately to the top one percent of taxpayers in our nation—the most fortunate—those who have done the best, and who need help the least.

I support cutting taxes—cutting them for the middle class. But the proposed mix of tax cuts we are about to debate and the subsequent limitations on priority investments is flatout irresponsible.

In light of my experience in the private sector, it is hard for me to comprehend why we would make such enormous long-term commitments based on 10-year projections that nobody accepts as reliable.

After all, 1 year ago, CBO's then 10-year projection was lower by $2.4 trillion than this year's. Think about that. One year ago, we were projecting $2.4 trillion less than what we are now using as the baseline to make these tax cuts and set our investing priorities.

If last year's projection was so far off, for the life of me, I do not understand why we can be so certain about this year's, and we want to set all these variables in place.

I also think it is remarkable that, even as we vote to establish this budget, many around here already are talking about pushing beyond the resolution's limits. This conference report says we should have $1.35 trillion of tax cuts over the next 11 years. I believe that is more than we can afford. Yet many assume that Congress will soon violate even that limit with a series of additional tax breaks beyond those anticipated in this resolution, sort of the Lego approach to how we build things.

Forgive me for asking the obvious, but what is the point of having a budget if you know you are going to ignore it? I am new around here; I admit it. I am reluctant to cast aspersions based on only a few months of Senate service, but the more I see, the more I share Americans' deep frustration with the political rhetoric that does not match the discipline that I think they expect us to bring to this budget process.

No legitimate business, no individual, no family would budget this way. None would completely ignore such huge unfunded liabilities. None would rely on speculative 10-year projections to lock itself into vast, permanent commitments. None would adopt a budget knowing that it later would be ignored. In the real world, it just would not happen. People would get fired and creditors would just say no.

I hope my colleagues will forgive my frustration with this process and substance of this budget resolution. Maybe that is the way it works around here, but I believe this budget is wrong for our Nation and wrong for our future. I suspect it will pass, but for me I think we are making a very serious mistake—a serious mistake with regard to priorities, a serious mistake in locking in on a plan that gives us very little flexibility down the road.

Simply put, I hope that many of my colleagues will rethink their views, bring some flexibility to their own thinking and have a truly bipartisan approach to putting together this budget resolution.

The Senator from North Dakota has done a terrific job of informing us. I appreciate his help. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank Senator CORZINE from New Jersey for his remarks. He brings a special credibility to financial questions given the fact he was one of the most successful businessmen in America before he came to this Chamber, and given the fact that he was known for his brilliant financial analysis. I thank him for commenting on this process and outlining to colleagues the extraordinary divergence from how things would be done in the private sector, the really almost breathtaking decisions that are being made based on a 10-year projection that the people who made the forecast warn us of its uncertainty, the people who made the forecast telling us there is only a 10-percent chance of this number coming true, a 45-percent chance there will be more money, a 45-percent chance there will be less money, and we are rushing and betting the farm that it all comes true on a 10-year forecast.

If that is conservative, I do not understand the meaning of the word. It is not conservative. I think what is being done here borders on radical. I do not think there is a company in America that would make decisions in the way they are being made in this budget.

Mr. President, the Senator from Michigan was recognized to be the next speaker on our side. Does the Senator from Michigan seek 10 minutes?

Mr. LEVIN. I would appreciate 10 minutes. That will be fine.

Mr. LEVIN. Mr. President, the budget resolution before us does not offer a fiscally responsible budget, and it should be rejected. It uses most of the projected surplus for tax cuts that not only go mainly to upper income people but are also based on surplus projections which are highly speculative.

I want to turn the attention of the Senate to this chart for a moment. In 1985, we projected a deficit 5 years hence, in 1990, of $167 billion. It turned out the deficit was much worse—by $50 billion. That was an error rate of 30 percent in this 5-year projection.

Every single year in the last 10 years that we looked at these projections, the error rates have averaged over 100 percent, with the smallest error rate being 28.1 percent and the largest error rate being the most recent one, a 268-percent error rate.

We talk about speculative projections. This is a 5-year projection. That is how far off these projections have been for the last 10 years using a 5-year projection. The budget resolution before us has a 10-year projection. A 100-percent-plus error rate for the last 10 years and we are betting the economy on that kind of a wildly speculative projection of surpluses down the road. To base permanent tax cuts on such projections is simply fiscally irresponsible.

Tax cuts should be based on real surpluses, not on far-off projections. It would be far preferable to use most of the projected surplus for debt reduction and a smaller immediate tax cut which would give our economy a boost. That way, if the surplus projection is wrong, we will not go back into a deficit ditch out of which we just climbed.

As for tax cuts beyond this year, we should have a smaller tax cut which helps middle-income and lower income people more and upper income people less than the Bush tax proposals, and we should also give tax relief to the 25 million working Americans who pay Federal payroll taxes but who get no tax cut at all under the Bush proposal.

The budget resolution before us is fiscally irresponsible for other reasons as well. It is timed to be passed before we receive an expected request for a huge defense spending increase, which is going to follow the strategic review due to be completed by the Secretary of Defense in the next few months. The request for added defense dollars could well be $250 billion over 10 years. It is going to be in that range, reliable reports indicate; $250 billion more for defense is likely to be requested by the administration following the strategic review which is going to be completed

within the next few months. It just is simply not sound planning to rush to a judgment on a tax cut, as this resolution forces us to do, with its 8-day deadline to the Finance Committee to write a huge Tax Code when we know, with reasonable certainty, that the administration will be seeking a huge increase in the defense budget.

Because the projected surplus will have been used for the tax cut, the defense increase will dig further into Medicare and Social Security surpluses. I say ''further'' because does anyone here really seriously doubt that there are going to be tax extenders which are going to be added to the tax cut? Does anyone doubt that the tax-writing committees are going to avoid pushing additional millions of people into paying alternative minimum taxes? Does anyone here really doubt that there is going to be added interest costs that result from the budget resolution and its tax cuts?

I think it is clear, almost beyond any doubt, that there are going to be tax extenders, there are going to be further interest costs as a result of this budget resolution and its tax cuts, and that we are going to force millions of Americans to pay alternative minimum taxes. When all that happens, we have additional huge raids on Medicare and Social Security. That is before the expected defense increase is presented to this Congress by the administration.

The budget resolution also violates the pledges to add money for education. For instance, the Senate version of this budget resolution included the Harkin amendment and the Breaux-Jeffords amendment. Those two amendments alone projected $300 billion in added spending for education. They were summarily dropped in conference.

The budget resolution will result in significant cuts in renewable energy funding. Funds for energy research will be cut. There will be cuts in clean water infrastructure. It provides for cuts in clean air research and investment. All the rhetoric about a prescription drug program will go up in smoke because other Medicare programs are used in this resolution to pay for the prescription drug benefit.

The opportunity to keep our economy sound, keep Social Security sound, to keep Medicare sound, to keep education commitments to our children, and to keep the commitment of a prescription drug program to our seniors, to keep our promises of environmental and alternative energy initiatives—they are all thrown out the window in the frenzy of this administration to give big tax cuts to upper income people.

This budget resolution represents a terrible application of fiscal and social responsibility. And it should be defeated.

I thank the Chair. I not only thank the ranking member of the Budget Committee, but I know that I add my voice to probably every voice on this floor, even those who may vote for this budget resolution, but particularly those of us on this side who rely so heavily on the ranking member for his tenacious determination to simply get to the facts—just the facts.

The good Member of this body from North Dakota has spent a huge amount of his time and his life looking at numbers and looking at the facts. He has given us some unvarnished information which is of immense value to this body. And as time goes on, I think we will realize the truthfulness of it, and the honesty of those facts will regard him in greater esteem, even if that is possible, for the courage that he brings to this process, and the determination that this body, before it votes on a budget resolution, understands fully the implications of what it is voting for and the fundamental underlying numbers which are either there or hidden and which are an important part of the future economy of this country.

I want to add my personal thanks to him.

Mr. President, I ask unanimous consent that a chart setting forth the history of the unreliability of budget projections over the 10-year period I referred to be printed in the RECORD.

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

HISTORY OF UNRELIABILITY IN BUDGET PROJECTIONS: FIVE-YEAR PROJECTED V. ACTUAL SURPLUS OR DEFICIT

[Projected in 1985 for 1990, 1986 for 1991, etc.—$ billions]

	Projected	Actual	Difference	% error
1990	−167	−220	−53	31.7
1991	−109	−269	−160	146.8
1992	−85	−290	−205	241.2
1993	−129	−255	−126	97.7
1994	−130	−203	−73	56.2
1995	−128	−164	−36	28.1
1996	−178	−107	71	39.9
1997	−319	−22	297	93.1
1998	−180	−29	151	83.9
1999	−182	124	306	168.1
2000	−134	236	30	276.1

Source: CBO.

Mr. LEVIN. I thank the Chair and thank my good friend from North Dakota for his extraordinary effort.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague, the senior Senator from Michigan. Praise from him is high praise indeed. There is nobody that I respect more in this Chamber than the Senator from Michigan. The Senator from Michigan is the ranking member on the Armed Services Committee. He is our leader on defense issues.

Mr. FEINGOLD. Mr. President, I rise with regret to oppose this conference report on the budget resolution. I regret this Congress appears willing to turn its back on 8 years of fiscal responsibility and prudent stewardship of our Nation's resources.

The favorable surpluses that we enjoy today did not come quickly or easily. Many of our citizens experienced cuts in their benefits, and many Members of Congress took some hard votes to get there. Regrettably, this Congress seems all too willing hurriedly to dissipate that achievement.

The fiscal responsibility over the last 8 years has allowed the Government to pay down hundreds of billions of dollars of Federal debt, and it has allowed interest rates to remain lower than they otherwise would have been, saving so many Americans billions of dollars on their mortgages, car loans, and student loans. We should continue to pay down the debt.

Yes, taxpayers deserve tax relief. The surplus does give us a golden opportunity to cut taxes. I supported Senator CONRAD's proposal to cut taxes by $745 billion over the next 10 years. With its associated interest costs, that package would have devoted roughly $900 billion to tax relief.

The tax cut in this conference report is too large and not responsible. It seeks to devote $1.35 trillion to this one purpose. Interest costs could add another $400 billion to the cost. The budget resolution tax cut is thus almost twice the size of Senator CONRAD's more measured approach.

The budget resolution seeks to commit these resources all in one fell swoop before the projections of future surplus dollars have proved real, before we have ensured the long-term solvency of the vital Medicare system, before we have brought that program up-to-date with needed prescription drug and long-term-care benefits, and before we have done a single thing to prepare the vital Social Security safety net for the impending retirement of the baby boom generation. This budget resolution addresses the Nation's needs in exactly the wrong order.

Some on the other side of the aisle have argued that we need to engage in this rush to cut taxes because if we don't, then Congress will simply spend the money. I share the concern of many of my Colleagues that the Government will spend more than it should.

But it appears that this massive tax cut is by no means abating the Government's appetite for spending. Just last Tuesday, for example, the Wall Street Journal reported that the Pentagon wants $25 billion more a year for new weapons alone a whopping 42 percent jump in the Pentagon's procurement budget. And almost unbelievably, this budget resolution gives the Pentagon what amounts to a blank check to spend just what it wants. It contains a special reserve fund that allows for increases in military spending if the President's National Defense Review just asks for them.

Some argue that this tax cut will prevent unconstrained government spending. I am concerned that we will end up with both.

I share the unease expressed by Senator SARBANES at a Budget Committee hearing earlier this year, when he said that the powers-that-be here in Washington appear to be taking the lid off of the punch bowl. Remembering the party that Washington had with the taxpayers' money in 1981, I am concerned about the hangover that will follow these festivities today.

Recall that back in 1981, they had surplus projections, too. In President Reagan's first budget, incorporating his major tax cut, the administration projected a $28 billion surplus in the fifth year, 1986. In the actual event, the federal government ran up a $221 billion deficit in 1986. The Reagan budget was thus off by $249 billion in its fifth year alone. Over the 5 years covered by the Reagan budget, its projections were off by a total of $921 billion.

Expressed relative to the government's total outlays, the first Reagan budget's surplus projection for 1986 was off by an amount equal to fully a quarter of all the government's spending. Expressed as a share of the gross domestic product, the first Reagan budget's surplus projection for 1986 was off by 5.6 percent of the economy.

If this budget resolution conference report is off by the same share of the economy as President Reagan's budget was, it will miss the mark by $744 billion in the year 2006 alone and $2.9 trillion over 5 years.

As both Senators CONRAD and BYRD have ably pointed out, the people who make the surplus projections, the Congressional Budget Office, say in their own report that they regularly miss the mark in their projections. CBO says that over the history of their 5-year projections, they have been wrong in the fifth year by an average of more than 3 percent of the gross domestic product. Thus, CBO says right in their own report that just their average error in the past would lead you to expect that they will be off by $412 billion in 2006.

We should not commit to massive tax cuts of the size in this conference report on the strength of these flimsy projections. Rather, we should enact a moderately-sized tax cut now, and revisit the possibility of additional tax cuts in a few years if the projected surpluses actually materialize.

And this budget resolution conference report also puts the Nation's needs in the wrong order by committing to these massive tax cuts before we have updated and ensured the long-term solvency of the Medicare system. In their 2001 annual report, concluded under the Bush Administration, the Trustees of the Medicare Hospital Insurance trust fund project that its costs will likely exceed projected revenues beginning in the year 2016. The Trustees say: ''Over the long range, the HI Trust Fund fails by a wide margin to meet our test of financial balance. The sooner reforms are made the smaller and less abrupt they will have to be in order to achieve solvency through 2075.''

This budget resolution conference report puts the Nation's needs in the wrong order by putting these massive tax cuts before extending the solvency of Social Security. Social Security's Trustees remind us again this year that when the baby-boom generation begins to retire around 2010, ''financial pressure on the Social Security trust funds will rise rapidly.'' The Trustees project that, as with Medicare, Social Security revenues will fall short of outlays beginning in 2016. The Trustees conclude: ''We should be prepared to take action to address the OASDI financial shortfall in a timely way because, as with Medicare, the sooner adjustments are made the smaller and less abrupt they will have to be.''

We know, these are not alarmist projections. These projections were signed by, among others, Secretary of the Treasury Paul O'Neill, Secretary of Labor Elaine Chao, and Secretary of Health and Human Services Tommy Thompson. If the right hand of this Government knew what the left hand was saying about our future commitments, we would not be acting first to cut taxes and only later taking steps to extend the lives of Medicare and Social Security.

This budget resolution addresses only one side of the Nation's needs. It is a lopsided budget. And we can do better.

Let us not neglect our long-term commitments to Medicare and Social Security. Let us not squander years of efforts to balance the budget in one great fiscal jubilee.

I urge my Colleagues to reject this conference report. And let us begin to address the long-term needs of our Nation.

The PRESIDING OFFICER. The Senator from Nevada, Mr. ENSIGN.

Mr. ENSIGN. Mr. President, on behalf of the leader, I have a number of items for wrapup. I ask the following consents as in morning business.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ENSIGN. Mr. President, in executive session, I ask unanimous consent that the HELP Committee be discharged from further consideration of the following nominations, and, further, the Senate proceed to their consideration: Pat Pizzella, PN296; Ann Combs, PN354; David Lauriski, PN324; Shinae Chun, PN370; and Stephen Goldsmith, PN222. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

Pat Pizzella, of Virginia, to be an Assistant Secretary of Labor.

Ann Laine Combs, of Michigan, to be an Assistant Secretary of Labor.

David D. Lauriski, of Utah, to be Assistant Secretary of Labor for Mine Safety and Health.

Shinae Chun, of Illinois, to be Director of the Women's Bureau, Department of Labor.

Stephen Goldsmith, of Indiana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2005.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

TEACHER APPRECIATION WEEK AND NATIONAL TEACHER DAY

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 85, submitted earlier by Senator WARNER for himself and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 85) designating the week of May 6 through 12, 2001, as ''Teacher Appreciation Week'', and designating Tuesday, May 8, 2001, as ''National Teacher Day''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble 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 resolution (S. Res. 85) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

HONORING THE NATIONAL SCIENCE FOUNDATION

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 108, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 108) honoring the National Science Foundation for 50 years of service to the Nation.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (H. Con. Res. 108) was agreed to.

The preamble was agreed to.

AUTHORIZING THE USE OF THE CAPITOL GROUNDS

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of H. Con. Res. 74.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 74) authorizing the use of the Capitol Grounds for the 20th annual National Peace Officers' Memorial Service.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 74) was agreed to.

HONORING THE ''WHIDBEY 24''

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from consideration of S. Res. 80 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 80) honoring the ''Whidbey 24'' for their professionalism, bravery, and courage.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid upon the table, with no intervening action.

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

The resolution (S. Res. 80) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 80

Whereas the Electronic Countermeasures Squadron One (VQ–1) at Whidbey Island Naval Air Station performs an electronic reconnaissance mission for the defense of our Nation;

Whereas on April 1, 2001, a VQ–1 EP–3E Aries II electronic surveillance plane collided with a Chinese fighter jet and made an emergency landing at the Chinese military airfield on Hainan Island;

Whereas the 24 crew members on board the plane (referred to in this resolution as the ''Whidbey 24'') displayed exemplary bravery and courage and the highest standards of professionalism in responding to the collision and during the ensuing 11 days in detention in the People's Republic of China;

Whereas Navy Lieutenant, Shane J. Osborn, displayed courage and extraordinary skill by safely landing the badly damaged EP–3E; and

Whereas each member of the ''Whidbey 24'' embodies the selfless dedication it takes to defend our Nation: Now, therefore, be it

Resolved, That the Senate—

(1) expresses relief at the release and safe return of the ''Whidbey 24'' and shares in their families' joy;

(2) applauds the selfless devotion to duty of the ''Whidbey 24'' who risked their lives to defend our Nation;

(3) praises the ''Whidbey 24'' for their professionalism and bravery and expresses the admiration and gratitude of our Nation; and

(4) acknowledges the sacrifices made every day by the members of our Nation's Armed Forces as they defend and preserve our Nation.

RECOGNIZING THE IMPORTANT ROLE PLAYED BY THE SMALL BUSINESS ADMINISTRATION

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 86, submitted earlier by Senator BOND for himself and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 86) to express the sense of the Senate recognizing the important role played by the Small Business Administration on behalf of the United States small business community.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BOND. Mr. President, as has been the tradition for the past 38 years, the President of the United States has issued a proclamation calling for the celebration of Small Business Week. Today, we are in the middle of Small Business Week 2001, which is being sponsored by the Small Business Administration. The purpose of this week's celebration is to honor over 25 million businesses that make up the U.S. small business community. It is very appropriate for us, today, to recognize the importance of America's small businesses, and the significant role played by the Small Business Administration, SBA, in our Nation's economic growth.

Congress established the SBA in 1953 to provide financial and management assistance to start-up and growing small businesses. Over the past 48 years, the success of SBA in meeting its missions is legend. It maintains a portfolio of guaranteed small business loans and disaster loans totaling more than $45 billion. And the Agency has guaranteed another $13 billion in venture capital investments to small businesses. To compliment it successful credit programs, the SBA's management assistance programs were delivered to more than one million small businesses during the past fiscal year.

Over the past decade of record economic growth and prosperity, U.S. small businesses have been the engine driving our economy. More than 99% of all employers in the United States are small businesses, providing nearly 75% of the net new jobs added to our workforce. Small businesses have proven, year-in and year-out, that they are a potent force in the economy, accounting for 51% of the private sector output. And their sights are not set just at home; leading the way toward a global economy, the small business community represents 96% of all U.S. exporters.

Over the past 6 years I have been the chairman of the Committee on Small Business, and I have witnessed the enormous potential of America's small businesses at work. They are flexible; they are creative; they give us jobs; they provide economic growth; and most importantly, they provide hope and a future for millions of families and communities across our great nation.

The resolution now before the Senate recognizes the critical role played by small businesses and the Small Business Administration in this business community. It is appropriate that we take a moment from our hectic lives to acknowledge the success of small businesses and to encourage our federal government to continue to provide its help to insure future successes.

I urge each of my colleagues to vote for the Small Business resolution as a way to thank the SBA and the small business community for its contributions to our Nation.

Mr. KERRY. Mr. President, this legislation reauthorizes the Small Business Administration's Small Business Technology Transfer Program. The STTR program funds cooperative R&D projects between small companies and research institutions as an incentive to advance the nation's technological progress. For those of us who were here when Congress created this program in 1992, we will remember that we were looking for ways to move research from the laboratories to market. What could we do to keep promising research from stagnating in Federal labs and research universities? Our research in this country is world renowned, so it wasn't a question of good science and engineering. We, without a doubt, have one of the finest university systems in the world, and we have outstanding research institutions. What we needed was more development, development of innovative technology. We needed a system that would take this research and find ways it could be applied to everyday life and national priorities. One such company is Sterling Semiconductor. Sterling, in conjunction with the University of Colorado, has developed silicon carbide wafers for use in semiconductors that can withstand extreme temperatures and conditions. In addition to defense applications, these wafers can be used for everything from traffic lights to automobile dashboards and communications equipment.

With technology transfer, it was not just the issue of the tenured professor who risked security if he or she left to try and commercialize their research; it was also an issue of creating businesses and jobs that maximized the contributions of our scientists and engineers once they graduated. There simply weren't enough opportunities at universities and labs for these bright individuals to do research and development. The answer was to encourage the creation of small businesses dedicated

to research, its development, and ultimately moving that research out of the lab and finding a commercial application.

We knew that the SBA's existing Small Business Innovation Research (SBIR) program had proven to be extremely successful over the previous ten years, so we established what is now known as the Small Business Technology Transfer program. The STTR program complements the SBIR program. Whereas the SBIR program funds R&D projects at small companies, STTR funds cooperative R&D projects between a small company and a research institution, such as a university or Federally funded R&D lab. The STTR program fosters development and commercialization of ideas that either originate at a research institution or require significant research institution involvement, such as expertise or facilities, for their successful development.

This has been a very successful program. One company, Cambridge Research Instruments of Woburn, Massachusetts, has been working on an STTR project with the Marine Biological Lab in Woods Hole. They have developed a liquid crystal-based polarized light microscope for structural imaging. While that is a mouthful, I'm told that it helps in manufacturing flat screen computer monitors, and even helps improve the in vitro fertilization procedure. Together this company and the lab expect to have sales in excess of $1 million dollars next year from this STTR project.

As this example illustrates, the STTR program serves an important purpose for this country's research and development, our small businesses, our economy, and our nation. The program is set to expire at midnight on Sunday, September 30th. By the way, we absolutely have no intention of letting reauthorization get down to the wire, which was the unfortunate fate of the reauthorization of the SBIR program last year. I have worked in partnership with Senator BOND to develop this legislation, and as part of the process we have consulted with and listened to our friends in the House, both on the Small Business Committee and the Science Committee. We do not see this legislation as contentious, and we have every intention of seeing this bill signed into law well before September.

Shaping this legislation has gone beyond policy makers; we have reached out to small companies that conduct the STTR projects and research universities and Federal labs. On my part, I sponsored two meetings in Massachusetts on March 16th to discuss the STTR program. At my office in Boston, there was a very helpful discussion with six of Massachusetts' research universities expressing what they like and dislike about the program, and why they use it, or don't use it more. The meeting included the licensing managers from Boston University, Harvard, MIT, Northeastern University, and the University of Massachusetts. They said they need to hear more about the STTR program and have more outreach to their scientists and engineers so that they understand when and how to apply for the program. Based on their suggestions, we've included an outreach mandate in our bill. In addition, we're trying to provide SBA with more resources in its Office of Technology to be responsive to the concerns of STTR institutions and small businesses.

Later that day, my office was part of a meeting in Newton at Innovative Training Systems in which about 20 leaders and representatives of small high-tech companies talked about the SBIR and STTR programs. They make a tremendous contribution to the economy and state of Massachusetts. They said that the Phase II award for STTR should be raised from $500,000 to $750,000 to be consistent with the SBIR program. Otherwise, since a minimum of 30 percent of the award goes to the university partner, it was too little money to really develop the research.

As I said, we listened to them. And we also listened to what the program managers of the participating agencies had to say. Agencies participate in this program if their extramural R&D budget is greater than $1 billion. Consequently, there are five eligible agencies: the Department of Defense, the Department of Energy, the National Aeronautics and Space Administration, the Department of Health and Human Services, and the National Science Foundation. For the STTR projects, they set aside .15 percent of their extramural R&D budget. That comes to about $65 million per year invested in these collaborations between small business and research institutions.

Combining all the suggestions for improvement, the STTR Program Reauthorization Act of 2001 does the following:

1. It reauthorizes the program for nine years, setting the expiration date for September 30th, 2010.

2. Starting in two years, FY2003, it raises in small increments the percentage that Departments and Agencies set aside for STTR R&D. In FY2004, the percentage increases from .15 percent to .3 percent. After three years, in FY2007, the bill raises the percentage from .3 percent to .5 percent.

3. Starting in two years, FY2003, the legislation raises the Phase II grant award amount from $500,000 to $750,000.

4. It requires the participating agencies to implement an outreach program to research institutions in conjunction with any such outreach done with the SBIR program.

5. As last year's legislation did for the SBIR program, this bill strengthens the data collection requirements regarding awards and the data rights for companies and research institutions that conduct STTR projects. The goal is to collect better information about the companies doing the projects, as well as the research and development, so that we can measure success and track technologies.

While I believe that these changes reflect common sense and are reasonable, I would like to discuss two of the proposed changes.

First, I would like to talk about reauthorizing the program for nine years. The STTR program was a pilot program when it was first enacted in 1992. Upon review in 1997, the results of the program were generally good and the program was reauthorized that year. A more recent review and study of the program shows that the program has become more successful as it has had more time to develop. Specifically, the commercialization rate of the research is higher than for most research and development expenditures. Further, universities and research institutions have developed excellent working relationships with small businesses, and the program has also had good geographic diversity, involving small companies and research institutions throughout the country. The nine-year reauthorization will allow the agencies, small businesses and universities to gradually ramp up to the higher percentage in a predictable and orderly manner.

Second, I would like to talk about the gradual, incremental increases in the percentages reserved for STTR contracts and the increase in the Phase II awards. When we reached out to the small businesses and the research institutions that conduct STTR projects, and the program managers of the five agencies that participate in the STTR program, we heard two recurring themes: one, raise the amount of the Phase II awards; and two, increase the amount of the percentage reserved for STTR projects.

Speaking to the first issue, we heard that the Phase II awards of $500,000 generally are not sufficient for the research and development projects and should be increased to $750,000, the same as the SBIR Phase II awards, to make the awards worth applying for the small businesses and research institutions.

As for the second issue, we were told that the percentage of .15 reserved for STTR awards needed to be increased in order to better meet the needs of the agencies. Last year, that .15 percent of the five agencies' extramural research and development budgets amounted to a total $65 million dollars available for small businesses and research institutions to further develop research and transfer technology from the lab to market through the STTR program. Less than a quarter of one percent to help strengthen this country's technological progress is not extravagant; in fact, it is not adequate support for this important segment of the economy.

Nevertheless, we are very conscientious about the needs of the departments and agencies to meet their missions for the nation and have proposed gradual increases that take into full consideration the realities of implementing the changes for the agencies

and departments that participate in the program. Consequently, the legislation does not increase the percentage for STTR awards until two full years after the program has been reauthorized.

We are also conscientious about the fact that we want more research, not less, so we have timed the increase of the Phase II awards to coincide with the initial percentage increase reserved for STTR projects.

Overall, we believe this gradual increase will help encourage more innovation and greater cooperation between research institutions and small businesses. As the program requires, at least 30 percent of these additional funds will go to university and research institutions. Not only do the universities and research institutions that collaborate with small businesses get 30 percent of the STTR award money for each contract, they also benefit in that they often receive license fees and royalties. We are also conscientious about being fiscally responsible, the percentage increases will have no budget implication since it does not increase the amount of the money spent. Rather, it ultimately, after six years, redirects one half of one percent to this very successful program which benefits the economy overall.

This bill will ensure that this successful program is continued and increased. It will also provide Congress with important information and data on the program and encourage more outreach to small businesses and research institutions.

Mr. President, I want to encourage my colleagues to learn about this program, to find out the benefits to their state's hi-tech small businesses and research universities and labs, and to join me in passing this legislation in the Senate as soon as possible. To my friend from Missouri, Senator BOND, I want to thank you and your staff for working with me and my staff to build this country's technological progress. I also want to thank all of the cosponsors: Senators CLELAND, LANDRIEU, BENNETT, LEVIN, LIEBERMAN, HARKIN, BINGAMAN, ENZI and CANTWELL.

Mr. President, I ask that my statement and a copy of the bill be included in the RECORD.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble 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 resolution (S. Res. 86) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

COMMENDING MEMBERS OF THE UNITED STATES MISSION IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. ENSIGN. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Res. 81 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A resolution (S. Res. 81), commending the members of the United States mission in the People's Republic of China for their persistence, devotion to duty, sacrifice, and success in obtaining the safe repatriation to the United States of the crew of the Navy EP–3E ARIES II aircraft who had been detained in China.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ENSIGN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and, finally, any statements be printed in the RECORD.

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

The resolution (S. Res. 81) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, on March 31, 2001, two fighter aircraft of the People's Republic of China intercepted a United States Navy EP–3E ARIES II maritime patrol aircraft on a routine reconnaissance mission in international airspace over the China Sea;

Whereas one of the two Chinese aircraft collided with the United States aircraft, jeopardizing the lives of its 24 crewmembers, causing serious damage, and forcing the United States aircraft commander, Navy Lieutenant Shane Osborn, to issue a ''MAYDAY'' distress call and perform an emergency landing at a Chinese airfield on Hainan Island;

Whereas, in violation of international norms, the Government of the People's Republic of China detained the United States aircrew for 11 days, initially refusing the requests of United States consular and military officials for access to the crew; and

Whereas the persistence and devotion to duty of the members of the United States mission in the People's Republic of China resulted in the release of all members of the United States aircrew on April 12, 2001: Now, therefore, be it

Resolved, That the Senate hereby commends the members of the United States mission in the People's Republic of China, and other responsible officials of the Departments of State and Defense, for their outstanding performance in obtaining the safe repatriation to the United States of the crew of the Navy EP–3E ARIES II aircraft.

PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION

Mr. ENSIGN. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 428 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 428) concerning participation of Taiwan in the World Health Organization.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 647

Mr. ENSIGN. Senator HATCH has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for Mr. HATCH, proposes an amendment numbered 647.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CONCERNING THE PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION (WHO).

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

(1) Good health is important to every citizen of the world and access to the highest standards of health information and services is necessary to improve the public health.

(2) Direct and unobstructed participation in international health cooperation forums and programs is beneficial for all parts of the world, especially with today's greater potential for the cross-border spread of various infectious diseases such as the human immunodeficiency virus (HIV), tuberculosis, and malaria.

(3) Taiwan's population of 23,500,000 people is larger than that of ¾ of the member states already in the World Health Organization (WHO).

(4) Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, and the first to eradicate polio and provide children with hepatitis B vaccinations.

(5) The United States Centers for Disease Control and Prevention and its Taiwan counterpart agencies have enjoyed close collaboration on a wide range of public health issues.

(6) In recent years Taiwan has expressed a willingness to assist financially and technically in international aid and health activities supported by the WHO.

(7) On January 14, 2001, an earthquake, registering between 7.6 and 7.9 on the Richter scale, struck El Salvador. In response, the Taiwanese government sent 2 rescue teams, consisting of 90 individuals specializing in firefighting, medicine, and civil engineering. The Taiwanese Ministry of Foreign Affairs also donated $200,000 in relief aid to the Salvadoran Government.

(8) The World Health Assembly has allowed observers to participate in the activities of the organization, including the Palestine Liberation Organization in 1974, the Order of Malta, and the Holy See in the early 1950's.

(9) The United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations.

(10) Public Law 106–137 required the Secretary of State to submit a report to the Congress on efforts by the executive branch to support Taiwan's participation in international organizations, in particular the WHO.

(11) In light of all benefits that Taiwan's participation in the WHO can bring to the

state of health not only in Taiwan, but also regionally and globally, Taiwan and its 23,500,000 people should have appropriate and meaningful participation in the WHO.

(b) PLAN.—The Secretary of State is authorized—

(1) to initiate a United States plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly in May 2001 in Geneva, Switzerland; and

(2) to instruct the United States delegation to Geneva to implement that plan.

(c) REPORT.—Not later than 14 days after the date of the enactment of this Act, the Secretary of State shall submit a written report to the Congress in unclassified form containing the plan authorized under subsection (b).

Mr. ENSIGN. I ask unanimous consent that the amendment be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 647) was agreed to.

The bill (H.R. 647), as amended, was read the third time and passed.

HONORING MRS. RAE UNZICKER OF SIOUX FALLS, SOUTH DAKOTA

Mr. DASCHLE. Mr. President, recently, South Dakota, and the country, lost a friend and dedicated public servant. Mrs. Rae Unzicker of Sioux Falls, South Dakota, died in her home on March 22, 2001. She was 52 years old.

Rae Unzicker was a tireless champion for the rights of the disabled, particularly those with psychiatric disabilities. Her contributions to her field were significant. She started the first mental health advocacy project in South Dakota, served on the board of directors of the National Association for Rights Protection and Advocacy, and was the chair of the Protection and Advocacy for Individuals with Mental Illness Council for South Dakota Advocacy Services. She also authored several articles on the subject of mental health and spoke in 43 states, England, and the Netherlands during her career.

In 1995, President Clinton appointed Rae Unzicker to the National Council on Disabilities, an agency dedicated to increasing the inclusion, independence, and empowerment of all Americans with disabilities. She was one of the first outspoken advocates for the civil rights of people with mental illness to receive a major Presidential appointment. Her work helped minimize the stigma associated with people with mental illness and ensured they had the same rights and privileges as other Americans.

I join the mental health community in mourning the loss of a person so dedicated to the rights of those with mental illness. My condolences go out to Rae Unzicker's brother, her children, and their families. In this difficult time, my thoughts and prayers are with them, and with Rae's many friends.

RECENT DECISION TO EXTRADITE MEXICAN NATIONALS

Mr. DOMENICI. Mr. President, I rise today to praise the Mexican government's decision to extradite Everardo Arturo Paez Martinez.

I have criticized Mexico's extradition policy for many years. Historically, Mexican drug kingpins have not paid much attention to indictments from the United States.

Many Mexican Administrations have talked about reform. Some have even extradited a few low level criminals to placate U.S. critics.

This critic has not been placated.

Today, however, I am pleased and encouraged to see substantive reform taking place in Mexico. The Fox administration and the Mexican judiciary have taken an important step toward cooperation and partnership. Furthermore, extraditing such an infamous drug trafficker as ''El Kitti'' Paez sends a resounding signal that Mexico is not doing business as usual.

Mexico's recent action should be recognized and commended. I hope that Mexico will continue to work with United States law enforcement and will become a partner in fighting crime as it is in other areas, such as trade.

As a Senator from a border state, I look forward to working with President Fox on issues that affect both our nations and support his reform efforts.

C–5 PARTS SHORTAGES ENDANGER NATIONAL SECURITY

Mr. BIDEN. Mr. President, I rise today to draw my colleagues attention to an on-going problem that impacts our national security—parts shortages for the C–5. I know it may surprise some that I say this is a national security problem. Well, it is. My colleagues on the Armed Services Committee and on the Defense Appropriations Subcommittee are not surprised. They know how vital strategic airlift is to national security. They also know that C–5s are the backbone of our strategic airlift capability. Working with the C–17, the C–5 provides the airlift needed for both wars and for humanitarian missions.

For those who have not spent as much time on the issue, let me explain. The C–5 can carry more cargo, farther than any other plane in the American military. It is what brings the big, heavy stuff to the fight. For example, C–5s brought precision munitions into our major European bases for Allied Force in Kosovo. Once the big loads are brought into a theater, where necessary the C–17 then moves the equipment and supplies around the theater. As the Commander in Chief of United States Transportation Command has said many times, seventy percent of the cargo most needed in the first 30 days by the warfighter can only be airlifted on a C–5 or a C–17. And, by the way, this is stuff we'll need even if we get lighter and more mobile because time will always matter and the more we can get to the fight quickly, the better our military position.

In addition to our warfighting needs, America uses the C–5 to promote goodwill and to help those made needy by natural disasters. C–5s are almost always involved in providing humanitarian assistance. For example, large desalinization plants to provide drinkable water must go on the C–5. So must the Fairfax Search and Rescue Team that we heard so much about after earthquakes in Turkey and Taiwan.

To get back to my earlier point, America is a global power that needs a healthy C–5 fleet. One major factor in low mission capable rates and lower airlift capacity has been a lack of parts for the C–5. In short, without parts, C–5s are not available to the Nation.

Because I was seeing the impact of this on a regular basis at Dover Air Force Base, in my State of Delaware, I thought it was important to take a closer look at this problem. What I was seeing was maintenance crews being overworked on a regular basis because there were no parts available to repair planes. In order to keep C–5s flying, two or more C–5s had to be turned into ''hangar queens'' or ''cann-birds''. Sad terms that describe million dollar airplanes that must be used to provide parts for other planes. Parts are taken from that plane and then put into another plane that needs that part. This process, called aircraft cannibalization, cost the Logistics Groups at Dover over $2.77 million for Fiscal Year 1999 according to an independent review of Logistics cost done for Air Mobility Command.

Cannibalization not only wastes money, it also requires significantly more work hours to open up an airplane, remove a part, open up the other airplane and install the part, and then eventually install a replacement part in the original airplane. This process also increases the risk that something else on the cann-bird will break or that the part itself will break. The end result was that morale was low because without an adequate supply of spare and repair parts, inefficient procedures had become standard practice. In addition, the overall health of the C–5 fleet suffered.

As I became more aware of the impact this lack of parts was having on morale and the readiness of the C–5 fleet two years ago, I brought then Secretary of Defense Bill Cohen to Dover to make him aware of the problem.

While I believe that visit was helpful, it was clear to me that continued attention to the issue was necessary. That led me to write a short report on the issue. I have sent copies of the report to my colleagues in the Senate.

The report seeks to explain the important role played by the C–5, the extent of the parts problem for the C–5, the impact those parts shortages have had on the fleet and those who work on the C–5, and to describe the failures in logistics system management that

made the problem even worse. I hope that my colleagues will take the time to review the report and will reach the same conclusions that I did. In the end, it was clear to me that we must do three things.

First, we must continue to increase funding for parts and keep it predictable.

Second, we must completely modernize the C–5 fleet with new avionics and the Reliability Enhancement and Re-engining Program.

Third, we must continue to promote smart management reform throughout the defense logistics system.

Again, I know that none of this is news to my colleagues on the defense committees who have provided so much leadership and support for addressing these challenges, but I hope the report will be helpful to them and their staffs and to other colleagues.

I know that spare and repair parts is not glamorous, but it is vital to America's ability to protect and promote our national security. For that reason, we must build on the good work done by the defense committees over the past four years to begin to solve the parts shortage problem and ensure that we do not lose sight of what must be done now and in the future to eliminate the problem.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to detail a heinous crime that occurred October 31, 1999 off the coast of California. A 37-year-old gay man was the target of a brutal anti-gay attack on board a cruise ship. The victim was assaulted by two other passengers in a hallway of the ship, who called him a ''f—-ing faggot'' several times. He sustained injuries including a broken nose, three skull fractures around his eyes, chipped teeth and multiple contusions. Because the attack happened at sea, beyond the reach of state and local laws, police have been unable to pursue the case as a bias-related incident, referring it instead to the federal government.

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.

THE PRESIDENT'S SPEECH AT NATIONAL DEFENSE UNIVERSITY

Mr. BINGAMAN. Mr. President, I rise to offer a few observations regarding the President's speech at the National Defense University regarding missile defense and the future security of our nation. The President was quite correct in describing today's world as one that is far different from the days of the Cold War some thirty years ago. However, his prescription for how best to ensure our national security and achieve a more peaceful world is seriously flawed. The President has assigned the nation's highest military priority to building a robust missile defense that will cost tens of billions of dollars during the coming decade with no assurance that the system of interceptors will work. The primary objective of such a system, in his view, is to counteract intercontinental missiles carrying weapons of mass destruction from targeting our nation. I would urge the President to take a step back; a more effective and higher priority approach would be to cut off weapons of mass destruction at their source, before they are in the hands of our potential enemies. The greatest potential source of those weapons, materials, and technological expertise resides in Russia, and therein lies the fundamental key to our national and global security.

The President's view of Russia misunderstands this important point. While it is true that, in the President's words, Russia is no longer a communist country and that its president is an elected official, it does not follow that we needn't worry about the security threat which it can pose to the United States and our allies. Indeed, there are very disturbing stories in the press about the internal dynamics of the Russian government and its fragile democratic ways. Its economy remains in dire straits, unemployment is high, and the future, particularly for those who live outside of Moscow, continues to look grim. I'm certain that many of us were alarmed at the recent mutual recriminations and dismissals of dozens of Americans and Russians in an exchange that hearkened back to Cold War days.

In Russia's weakened state, I believe it poses an even greater threat to the United States than the ''nations of concern'' that we hear about so often. Why is that? Aside from the United States, Russia is the most advanced nation in the world to possess advanced missile technologies and weapons of mass destruction. Its scientific expertise is second only to our own. Weapons of mass destruction, including chemical, biological, and nuclear weapons, number in the tens of thousands, and materials that go into making those weapons are widely distributed, and poorly guarded, around Russia. If countries of concern pose a serious threat to the United States, it is likely that the tools underlying those threats have been or could most easily be gained from the most likely source, a cash-strapped, antagonistic Russia.

Senior advisors to the Secretary of Energy, including former Senators Howard Baker and Sam Nunn, recently released a report that stated, ''The most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation states . . . .'' Having reviewed the scope of the WMD threat in Russia, the Secretary of Energy's Advisory Board recommended that the United States spend $30 billion over the next decade to secure those weapons and materials, and to prevent Russia's technological expertise from finding paychecks in the wrong places. Despite that recommendation, the President has submitted a budget request to the Congress that cuts funding for those programs by $100 million below what was appropriated a year ago. In fact, this year's funding request is over $500 million below what was planned for FY 2002 just twelve months ago. I question why the President would choose to cut funding for programs that constitute the nation's ''most urgent unmet threat.'' In light of the imposing costs of a robust missile defense system, it appears that the Administration has determined that such nonproliferation programs are of secondary importance.

Listening to the President's speech, I'm concerned that his vision of missile defense has all the characteristics of the boy sticking his finger in the dike. What's really needed is a new and stronger dike. I believe we must redouble our efforts to support critical nonproliferation programs with Russia as the first line of our own defense and national security interest. Investing tens of billions of dollars in a missile defense program as an alternative approach virtually insures the acceleration of proliferation of weapons of mass destruction if the nation reduces funding for nonproliferation programs as a result. The President and his advisors are missing the forest for the trees.

Let me add one additional thought. Countries of concern that may be genuinely interested in using weapons of mass destruction against us or our allies are likely to choose methods that are affordable, effective, and unanticipated. An intercontinental ballistic missile could be one way to achieve their goal, but there are other, less expensive and more probable ways. Potential enemies seeking to disrupt and destroy the U.S. and our friends, for example, could achieve their aims through weapons delivered in suitcases, small boats, or delivery vans. If the United States devotes its attention, resources, and expertise to solve the potential intercontinental missile threat without addressing the possibility of low tech applications of weapons of mass destruction, we will have made a very grave error. I urge my colleagues, Mr. President, not to be lulled into a false sense of security regarding plans for a robust missile defense of our nation. As with the case of the dike, deployment of a missile defense system

may simply redirect the flow of the threat.

That assumes, that we actually have a missile defense system that works. We are a long, long way from that capability, a fact that I hope that we in the Senate and the American people fully understand. I am pleased that the President did not announce the unilateral abrogation of the ABM Treaty in that regard. It would be foolhardy, in my opinion, to step back from our legal obligations under that Treaty without having the means to defend ourselves—a missile defense system that works. Make no mistake, my colleagues, the unilateral abrogation of the ABM Treaty will have major negative security consequences for the United States and our allies and friends. I urge my colleagues, regardless of how they feel about the ABM Treaty, to join me and other senators to insist that any missile defense system be successfully tested in realistic operational conditions before making any decision to deploy it. The American taxpayer being asked to provide tens of billions of dollars to support that effort, not to mention the men and women in uniform who would operate it, deserve nothing less than a system that works.

I applaud the President's desire for building cooperative relationships that should be ''reassuring, rather than threatening . . . . premised on openness, mutual confidence and real opportunities for cooperation, including the area of missile defense.'' There are many important ways to achieve those goals that are currently at risk in the worsening climate of U.S.-Russian relations, particularly if the President chooses to abrogate the ABM Treaty either in word or in deed. Cooperation and reassurance are important byproducts of our nonproliferation programs in Russia that have yielded major dividends in preventing the loss of weapons and materials of mass destruction to those who would be our enemies. Greater emphasis, not less, is needed for such programs. In addition, we have made important confidence-building progress in cooperative approaches regarding early warning of missile attacks through the establishment of a data center and research being conducted on the Russian American Observation Satellite program. I am deeply concerned that such confidence-building programs will be at risk should confrontational relations with Russia continue to increase. If that occurs, the ultimate loser could be ourselves in a less secure world of our own making.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 8, 2001, the Federal debt stood at $5,647,881,033,420.09, five trillion, six hundred forty-seven billion, eight hundred eighty-one million, thirty-three thousand, four hundred twenty dollars and nine cents.

One year ago, May 8, 2000, the Federal debt stood at $5,662,693,000,000, five trillion, six hundred sixty-two billion, six hundred ninety-three million.

Five years ago, May 8, 1996, the Federal debt stood at $5,094,597,000,000, five trillion, ninety-four billion, five hundred ninety-seven million.

Ten years ago, May 8, 1991, the Federal debt stood at $3,440,039,000,000, three trillion, four hundred forty billion, thirty-nine million.

Fifteen years ago, May 8, 1986, the Federal debt stood at $2,015,014,000,000, two trillion, fifteen billion, fourteen million, which reflects a debt increase of more than $3.5 trillion, $3,632,867,033,420.09, three trillion, six hundred thirty-two billion, eight hundred sixty-seven million, thirty-three thousand, four hundred twenty dollars and nine cents during the past 15 years.

ADDITIONAL STATEMENTS

NATIONAL PET WEEK

• Mr. ALLARD. Mr. President, I often rise on the floor of the Senate and put on my ''veterinarian hat'' when talking about food safety, animal science or even small business issues. Today, I rise to recognize this week as National Pet Week and say a brief word about the role of pets in our lives. Events taking place all over the Nation this week are designed to remind us of the value of pets.

Sponsored by several leading veterinary organizations, principally the American Veterinary Medical Association (AVMA), National Pet Week gives those of us in the animal health field an opportunity to celebrate the bond between pets and their owners and address the importance of responsible pet ownership. Pets are important members of over half the households in America. They can be many different things to many different people. A pet can be a hunting companion, someone to play catch with, something warm to curl up on your lap, an additional ranch hand, a guide, a guardian, or a child's best friend. Indeed, companionship is often the most important aspect in the relationship between pet and owner.

In the past 25 years, we have come to accept the human-animal bond as an important force. We understand that the bond exists, but it is hard to define. The AVMA gives us this definition:

> The human-animal bond is a mutually beneficial and dynamic relationship between people and animals that is influenced by behaviors that are essential to the health and well-being of both. This includes but is not limited to, emotional, psychological and physical interaction of people, animals and the environment.

The fact is, the addition of a pet to someone's life can do amazing things. Studies have shown that the recovery time and survival rate of people with serious illness can be improved when a pet is part of the equation. The benefits of pets to the blind and disabled are also well known. All over the world, dogs are trained to complete a variety of tasks to assist the disabled in living their lives. Programs to train dogs and place them with disabled owners thrive in every State. The work that they do and the good that results should not go unnoticed. These organizations build new bridges using the human-animal bond formula and enrich lives in so many ways.

Connections between pets and children are well known. Pets can help teach children responsibility, respect and compassion. They can add to a child's growth and development in so many ways. Most of us can certainly remember our first family pet with fond memories. The other part of National Pet Week is pet health. It is certainly true that a healthy pet is a happy pet. Regular veterinarian visits are indeed important and are part of the responsibility as an owner and as a family member. Nutritional care, adequate exercise and proper attention to general health concerns are all necessary in the ownership of a pet and can go a long way in increasing the quality of an animal's life.

So I would like to ask my colleagues to join me in recognizing National Pet Week, and if you have a pet at home, give it an extra hug, a pat on the head or a good scratch in that favorite spot when you get home.•

NATIONAL DANCE INSTITUTE IN NEW MEXICO

• Mr. BINGAMAN. Mr. President, I rise today to commend a friend, Val Diker, for her unflagging efforts in support of the National Dance Institute in New Mexico. As many of my colleagues know, the NDI was founded by the renowned dancer, Jacques d'Amboise, to introduce school children to dance. His dream has been extremely successful in New Mexico in the eight years since it was started here. This year alone there are 2400 students in 32 schools involved in the program.

This weekend, five hundred of these students will appear on the stage of the newly-refurbished, historic Lensic Theatre to honor the program and Val Diker, the Founding Chairman. Making our state her ''second home,'' Val is a leading contributor with her time, talent and treasure to institutions New Mexicans love. Her leadership in NDI, however, is particularly appreciated by all who value those who give and do so much to help children. Val has made a difference in lives of children she'll never see, and for that she deserves our heartfelt thanks. She, and this wonderful institute, certainly have mine.•

IN RECOGNITION OF JOE B. MURRAY

• Mr. DOMENICI. Mr. President, I recently received a copy of To Be as Brave, a collection of memoirs of Joe B. ''Bob'' Murray. This fine book tells the story of a great American, who evolved from an East Texas farm boy

into a valiant soldier who defended his nation during World War II. Bob grew up in Spring Hill, Texas, and shortly after his high school graduation in 1944, he left Texas for Europe and the heart of World War II. Although he was trained for combat against the Japanese in the Pacific, Bob was sent to the Alsace region of France to join a regiment that had been devastated by Hitler's counteroffensive.

Bob proudly served in B Company of the 157th Infantry Regiment of the 45th Division. His regiment was given the herculean task of breaching the Siegfried Line and entering Germany. The young men succeeded beyond anyone's expectations by breaking the Siegfried Line in less than a week, when the high command predicted that it could take up to three months. After entering Germany, his regiment continued to move eastward to protect General Patton's right flank by clearing the territory of enemy troops. The division was so successful that General Patton lauded them as ''one of the best, if not the best, division in the history of American arms.''

The 45th Division later entered Dachau and liberated tens of thousands of prisoners in several concentration camps. Bob was proud to bring hope and freedom to thousands of captives. Bob's regiment was then assigned the often difficult task of maintaining law and order in Munich, as the war was brought to an end.

After World War II, Bob continued to demonstrate his patriotism by enlisting as a paratrooper in the 82nd Airborne Division during the Korean War. He later had a successful career as an oil and gas consultant in my home state of New Mexico. Bob is married to his childhood sweetheart, Dulcia, and last year, they celebrated their 50th wedding anniversary.

To Be as Brave is an excellent book and it celebrates the life of an outstanding patriotic American, Mr. Joe B. Murray. I thank Joe for my copy of his book and salute his exceptional service to our Nation.●

IN HONOR OF GLADYS AND ABRAHAM BARRON

● Mr. KERRY. Mr. President, it is a special honor for me today to ask all of my colleagues in the United States Senate to join me in commemorating the 60th Wedding Anniversary on April 3, 2001 and the Bat- and Bar-Mitzvah on May 18, 2001 of Gladys and Abraham Barron of Centerville, Massachusetts.

Gladys, born in Roxbury, Massachusetts, of immigrant parents on May 19, 1921, spent her youth in Revere, MA, and graduated from Revere High School. When she was 20, she married Abraham Barron on April 3, 1941.

Abraham had emigrated from Kiev, Russia when he was two-years old and settled in Chelsea with his mother. He graduated from Chelsea High School and began to learn the welder's trade. Following his marriage to Gladys in 1941, his father-in law introduced him to the hat-maker's trade. Abe became so proficient and so gifted in the art of fashioning caps and hats that his colleagues bestowed on him the soubriquet ''Golden Hands.''

Eventually, Abe began his own business while Gladys raised their two children, Melanie and Jeffrey. Gladys' love for painting inspired her to enroll in art courses and indeed both she and Abe could be called life-long students not only of the arts but also of their Jewish heritage. Gladys was a tireless worker for Hadassah while Abe was a dedicated member of the synagogue. Their respect for others led them to become dedicated to the civil rights movement and to the cause of Israel.

On May 18, 2001 they will at long last celebrate their Bat and Bar Mitzvah, Gladys for the first time and Abe to renew his commitment to his religion. The Bar Mitzvah ceremony; such an essential part of Jewish life is a distinct honor and Abe and Gladys are to be commended for their continued dedication to the Jewish faith throughout their lives. Ordinarily, a rite of passage for young Jewish children about to enter their teens, the ceremony has been adapted so that Gladys and Abe can celebrate that which was denied them so long ago.

It is a true honor to see Abe and Gladys reach this momentous day. Congratulations to you Abe, Gladys and your family as you share in this meaningful and important milestone in your lives.●

GOODBYE TO ARCHBISHOP FRANCIS T. HURLEY

● Mr. MURKOWSKI. Mr. President, I rise today to honor someone who has done so much good for his adopted State, it makes any politician blush with envy at his list of accomplishments. I speak of Roman Catholic Archbishop Francis T. Hurley, who is retiring on May 16, 2001 as the Archbishop of Anchorage, after a 25-year career as head of the Roman Catholic Church in Alaska.

It is a great honor to speak about the Archbishop. I first met the Reverend Hurley in late winter of 1970. I and my family were living in Juneau, the capital of Alaska, serving as Alaska State Commissioner of Commerce and Economic Development, and attending church at the Cathedral of the Nativity, built on the hillside overlooking downtown Juneau and the lovely Gastineau Channel. Reverend Hurley had just been named in February by Pope Paul VI as the Bishop of Juneau. He arrived in town on March 20, 1970.

From his first sermon delivered in America's smallest Catholic Cathedral, it was clear of his admiration for Alaska and of his love for and concern for the physical and spiritual well-being of the people of Alaska—not just the 4,000 Catholics of the Diocese of Juneau in the Panhandle of my State—or 6 years later, of the tens of thousands of Catholics who live in all of the 49th State, but of all Alaskans regardless of race or creed who live and work and learn and play in the far north.

While Bishop of Juneau, he quickly founded Catholic Community Services to help the poor of the Panhandle. He founded St. Ann's Nursing Home in Juneau to provide health care for the elderly, and centers for senior citizens in Juneau, Ketchikan and Tenakee Springs to help the elderly deal with the daily concerns of aging. He also began the ''Trays on Sleighs'' program to provide hot meals to senior citizens, Alaska's version of the national Meals on Wheels program.

In 1970, after serving on President Richard Nixon's National Advisory Commission on Minority Enterprise, the Bishop, with a group of local Juneau residents, formed the Alaska Housing Development Corp. to foster low-income housing in the region, a desperate need to this day in Alaska.

On May 4, 1976, the Bishop was named the second Archbishop of Anchorage. Under his leadership for the past 25 years, Catholic Social Services has established a day care center for the handicapped, built the Brother Francis Shelter in Anchorage to care for the more than 1,000 homeless who used to live and seek food in the subfreezing winter temperatures on the streets of Alaska's largest city. He helped develop Clare House, a shelter for women and children; McAuley Manor, a home for young women; and also helped found Covenant House of Anchorage.

In both sectarian and religious ways he has excelled in improving education both in Alaska and nationwide. The Archbishop, a native of San Francisco, Calif., was born on Jan. 12, 1927. He received his education in San Francisco and at St. Patrick's Seminary in Menlo Park, Calif. After being ordained to the priesthood on June 16, 1951, he served as assistant pastor in a San Francisco parish and worked as a teacher at Serra High School in San Mateo, Calif. He undertook his graduate studies in sociology from The Catholic University of America in Washington, D.C. and later at the University of California in Berkeley.

In 1957, he was assigned to the national coordinating office for the Catholic Bishops of the United States, now known as the National Conference of Catholic Bishops. From 1957 to 1970 he served as Associate General Secretary of the conference and worked long hours to help craft the national Elementary and Secondary Education Act during the Presidency of Lyndon Johnson, to this day the landmark legislation governing federal funding for elementary and secondary education in America.

Given his knowledge of education it was only natural for him to serve on the board of trustees of Alaska Pacific University, starting in 1977, and to have worked to establish the Cardinal Newman Chair of Catholic Theology at the Anchorage campus of the Methodist institution.

The Archbishop, selected yearly as one of Alaska's top 25 most ''powerful'' citizens since 1996, also became the first religious leader in Alaskan history in 1997 to be named ''Alaskan of the Year.'' But his religious achievements are an equal to his sectarian accomplishments.

Shortly after arriving in Juneau in 1970, the Bishop moved to bring the Catholic faith to the small villages of Alaska. In August 1970 he held the first Mass at Excursion Inlet, a former fish cannery at the head of a fiord near Glacier Bay National Park. ''There are many more people out in those coves and inlet. We priests must become more mobile,'' said the Reverend Hurley. And he quickly implemented his belief.

A private pilot, and later a member of the Anchorage Civil Air Patrol, the Archbishop won grants from the Knights of Columbus and the Extension Society in 1970 for two diocesan airplanes so priests could visit small villages to say Mass. He expanded his church initiating the construction of churches in the Southeast villages of Hoonah and Yakutat. Over the years he has been responsible for the construction of five churches in Southeast Alaska and seven more statewide, a significant legacy.

The Archbishop, the most senior archbishop in the United States, has earned his retirement. When Pope John Paul II accepted his retirement on March 3, 2001 it speeded the transition of his leadership to Archbishop Roger Schwietz, who had moved to Anchorage 13 months earlier to begin learning about the uniqueness of Alaska. While the State will be in good hands, it will be hard to follow in The Reverend's shoes.

Archbishop Francis T. Hurley has done much for the economic well-being of the poor, the homeless, the ill and the elderly in Alaska. And he has done even more for the spiritual well being of Alaskans everywhere. All of us in public life will miss his wisdom and guidance, his intellect and good humor. And we will miss his energy and patience. But we all are better for his service to the 49th State. Best wishes and Godspeed in his future endeavors.●

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.)

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 18

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 9, 2001.*

MESSAGE FROM THE HOUSE

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 83) establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 74. Concurrent resolution authorizing the use of the Capitol Grounds for the 20th annual National Peace Officers' Memorial Service.

H. Con. Res. 108. Concurrent resolution honoring the National Science Foundation for 50 years of service to the Nation.

The message further announced that pursuant to section 205(a) of the Vietnam Education Foundation Act of 2000 (Public Law 106–554), and upon the recommendation of the Minority Leader, the Speaker appoints the following Member of the House of Representatives to the Board of Directors of the Vietnam Education Foundation: Mr. GEORGE MILLER of California.

The message also announced that pursuant to 22 U.S.C. 276h and clause 10 of rule I, the Speaker appoints the following Members of the House of Representatives to the Mexico-United States Interparliamentary Group, in addition to Mr. KOLBE of Arizona, Chairman, appointed March 28, 2001: Mr. BALLENGER of North Carolina, Vice Chairman; Mr. DREIER of California; Mr. STENHOLM of Texas, Mr. BARTON of Texas, Mr. FILNER of California, Mr. LEWIS of Kentucky, Mr. MANZULLO of Illinois, Mr. GRANGER of Texas, Mr. REYES of Texas; and Mr. THOMPSON of California.

The message further announced that pursuant to section 306(k) of the Public Health Service Act (42 U.S.C. 242k), the Speaker reappoints the following member on the part of the House of Representatives to the National Committee on Vital and Health Statistics for a term of 4 years; Mr. Jeffrey S. Blair of Albuquerque, New Mexico.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRAMM, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute.

S. 206: A bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes (Rept. No. 107–15).

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. DAYTON (for himself, Mr. FEINGOLD, Mr. KOHL, Mr. WELLSTONE, and Mr. LEAHY):

S. 847. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mr. GREGG):

S. 848. A bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

By Mr. BOND:

S. 849. A bill to amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121) to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies, and for other purposes; to the Committee on Small Business.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. LINCOLN, Mr. TORRICELLI, and Mr. KOHL):

S. 850. A bill to expand the Federal tax refund intercept program to cover children who are not minors; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. KOHL, Mr. VOINOVICH, Mr. LEVIN, Mr. THURMOND, Ms. COLLINS, and Mr. FITZGERALD):

S. 851. A bill to establish a commission to conduct a study of government privacy practices, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Mr. THOMAS, Mr. LEAHY, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. LEVIN, Mr. WELLSTONE, Mrs. BOXER, Mr. AKAKA, Mr. FEINGOLD, Mr. KENNEDY, Mrs. MURRAY, and Mr. TORRICELLI):

S. 852. A bill to support the aspirations of the Tibetan people to safeguard their distinct identity; to the Committee on Foreign Relations.

By Mr. BAYH (for himself, Mrs. FEINSTEIN, Mr. KERRY, Mr. LEVIN, Ms. LANDRIEU, Mr. JOHNSON, and Mr. DURBIN):

S. 853. A bill to amend the Internal Revenue Code of 1986 to reduce the marriage penalty by providing a nonrefundable dual-earner credit and adjustment to the earned income credit; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. GRAHAM, and Mr. BINGAMAN):

S. 854. A bill to amend titles V, XVIII, and XIX of the Social Security Act to promote cessation of tobacco use under the medicare program, the medicaid program, and maternal and child health services block grant programs; to the Committee on Finance.

By Mrs. BOXER:

S. 855. A bill to protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KERRY (for himself, Mr. BOND, Mr. CLELAND, Ms. LANDRIEU, Mr. BENNETT, Mr. LEVIN, Mr. LIEBERMAN, Mr. HARKIN, Mr. BINGAMAN, Mr. ENZI, and Ms. CANTWELL):

S. 856. A bill to reauthorize the Small Business Technology Transfer Program, and for other purposes; to the Committee on Small Business.

By Mr. HELMS (for himself, Mr. MILLER, Mr. LOTT, Mr. WARNER, Mr. HATCH, Mr. SHELBY, and Mr. MURKOWSKI):

S. 857. A bill to protect United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by an international criminal court to which the United States is not a party; to the Committee on Foreign Relations.

By Mr. HUTCHINSON:

S. 858. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small business with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. WARNER (for himself, Mr. ALLEN, Mr. COCHRAN, Mr. BROWNBACK, Mr. JEFFORDS, Mr. CRAIG, Mr. THURMOND, Mr. CRAPO, Mr. ENZI, Mr. DEWINE, Ms. MIKULSKI, Mr. HATCH, Mr. SMITH of Oregon, and Mr. STEVENS):

S. Res. 85. A resolution designating the week of May 6 through 12, 2001, as ''Teacher Appreciation Week,'' and designating Tuesday May 8, 2001 as ''National Teacher Day''; considered and agreed to.

By Mr. BOND (for himself, Mr. KERRY, Mr. BURNS, Mr. LEVIN, Mr. BENNETT, Mr. HARKIN, Ms. SNOWE, Mr. LIEBERMAN, Mr. ENZI, Mr. WELLSTONE, Mr. CRAPO, Mr. CLELAND, Mr. ENSIGN, Ms. LANDRIEU, Mr. EDWARDS, Ms. CANTWELL, and Mr. DASCHLE):

S. Res. 86. A resolution to express the sense of the Senate recognizing the important role played by the Small Business Administration on behalf of the United States small business community; considered and agreed to.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 39, a bill to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes.

S. 60

At the request of Mr. BYRD, the names of the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Kentucky (Mr. BUNNING) were added as a cosponsors of S. 60, a bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electicity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 148

At the request of Mr. CRAIG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit , and for other purposes.

S. 170

At the request of Mr. REID, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 217

At the request of Mr. SCHUMER, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Washington (Mrs. MURRAY) were added as a cosponsors of S. 217, a bill to amend the Internal Revenue Code of 1986 to provide a uniform dollar limitation for all types of transportation fringe benefits excludable from gross income , and for other purposes.

S. 281

At the request of Mr. HAGEL, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 283

At the request of Mr. MCCAIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 283, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue code of 1986 to protect consumers in managed care plans and other health coverage.

S. 284

At the request of Mr. MCCAIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 to provide incentives to expand health care coverage for individuals.

S. 318

At the request of Mr. DASCHLE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 318, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 403

At the request of Mr. COCHRAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 403, a bill to improve the National Writing Project.

S. 454

At the request of Mr. BINGAMAN, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Montana (Mr. BAUCUS), the Senator from Nevada (Mr. REID), and the Senator from Vermont (Mr. LEAHY) were added as a cosponsors of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 482

At the request of Mr. FRIST, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 482, a bill to amend the Appalachian Regional Development Act of 1965 to add Hickman, Lawrence, Lewis, Perry, and Wayne Counties, Tennessee, to the Appalachian region.

S. 503

At the request of Mr. REID, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Montana (Mr. BAUCUS) were added as a cosponsors of S. 503, a bill to amend the Safe Water Act to provide grants to small public drinking water system.

S. 525

At the request of Mr. GRAHAM, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Louisiana (Ms. LANDRIEU) were added as a cosponsors of S. 525, a bill to expand trade benefits to certain Andean countries, and for other purposes.

S. 540

At the request of Mr. DEWINE, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 540, a bill to amend the

Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 571

At the request of Mr. THURMOND, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Hawaii (Mr. INOUYE) were added as a cosponsors 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 Nevada (Mr. REID) 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. 682

At the request of Mr. MCCAIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 682, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 706

At the request of Mr. KERRY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing profession shortage, and for other purposes.

S. 742

At the request of Mr. GRASSLEY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Virginia (Mr. WARNER), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Missouri (Mrs. CARNAHAN) were added as a cosponsors of S. 742, a bill to provide for pension reform, and for other purposes.

S. 760

At the request of Mr. HATCH, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 760, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

S. 778

At the request of Mr. HAGEL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 823

At the request of Mr. GRAHAM, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 823, a bill to assure access under group health plans and health insurance coverage to covered emergency medical services.

S. 828

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 828, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy-efficient property.

S. 830

At the request of Mr. CHAFEE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 837

At the request of Mr. BOND, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 837, a bill to amend the Internal Revenue Code of 1986 to provide a safe harbor for determining that certain individuals are not employees.

S. 839

At the request of Mrs. HUTCHISON, the names of the Senator from Maine (Ms. COLLINS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S.J. RES. 7

At the request of Mr. HATCH, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S.J. Res. 7, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 13

At the request of Mr. WARNER, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S.J. Res. 13, a joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

S. RES. 63

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 63, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 75

At the request of Mr. HUTCHINSON, the names of the Senator from Utah (Mr. HATCH), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Tennessee (Mr. FRIST), and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. Res. 75, a resolution designating the week begining May 13, 2001, as ''National Biotechnology Week.''

S. RES. 80

At the request of Mrs. MURRAY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. Res. 80, a resolution honoring the ''Whidbey 24'' for their professionalism, bravery, and courage.

S. CON. RES. 36

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. Con. Res. 36, a concurrent resolution honoring the National Science Foundation for 50 years of service to the Nation.

AMENDMENT NO. 378

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was withdrawn as a cosponsor of amendment No. 378.

AMENDMENT NO. 379

At the request of Ms. MIKULSKI, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 379.

AMENDMENT NO. 389

At the request of Mr. VOINOVICH, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 389.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. GREGG):

S. 848. A bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased, along with Senator GREGG, to introduce the ''Social Security Number Misuse Prevention Act.'' This legislation combats identity theft by making it harder for criminals to steal another person's Social Security number, our de facto national identifier.

The United States faces a growing identity theft crisis. The Federal Bureau of Investigation estimates 350,000 cases of identity theft occur each year. That's one case every two minutes.

The Federal Trade Commission, FTC, reports that identity theft is the fastest growing crime in the country. If recent trends continue, reports of identity theft to the FTC will double between 2000 and 2001, to over 60,000 cases.

Fully 40 percent of all consumer fraud complaints received by the FTC in the first three months of 2001 involved identity theft.

Unfortunately, the State most affected by these complaints is California. Fully 17 percent of the identity theft complaints the FTC received this past winter came from my home state.

What is identity theft? Identity theft occurs when one person uses another person's Social Security number, birth date, driver's license number, or other identifying information to obtain credit cards, car loans, phone plans or other services in the victim's name.

Identity thieves can get personal information in a myriad of ways, stealing wallets and purses containing identification cards, using personal information found on the Internet, stealing mail, including pre-approved credit offers and credit statements, fraudulently obtaining credit reports or getting personnel records at work.

Of all sources of identity theft, the most common trigger of the crime is the misappropriation of a person's Social Security number. Reports to the Social Security Administration of the Social Security number misuse have increased from 7,868 in 1997 to 46,839 in 2000, an astonishing increase of over 500 percent.

Let me give some examples of victims whose identities were stolen after a thief got hold of their Social Security number: An identity theft ring in Riverside County allegedly bilked eight victims of $700,000. The thieves stole personal information of employees at a large phone company and drained their on-line stock accounts. One employee reportedly had $285,000 taken from his account when someone was able to access his account by supplying the employee's name and social Security number. Three youths robbed a young woman on a San Francisco MUNI bus. The thieves stole her driver's license and social security card. While the victim was traveling over the Christmas holiday, the thieves represented themselves as her and drained her bank accounts, applied for cell phones, credit cards and other accounts. They also redirected her mail to a general delivery post to the Tenderloin. Amy Boyer, a 20 year-old dental assistant from Maine was killed in 1999 by a stalker who bought her Social Security number off the Internet for $45, and then used it to locate her work address. Michelle Brown of Los Angeles, California, had her Social Security number stolen in 1999, and it was used to charge $50,000 including a $32,000 truck, a $5,000 liposuction operation, and a year-long residential lease. While assuming the victim's name, the perpetrator also became the object of an arrest warrant for drug smuggling in Texas.

This bill proposes concrete measures to get Social Security numbers beyond the reach of criminals.

The bill prohibits anyone from selling or displaying a Social Security number to the general public without the Social Security number holder's consent.

No longer will identity thieves or stalkers, like the man who killed Amy Boyer, be able to log anonymously onto a website and obtain another person's Social Security number. Information brokers will no longer be able to sell Social Security numbers to anyone who asks for a nominal fee.

The bill also requires Federal, State, and local governments to take affirmative steps to protect Social Security numbers. Before giving out records such as bankruptcy filings, liens, or birth certificates to the general public, government entities will need to redact the Social Security number.

Thus, identity thieves can no longer mine Social Security numbers from county clerks' offices or state records offices.

In addition, the bill prohibits States from using Social Security numbers as identifying numbers on drivers licenses or printing Social Security numbers on checks.

Privacy advocates contend half of all identity theft cases stem from lost or stolen wallets. Public entities should not put individuals at risk by requiring them to carry cards which contain Social Security numbers on them.

In addition, the bill will empower individuals who wish to keep their Social Security numbers confidential and out of public circulation. Companies will be prohibited from denying an individual a good or service if he refuses to give out his Social Security number.

In recognition of the needs of the business community, this legislation permits businesses to use Social Security numbers with appropriate safeguards for internal uses or in transactions with other businesses.

I want to state up front that the business-to-business exception is an area of significant compromise. As a matter of policy, I believe that a Social Security number, like other sensitive elements of personal information, should be under the control of the person to whom it belongs.

I also understand that many businesses, unfortunately, rely extensively on Social Security numbers to conduct a range of transactions. Some of these transactions include checking databases to ensure the identity of a customer or purchaser.

The cost of changing to other identifiers can be significant. One California health care company, for example, conducted an internal study on how much it would cost to switch from Social Security numbers to another customer identifier. The price tag was over $25 million.

The bill directs the Attorney General to implement rules to permit legitimate business-to-business transactions, but prevent abuse. The Attorney general must consider several factors in the rulemaking: (i) The need for appropriate safeguards so that employees cannot misappropriate Social Security numbers, and (ii) The need to implement procedures to prevent identity thieves, stalkers, and others with ill intent from posing as legitimate businesses to obtain Social Security numbers.

In drafting the rule, the Attorney General must ensure that any business-to-businesss exception is consistent with other privacy laws, including Gramm-Leach-Bliley.

Thus, the bill would be consistent with a district court ruling issued last week that recognized limits on financial institutions' use of Social Security numbers. In Individual Reference Services Group v. Federal Trade Commission, the court held Gramm-Leach-Bliley requires banks to give consumers the opportunity to opt-out before their Social Security number is sold. I would like to submit into the record a copy of a Los Angeles Times article describing the decision.

I would like to thank Senator GREGG for working so hard with me to draft this legislation. I am pleased to report that this bill has garnered the support of the Attorney General of California, Bill Lockyer, Los Angeles County Sheriff Lee Baca, Crimes Victims United of California, the Los Angeles Coalition of Crime Victim Advocates, and the Doris Tate Crime Victims Bureau.

Over 350,000 people a year are victims of identity theft, and the numbers continue to grow. Passing the ''Social Security Number Misuse Prevention Act'' will help curb this crime by restricting criminal access to Social Security numbers.

I look forward to working with my colleagues in getting this commonsense bill enacted into law.

I ask unanimous consent that the text of the bill and the article to which I referred be printed in the RECORD.

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

S. 848

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Number Misuse Prevention Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Prohibition of the display, sale, or purchase of social security numbers.
Sec. 4. No prohibition with respect to public records.
Sec. 5. Rulemaking authority of the Attorney General.
Sec. 6. Treatment of social security numbers on government documents.
Sec. 7. Limits on personal disclosure of a social security number for consumer transactions.
Sec. 8. Extension of civil monetary penalties for misuse of a social security number.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of social security numbers has contributed to a growing range of illegal activities,

including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used social security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a social security number in order to pay taxes, to qualify for social security benefits, or to seek employment. An unintended consequence of these requirements is that social security numbers have become tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of this system.

(4) A social security number does not contain, reflect, or convey any publicly significant information or concern any public issue. The display, sale, or purchase of such numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of social security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act offers each individual that has been assigned a social security number necessary protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028 the following:

"§ 1028A. Prohibition of the display, sale, or purchase of social security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's social security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a social security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a social security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

''(b) LIMITATION ON DISPLAY.—Except as provided in section 1028B, no person may display any individual's social security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's social security number without the affirmatively expressed consent of the individual.

''(d) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's social security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

''(e) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's social security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(f) EXCEPTIONS.—

''(1) IN GENERAL.—Except as provided in subsection (d), nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a social security number—

''(A) permitted, required, or excepted, expressly or by implication, under section 205(c)(2), 1124A(a)(3), or 1141(c) of the Social Security Act (42 U.S.C. 405(c)(2), 1320a–3a(a)(3), and 1320b–11(c)), section 7(a)(2) of the Privacy Act of 1974 (5 U.S.C. 552a note), section 6109(d) of the Internal Revenue Code of 1986, or section 6(b)(1) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6305(b)(1));

''(B) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(C) for a national security purpose;

''(D) for a law enforcement purpose, including the investigation of fraud, as required under subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), and the enforcement of a child support obligation;

''(E) if the display, sale, or purchase of the number is for a business-to-business use, including, but not limited to—

''(i) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(ii) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, and volunteers;

''(iii) compliance with any requirement related to the social security program established under title II of the Social Security Act (42 U.S.C. 401 et seq.); or

''(iv) the retrieval of other information from, or by, other businesses, commercial enterprises, or private nonprofit organizations,

except that, nothing in this subparagraph shall be construed as permitting a professional or commercial user to display or sell a social security number to the general public;

''(F) if the transfer of such a number is part of a data matching program under the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a note) or any similar computer data matching program involving a Federal, State, or local agency; or

''(G) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program.

''(g) CIVIL ACTION IN UNITED STATES DISTRICT COURT; DAMAGES; ATTORNEY'S FEES AND COSTS.—

''(1) IN GENERAL.—Any individual aggrieved by any act of any person in violation of this section may bring a civil action in a United States district court to recover—

''(A) such preliminary and equitable relief as the court determines to be appropriate; and

''(B) the greater of—

''(i) actual damages;

''(ii) liquidated damages of $2,500; or

''(iii) in the case of a violation that was willful and resulted in profit or monetary gain, liquidated damages of $10,000.

''(2) STATUTE OF LIMITATIONS.—No action may be commenced under this subsection more than 3 years after the date on which the violation was or should reasonably have been discovered by the aggrieved individual.

''(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedy available to the individual.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any person who the Attorney General determines has violated this section shall be subject, in addition to any other penalties that may be prescribed by law—

''(A) to a civil penalty of not more than $5,000 for each such violation; and

''(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

''(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the social security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

''(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028A. Prohibition of the display, sale, or purchase of social security numbers.''.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following new paragraphs:

''(9) except as provided in paragraph (5) of section 1028A(a) of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in paragraph (1) of such section) any individual's social security number (as defined in such paragraph) without the affirmatively expressed consent of that individual after having met the prerequisites for consent under paragraph (4) of such section, electronically or in writing, with respect to that individual; or

''(10) obtains any individual's social security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

(c) EFFECTIVE DATE.—Section 1028A of title 18, United States Code (as added by subsection (a)), and section 208 of the Social Security Act (42 U.S.C. 408) (as amended by subsection (b)) shall take effect 30 days after the date on which the final regulations promulgated under section 5(b) are published in the Federal Register.

SEC. 4. NO PROHIBITION WITH RESPECT TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028A the following:

"§ 1028B. No prohibition of the display, sale, or purchase of social security numbers included in public records

''(a) IN GENERAL.—Nothing in section 1028A shall be construed to prohibit or limit the display, sale, or purchase of any public record which includes a social security number that—

''(1) is incidentally included in a public record, as defined in subsection (d);

''(2) is intended to be purchased, sold, or displayed pursuant to an exception contained in section 1028A(f);

''(3) is intended to be purchased, sold, or displayed pursuant to the consent provisions of subsections (b), (c), and (e) of section 1028A; or

''(4) includes a redaction of the nonincidental occurrences of the social security numbers when sold or displayed to members of the general public.

''(b) AGENCY REQUIREMENTS.—Each agency in possession of documents that contain social security numbers which are nonincidental, shall, with respect to such documents—

''(1) ensure that access to such numbers is restricted to persons who may obtain them in accordance with applicable law;

''(2) require an individual who is not exempt under section 1028A(f) to provide the social security number of the person who is the subject of the document before making such document available; or

''(3) redact the social security number from the document prior to providing a copy of the requested document to an individual who is not exempt under section 1028A(f) and who is unable to provide the social security number of the person who is the subject of the document.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be used as a basis for permitting or requiring a State or local government entity or other repository of public documents to expand or to limit access to documents containing social security numbers to entities covered by the exception in section 1028A(f).

''(d) DEFINITIONS.—In this section:

''(1) INCIDENTAL.—The term 'incidental' means that the social security number is not routinely displayed in a consistent and predictable manner on the public record by a government entity, such as on the face of a document.

''(2) PUBLIC RECORD.—The term 'public record' means any item, collection, or grouping of information about an individual that is maintained by a Federal, State, or local government entity and that is made available to the public.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 3(a)(2)), is amended by inserting after the item relating to section 1028A the following:

''1028B. No prohibition of the display, sale, or purchase of social security numbers included in public records.''.

SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 3.

(b) BUSINESS-TO-BUSINESS COMMERCIAL DISPLAY, SALE, OR PURCHASE RULEMAKING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Federal Trade Commission, and such other Federal agencies as the Attorney General determines appropriate, may conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and clarify the business-to-business provisions pertaining to section 1028A(f)(1)(E) of title 18, United States Code (as added by section 3(a)(1)). The Attorney General shall consult with other agencies to ensure, where possible, that these provisions are consistent with other privacy laws, including title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.).

(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following factors:

(A) The benefit to a particular business practice and to the general public of the sale or purchase of an individual's social security number.

(B) The risk that a particular business practice will promote the use of the social security number to commit fraud, deception, or crime.

(C) The presence of adequate safeguards to prevent the misappropriation of social security numbers by the general public , while permitting internal business uses of such numbers.

(D) The implementation of procedures to prevent identity thieves, stalkers, and others with ill intent from posing as legitimate businesses to obtain social security numbers.

SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

''(x) No Federal, State, or local agency may display the social security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF APPEARANCE OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATION.—

(1) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

(B) by adding at the end the following new subclause:

''(II)(aa) An agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not disclose the social security account numbers issued by the Commissioner of Social Security, or any derivative of such numbers, on any driver's license or motor vehicle registration or any other document issued by such State (or political subdivision thereof) to an individual for purposes of identification of such individual.

''(bb) Nothing in this subclause shall be construed as precluding an agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, from using a social security account number for an internal use or to link with the database of an agency of another State that is responsible for the administration of any driver's license or motor vehicle registration law.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to licenses, registrations, and other documents issued or reissued after the date that is 1 year after the date of enactment of this Act.

(c) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following new clause:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

''(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's social security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

''(1) for any purpose relating to—

''(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

''(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

''(C) law enforcement; or

''(D) a Federal or State law requirement; or

''(2) if the social security number is necessary to verify identity and to prevent fraud with respect to the specific transaction requested by the consumer and no other form of identification can produce comparable information.

''(b) OTHER FORMS OF IDENTIFICATION.—Nothing in this section shall be construed to prohibit a commercial entity from—

''(1) requiring an individual to provide 2 forms of identification that do not contain the social security number of the individual; or

''(2) denying an individual a good or service for refusing to provide 2 forms of identification that do not contain such number.

''(c) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a)(3)(F).

''(d) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a social security number made on or after the date of enactment of this Act.

SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following new paragraphs:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(2) makes such a statement or representation for such use with knowing disregard for the truth; or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to''.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

''(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to display, sell, or purchase it;

''(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the social security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number; or

''(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C),

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date under section 3(c).

[From the Los Angeles Times, May 8, 2001]

CURB ON SALE OF CONSUMER DATA UPHELD

(By Edmund Sanders)

WASHINGTON.—In a victory for privacy advocates, a federal judge has upheld a proposed government regulation that would effectively end the long-standing practice by credit bureaus of selling consumers' names, addresses and Social Security numbers to marketers, information brokers and others.

Industry groups are likely to appeal the decision by District Judge Ellen Segal Huvelle, which was disclosed Monday by the Federal Trade Commission. If the decision is upheld, the rule—issued by the FTC last year and set to take effect in July—would work dramatic changes in the way businesses rely upon the credit bureaus' databases for everything from updating junk-mail lists to locating debtors.

''It's going to set a higher barrier for the privacy of this kind of information,'' said Robert Gellman, a privacy consultant in Washington.

Credit bureaus and information brokers, who filed suit last year to block the FTC rules, warned that the court decision may have unintended consequences.

''There are many beneficial uses for this information,'' said Clark Walter, a spokesman for Trans Union, the Chicago-based credit bureau. He said the databases are used to find fugitives, parents who owe child support, missing heirs and runaway children. ''How these particular functions would be affected remains to be seen,'' Walter said.

At the heart of the dispute is the top portion of consumer credit reports, known as the credit ''header,'' which is typically limited to a person's name, address, birth date and Social Security number. The header does not include financial information about credit history or bank accounts, which can be released only to creditors and others with a legal right to see it.

Because it has been considered less sensitive, credit header information has been sold for years. Customers include marketing firms, law enforcement agencies, private investigators and journalists.

Last year, the FTC issued rules to prohibit credit bureaus from continuing to sell the information unless consumers had first been given an opportunity to block the practice. The agency said the rule was mandated by Congress as part of a 1999 financial modernization law, which called for new privacy

protections for consumers' financial information.

The Individual Reference Services Group, a trade group of information companies, argued that the FTC had misinterpreted the law. ''We don't think a name and address is 'financial information' under the statute,'' said Ronald Plesser, attorney for the trade group. The companies also argued that the rules violated their constitutional right to free speech.

The FTC countered that any personally identifiable information provided to financial institutions, even if available from other public sources, should be covered by the law.

The disclosure of Social Security numbers, in particular, raised the hackles of privacy advocates, who say the practice has led to an increase in identity theft and other fraud.

In her 62-page ruling, dated April 30, Huvelle said the regulations were lawful and constitutional. ''This gives consumer more control over how their information is used,'' said John Daly, assistant general counsel at the FTC.

The decision marks the latest defeat for credit bureaus and information brokers, whose operating environment is increasingly hostile.

A federal appeals court ruled last month that Trans Union may no longer sell marketing lists based upon certain financial characteristics, such as consumers with three or more credit cards, culled from credit reports.

The FTC banned the practice in 1992, saying it violated federal laws prohibiting the use of credit information for marketing purposes. The other two major credit bureaus halted the practice, but Trans Union continued to sell such lists.

If credit bureaus are prohibited from selling credit header data, businesses will probably turn to other sources, such as the change-of-address database at the U.S. Postal Service or voter registration records.

Mr. GREGG. Mr. President, on October 15, 1999, Amy Boyer, a young woman from Nashua, NH, was killed by a man who went on the Internet, purchased her social security number for $45, used it to find her place of work and kill her.

As a result of that tragic event, and countless others I have subsequently become aware of, it became clear to me that the sale of social security numbers on the Internet was dangerous and needed to be stopped.

Last year, I introduced Amy Boyer's law to do just that. The purpose of that legislation was twofold. First, to ensure that people like Amy Boyer's killer would not be able to purchase social security numbers and second, to prevent companies like Dogpile, and Docusearch.com from being able to sell social security numbers without an individual's consent.

Amy Boyer's law accomplished both of these objectives but became mired down in controversy, frankly from both sides, over how to strike a balance between legitimate business and other lawful uses of the social security number which are necessary in many instances to prevent fraud and identity theft and a desire on the part of the privacy organizations to significantly limit public access to social security numbers.

Let's face it, like it or not, the Social Security Number has become a national identifier of sorts and in many instances, is the only way to ensure accurate identification of people. Health care providers use the social security number to maintain our health records to ensure we are receiving the services we need; banks and financial institutions use them to prevent fraud—a social security number tells them that a loan applicant is exactly who he says he is. The National Center for Missing and Exploited Children and the Association for Children for Enforcement of Support, ACES, use social security numbers to track down kidnappers and deadbeat dads. Big Brothers/Big Sisters of America use social security numbers to do background checks on volunteers to make sure that they are not felons or child molesters. A truly blanket prohibition that did not include any exceptions whatsoever would close-out the above uses. In reality, nobody wants this.

Unfortunately, we were unable to reach a suitable compromise before adjourning last session, but I am pleased today to introduce, with Senator FEINSTEIN, after many months of very hard work, the Social Security Number Misuse Prevention Act of 2001.

This is indeed a compromise proposal. Both Senator FEINSTEIN and myself have had countless meetings with parties interested in this issue and have produced, what I believe to be, a good product. It is not a perfect product, but it is a good first step toward balancing significant diverging interests. We will, of course, continue to work with interested parties to perfect this legislation, but we have agreed in concept to certain key principles.

First, the public access to the social security number must be limited because of the significant risk of invasions of privacy and the potential for misuse, not the least of which is identity theft. And second, that there are certain legitimate purposes for which the social security number is essential—and we must protect those legitimate uses.

Let me summarize the bill's main provisions:

First, the legislation contains a prohibition against obtaining social security number with wrongful intent. Persons are prohibited from obtaining a social security number for the purpose of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

Second, the legislation prohibits the display, sale and purchase of social security numbers to and by the general public without the individual's consent, except for certain limited purposes. Those purposes include: For purposes permitted, required or excepted under the Social Security Act, section 7 (a)(2) of the Privacy Act of 1974, section 6109(d) of the Internal Revenue Code of 1986 or section 6(b)(1) of the Professional Boxing Safety Act of 1996: for a public health purpose, including the protection of the health and safety of an individual or in an emergency situation; for a national security purpose; for a law enforcement purpose, including the investigation of fraud and the enforcement of child support obligations; for business-to-business use, including, but not limited to the prevention of fraud, the facilitation of credit checks or background checks of employees, prospective employees, and volunteers, compliance with any requirement related to the social security program, or the retrieval of other information from other businesses or commercial enterprises; except that no business may sell or display a social security number to the general public. For data matching programs under the Computer Matching and Privacy Protection Act of 1988 or any similar data matching program involving a Federal, State or local agency; or if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program.

Third, an individual may not be required to provide their social security number when purchasing a commercial good or service unless the social security number is necessary: For purposes relating to the Fair Credit Reporting Act, for a background check of the individual conducted by a landlord, lessor, employer, volunteer service agency, or other entity determined by the Attorney General, for law enforcement, or pursuant to a Federal or State law requirement; or if the social security number is necessary to verify identity and prevent fraud with respect to the specific transaction requested by the consumer and no other form of identification can produce comparable information.

Fourth, within 3 years after the date of enactment of this legislation, Social Security numbers may not appear on checks issued for payment by Federal, State, or local government agencies.

Fifth, within 1 year after the date of enactment of this legislation, Social Security numbers may not appear on any driver's license, motor vehicle registration or any other document issued to an individual for purposes of identification of such individual. However, State Departments of Motor Vehicles may continue to use social security numbers internally and for purposes of sharing information about driving records with other jurisdictions.

Sixth, the legislation prohibits prisoners from gaining access to social security numbers.

Finally, on the issue of Public Records, which was and remains a very difficult issue. In fact, last year, it was one of the issues that resulted in our inability to pass Amy Boyer's Law. Amy Boyer's law allowed Social Security Numbers to continue to appear in public records with no limitation on access. It did so in recognition of the fact that many states, local governments, and other governmental entities use Social Security Numbers in the same way that many businesses

do—to ensure accurate identification of individuals who use their services and to prevent fraud.

Many States require social security numbers to be used in documents such as marriage licenses, bankruptcy records, real estate and tax liens, etc. These documents are, under most state laws, a matter of public record, which means the general public can readily gain access to them. Were we to make the appearance of social security numbers in every public record illegal, many states and third party beneficiaries whose business is based on providing access to public records to law offices and other subscribers would have to redact social security numbers from many hundreds of thousands of public documents. This would be a huge task, and it is unclear whether we would in any significant way, further reduce the illegal activity we are trying to prevent. In other words, it is unclear whether the administrative burden and cost would outweigh the potential benefit. This was a very real concern.

At the same time we recognized the very real harm that could be caused by unlimited public access to public documents containing social security numbers—in many cases, right on the face of the document. Social security numbers in public records can be dangerous if a stalker knows where to look, and so I made a commitment lasts year to continue to look at this problem and to address it in a way that was sound and fair, and consistent with the overall principles and goals of the legislation.

As with the other provisions in this legislation, Senator FEINSTEIN and I reached a compromise.

Under our compromise proposal there is no requirement for redaction of social security numbers that appear incidentally in public records, (i.e. not on the face of a document or in a document in a consistent manner). We are trying to limit access to social security numbers for routinely appear in a public record consistently and predictably, on the same page, in every document.

For those records, records where the social security number appears non-incidentally, the number must be redacted before the public document is sold or displayed to the general public. Individuals requesting the document who are able to provide the social security belonging to the person who is the subject of the document before receiving the document may receive an unrelated copy of the public document.

I believe that the Feinstein-Gregg Social Security Number Misuse Prevention Act is a well thought-out, tightly woven piece of legislation that has effectively recognized and balanced the many concerns surrounding the uses of Social Security numbers. Passing this legislation is one of the most important things that Congress can do this year to reduce identity theft and protect individual privacy while permitting the continued legitimate and limited uses of the social security number.

I thank Senator FEINSTEIN and look forward to continuing to work with her throughout the legislative process.

By Mr. BOND:

S. 849. A bill to amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121 to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies, and for other purposes: to the Committee on Small Business.

Mr. BOND. Mr. President, we are awaiting the imminent arrival of the budget from the House. We have had many important things going on in this Chamber. The debate on education is tremendously important. Yet I think it is necessary that we take a moment and recognize something that colleagues on both sides of the aisle will find very important, and I know support; and that is, the fact that this is Small Business Week.

All of us know, particularly those of us who serve on the Small Business Committee, that small businesses are the dynamic engine which keeps the economy of America growing and provides most of the new jobs that are created. It provides opportunities, for the entrepreneurs and their families, for people to gain the kind of life they wish. In many areas, it also provides tremendous innovations that make our economy more advanced and enhances the livelihoods of not only the workers but the customers of those small businesses.

This week I have been working with my colleagues on Small Business. My ranking member, Senator KERRY, and I, and members of the committee have participated in recognition ceremonies for Outstanding Small Businesspersons of the Year. There was White House recognition yesterday.

I say to all my colleagues, there is a Small Businessperson of the Year from your State. I hope you have had the opportunity to congratulate them, to thank them for their work, and also to listen to them on what is important for small business.

Since I took over and had the honor of becoming chairman of the Committee on Small Business in 1995, we have made it a point for the committee to be the eyes and ears of small business. We have listened to what small businesses have had to say, small businesses in Missouri and Massachusetts and Minnesota and Georgia and all across the Nation. If you ask them, they will tell you.

We found out a number of things that are of concern to them. They are concerned about excessive regulation. They are concerned about taxation. They are concerned about the complexity of taxation. They are concerned about getting access to the Government contracting business that is available, unfortunately, too often only to larger businesses.

Last year I hosted a national women's small business summit in Kansas City, MO, and getting access to defense contracts and other Federal Government contracts was high on their list. Working together with members of the Small Business Committee, we pushed to get rid of bundling and make sure that the small businesses get their fair share of contracts.

I will be introducing a measure, a mentoring and protege bill, to do with other agencies of the Federal Government what the Defense Department has done, and that is to assign an experienced government contractor to work with small businesses to help them get in line for the contracts so they can participate in and fulfill those contracts.

I have, with Senator KERRY, introduced a resolution commending Small Business Week. Somebody has put a hold on it. I really hope to reason with them and see if we can't get that passed. Almost anything we have done in small business in this body has been on a bipartisan basis. We hope to overcome that problem.

There are a number of tax measures that are pending before the Senate now. I introduced the Small Business Works Act as a tax measure right after this session of Congress convened. It was based upon the tax priorities that women business owners had. No. 1 was getting rid of the alternative minimum tax. You have to figure out two guides of taxes, and then most small businesses are taxed as individuals. Some 21.2 million of them pay taxes on their personal income tax form. And when you have an AMT, you find out you lose many of the business deductions, and the small business person winds up paying a higher tax—certainly a higher tax, in many instances, than a regular C corporation pays.

In addition, we would move up and make effective now 100-percent deductibility for health insurance paid for by small businesses. A proprietor running a small business should have the same opportunities to get health insurance for herself and her family as a large corporation does for its employees. That is in there.

On Monday I introduced the Independent Contractor Determination Act. One of the things women business owners told us was, it is particularly troubling and has been a longstanding headache for small businesses to figure out who is an independent contractor and who is not. There is a 20-factor formula. Nobody understands the 20 factors, but the one thing you do understand is, if an IRS agent comes in 3 or 4 years later and applies the test, the IRS agent is going to win because nobody knows how to figure it out. The result is many small businesses have faced very heavy burdens. Some have been put out of business because somebody rejiggered them from independent contractor to employee, and this has been a tremendous problem. The laws ought to be simple enough to understand. There is a lot of complexity in the law.

One of the things we must do, as we reform the Tax Code, is make it simpler. There is no more complex, uninterpretable, undefinable, unreasonable provision in the law than the current independent contractor provision. We must change that.

The average small business spends 5 percent of its revenues figuring out the tax. That is not paying the taxes, that is just figuring out how much they owe. A nickel out of every dollar goes to calculating taxes because we have made it too complex. We need to make it simpler.

Today I introduced a measure to build upon the Red Tape Reduction Act, also known as the Small Business Regulatory Enforcement Fairness Act. I was very pleased in 1996 to work with my then ranking member, Senator Bumpers, and we presented a bill unanimously out of the Small Business Committee to provide some relief for small businesses from excessive redtape and regulation. We thought we would have all kinds of problems getting on the floor, but we worked on a bipartisan basis. We had worked with the agencies of government to make sure their concerns were expressed.

The only people who came to the floor were people who wished to be added as cosponsors. It passed unanimously, and it has been having an impact.

The purpose of the Red Tape Reduction Act was to ensure that small businesses would be given a voice in the regulatory process at the time when it could make the difference before the regulation was published. The act has proven to be a regulatory process more attentive to the impact on small business and, consequently, is more fair and more efficient.

I cite my good friend and constituent Dr. Murray Weidenbaum at the Center for the Study of American Business at Washington University who told me a couple of years ago that the Red Tape Reduction Act was perhaps the only—certainly the most—significant regulatory reform measure passed by Congress in recent history, in the last 20 years or so.

We have seen the impact of this provision. The Red Tape Reduction Act, among other things, requires that OSHA and EPA convene panels to involve small businesses in formulating regulations before the regulations are proposed. It gives the agencies the unique opportunity to learn upfront what problems their regulation may cause and to correct the problems with the least difficulty.

In one case, EPA totally abandoned a regulation when they recognized that the industry could deal with it much more effectively on its own.

Experience with the panel process has proven to be an unequivocal success. The former chief counsel for advocacy of the Small Business Administration, Jere Glover, who worked hard to make sure the act worked, stated:

> Unquestionably, the SBREFA panel process has had a very salutary impact on the regulatory deliberations of OSHA and EPA, resulting in major changes to draft regulations. What is important to note is that these changes were accomplished without sacrificing the agencies' public policy objectives.

That is what we had in mind. Many times small businesses get run over if they are left out of the process. We had a hearing just a couple weeks ago in the Small Business Committee and found out the fisheries regulations had worked tremendous hardship on small fishermen along the North Carolina coast when they decided to change the bag limit, the catch limit, in the fall and wiped out many small businesses. They forgot to ask how best to implement the fisheries regulation.

Another business in my State was working on a process to replace a particular chemical that the EPA said it was going to phase out. They had invested a great deal of time, money, and interest in the process of getting it developed. EPA changed the rule and the regulation and the time limit in midprocess and left them completely out in the dark.

These are the kinds of things that Government ought not to be doing. Government ought not to be running roughshod over people who are trying to contribute to the economy, provide good employment opportunities, provide a solid tax base for the community, and provide good wages for the proprietor and employees and their families.

We think the Red Tape Reduction Act can be expanded and can be of even greater value. It has demonstrated the value of small business input in the regulatory process, but still too many agencies are trying to evade the requirements to conduct regulatory flexibility analyses—that is the technical term for seeing how it will impact the small business; ''regulatory flexibility'' analysis is the technical term—to figure out how it is going to hurt small business.

We now realize that the Internal Revenue Service should also be required to conduct small business review panels so that their regulations will impose the least possible burden on a small business while still achieving the mission of the agency.

I think there is no question we have worked with the new Commissioner of the IRS, Commissioner Rossotti. We have seen many steps taken by the IRS to relieve the burdens. I don't know anybody who really likes to pay taxes. We realize that it is an important part of supporting our Government and our system. But at least we ought to do so in a way that is the least confusing and burdensome.

So I think it is important that we provide a mechanism so that parties will be able to reserve the benefits of their rights to participate at the earliest stages and have the most impact. We believe the litigation that is available at the end of the process if an agency fails to take into account the burden on small business is important because prior to the Redtape Reduction Act, the law had been on the books since 1980 that agencies ought to consider the impact on small business, and it was absolutely, totally ignored by the agencies; without judicial enforcement, they didn't get anywhere. So we added judicial enforcement and they started paying attention.

The Agency Accountability Act, which I introduce today, cures a number of additional problems that we have identified. Let me run through quickly what it does. No. 1, it requires agencies to publish the decision to certify a regulation as not having a significant economic impact on a substantial number of small entities separately in the Federal Register. That means, in certain circumstances, the agency doesn't have to consider the impact on small business. That is how most of the bad regulations get through. EPA was infamous for doing that and saying it didn't have any impact. The regulation comes down to small business, which says we are getting killed. Then they have to fight the battle. Then they go to court and prove that they are impacted and the EPA didn't pay any attention to them.

This says if you are going to use that escape clause to say the regulation doesn't have any impact on a small business, you have to set that out—set out in the Federal Register what you are doing and the fact that it does not have an impact. So you can perhaps correct the problems if there are small businesses that can show they are impacted before the regulation is issued.

Second, the Triple A Act requires the agency to publish a summary of its economic analysis supporting the certification decision; i.e., if you say it doesn't have any economic impact, don't just grab it out of your hip pocket, or hat. You have to have an analysis to show why it would not. You have to make that available to the public so that interested parties will be able to see whether, in fact, it was pulled out of your hat, or whether it is based on sound economic reasoning.

The third thing the Triple A does is it allows small entities to seek judicial review of this certification decision. They can go to the agency and say: Agency, you are trying to get out of the regulatory flexibility requirements—you are trying to get out of the requirement to see how the impact on small business can be lessened. If they say they disagree with them, the small entity can go to court and get it enforced.

When I say ''small entity,'' this is not only available to small businesses, it is available to local governments, to not-for-profit organizations, eleemosynary institutions, available for the small entities in this country that do not have lobbyists or a presence in Washington. Small entities are entitled to use this Redtape Reduction Act.

Fourth, the measure directs the Chief Counsel for Advocacy of the Small

Business Administration to put out a regulation defining the terms that the agency has to use in determining whether they can escape an analysis of how small business will be impacted. These terms are ''significant economic impact,'' and ''substantial number of small entities.'' We found that a number of agencies like to jack around with those terms and skew the facts so that they can sneak out the back door without having to do what the bill requires. This gives the advocacy counsel the ability to say this is what we mean and this is how you have to abide by it. If they don't follow that, then they are ducking their responsibilities under SBREFA and the Regulatory Flexibility Act.

The other thing is, Triple A adds the IRS, U.S. Forest Service, National Marine Fisheries Service, and the Fish and Wildlife Service to the list of agencies that must conduct small business review panels before they can issue proposed regulations.

All Federal agencies are covered by the provisions of the Regulatory Flexibility Act. If you ignore it, you can get hauled into court and have your regulation overturned if it has a significant economic impact on a substantial number of small entities. But this is to say that based on their track record and problems in the past, we are going to have you do what OSHA and EPA have been required to do, and that is set up panels involving small businesses prior to formulating the regulation. If you ask small business how is this regulation going to affect you and people like you, you may find out that there are a lot better ways of doing it. That is what EPA found out in one of the regulations it considered.

Certainly, an agency is not going to be able to say: Gee, I had no idea that it would cause such a hardship on you. It is as important as any part of Government service, and it is too bad we have to write it into law. We cannot be good Government servants, either as legislators or bureaucrats, or members of the executive branch if we don't listen to the voices, the hopes, concerns, and problems of average citizens. We are just saying under this new measure that there are a couple of agencies that have to be told by law to listen to the people they are going to regulate. Pay attention to them. They don't have to like all the regulations but at least listen to their concerns about how the regulations affect them and how you may be able to accomplish the purpose of the law you are seeking to administer, without putting burdens on small agencies.

Well, Mr. President, this bill grows out of extensive review of how the Redtape Reduction Act has functioned in the last 5 years. We still see a lot of frustration by small businesses about how agencies continue to find ways to avoid including small business input in rulemakings, and some of the actions that our agencies take confirm the worst image of agency bureaucrats who are thought to know what is best for small business throughout the country, and when the small businesses are actually providing jobs, developing technology and keeping the economy growing. But somebody here in Washington has a lot better idea how they ought to be running their business.

We need to have an interaction so that the people out there who are creating jobs, developing the technology, earning a living for their families and themselves can have an input into the agency that is going to regulate.

The General Accounting Office found recently that the EPA missed 1,098 small companies in the 32 SIC codes of industries that will be affected by their rule lowering the threshold for companies to report their use of lead. EPA thus concluded that their rule would not have a significant economic impact on a substantial number of small entities despite reducing the threshold of lead emissions from 25,000 pounds to 10 pounds—a reduction of 99.96 percent. EPA, instead, relied on an average revenue compiled from all companies in the manufacturing industries to determine what threshold would be set to trigger the small business review panel required by the Redtape Production Act. The average included companies such as General Motors, General Electric, 3M, and others that skewed the average so that it looked as though the rule would have no impact on small business.

But I can tell you that a small business with 11 pounds of lead is absolutely clobbered by this rule.

Although EPA claimed to conduct outreach to find firms that would be affected, they only contacted nine sources, although some of these sources allegedly contacted have no record of EPA contacting them. I think there is no excuse for that type of arrogance and abject avoidance of their requirements with respect to small business. This shoddy economic analysis exposes a loophole through which EPA should no longer be able to drive their trucks, and it will be closed by the Agency Accountability Act.

I submitted previously, when I introduced the measure this morning, the GAO testimony presented at the hearing. Now I know there will be moans and groans by those who claim that this bill will make the regulatory profess more difficult and force agencies to jump through hoops and will make it harder to issue new regulations.

Let me respond as follows: Had the agencies agreed to comply with the intent and spirit of SBREFA, rather than defy SBREFA, the Redtape Reduction Act, the Agency Accountability Act would not be needed.

Frankly, if it were clear that agencies were doing what Congress intended for them to do, then this bill would be unnecessary. If they are doing adequate analysis in reaching out to small business now, then this act will have no impact on how they promulgate their regulation.

I have very simple views on this subject. I want an agency that intends to regulate how a business conducts its affairs, to do so carefully and only after it has listened to the small businesses that will be affected to see if there are ways in which to lessen the burden and still achieve the objective.

Unfortunately, as I said, there is overwhelming evidence that agencies are not treating this obligation seriously, and we must tell them in forceful terms that we really meant it when we said 5 years ago: You have to pay attention to small business.

I was very pleased we did so in a tremendous bipartisan, unanimous vote. I am hoping we can do the same with this agency accountability bill. Let all agencies know firsthand: If you do your job right, then this should be no problem. If you are not doing your job this way, you ought to be because it will cause less headache, less lawsuits, and less problems in the end.

Had EPA done what it should have done in the lead TRI rulemaking, there would not be the litigation we are seeing now, and it would have saved businesses and the Government untold sums of taxpayers' dollars.

This body has said they want to treat small businesses fairly. The Agency Accountability Act is the next step in doing so.

As I said earlier, I have introduced with bipartisan support a number of measures that I think are going to be very helpful for small business. I hope during the course of Small Business Week my colleagues will look at these and particularly take the time to listen to the men and women of small business who have come to Washington and continue the work in their home States to find out what their concerns are.

I will be cosponsoring a measure that my colleague, Senator KERRY, will be introducing to reauthorize and extend a very important STTR bill which is a very important act in terms of transferring technology. It is a small business technology transfer program. I will have a statement that I will add after Senator KERRY introduces the bill. I hope this will merit the attention of our colleagues.

I ask unanimous consent that the testimony of Hubert Potter, Tim Kalinowski, and Victor Rezendes of the General Accounting Office before the Committee on Small Business and a Summary of Provisions be printed in the RECORD.

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

TESTIMONY OF HUBERT POTTER, A COMMERCIAL FISHERMAN FROM HOBUCKEN, NC, BEFORE THE SENATE SMALL BUSINESS COMMITTEE, APRIL 24, 2001

Thank you Mr. Chairman and Members of the Committee.

My name is Hubert Potter. I am a 4th generation commercial fisherman from Hobucken, North Carolina, a fishing community in Pamlico County. I'll be 67 years old this August, and I've been commercial fishing for a living since I was 15.

I am a member of the North Carolina Fisheries Association, and have been a Board member of that group for several years, including a stint as Vice-Chairman. As such, I've tried to stay on top of the political and bureaucratic issues affecting us.

Just about all of my experience has been aboard a type of fishing vessel called a trawler. My wife and I have owned 5 trawlers over our lifetime, ranging in size from 32 to 75 ft in length. We sold our last one this past September.

Like just about everything else, there have been a lot of things that stay the same in our way of life. Things like the weather, fish prices, and fish cycles. Just like any red-blooded American, us fishermen like it when prices are high, fish are plentiful, and the good Lord provides us with fair weather. We might like all these things, but we also know that it just doesn't work that way all the time, or even most of the time.

Although we can accept whatever bad weather the Lord gives us, or the natural peaks and valleys of fish cycles put on us by mother nature, it is hard to accept or even understand the lack of sensitivity and sometimes the callousness of our own government. At first it seems funny when we read about that some of the bureaucrats say about the effects of proposed regulations. But, Mr. Chairman, after you've had a chance to sit down and think about what they've said, it can really hurt your feelings. When you get over that, it just plain makes you angry that your own government would say that these regulations will not affect your small business.

Commercial fishing is very dependent upon the weather, water temperature, currents, and natural fish cycles. Some years there will be lots of fish in a certain area, and in other years there will be few or none. The difference may be due to weather changes, or just because the cycles are different. That's why diversity is so important to us. For example, it it's possible to fish for summer flounder, that's what I would do. Flounder are not available off our coast year round, so we have to do others things. If I wasn't fishing for summer flounder, I would be shrimping.

One of the most regulated fisheries on the East Coast is the summer flounder fishery. Although us fishermen try to stay on top of all of the regulations, most of us had no idea what the Regulatory Flexibility Act was until we got involved with the North Carolina Fisheries Association in a lawsuit against the National Marine Fisheries Service. That's when we found out that NMFS didn't think that summer flounder regulations had any impact on us as small business people.

During one of the hearings held in Norfolk, Virginia, over 100 fishermen from our state attended at the request of the court. We were all sworn in and I personally took the stand. Allow me to read from the court order: 'The federal government did consider three possible quotas for the 1997 fishery, but the government failed to do any significant analysis to support its conclusion that there would be no significant impact. It is evident to this Court from the some 100 North Carolina fishermen who appeared to testify that their businesses were significantly affected and that there was a significant economic impact. . . .''

The Judge also said, ''. . . this Court will not stand by and allow the Secretary to attempt to achieve a desirable end by using illegal means. Granted, administrative agencies have a substantial amount of discretion in determining how they will follow Congressional mandates. That discretion, however, does not include rewriting or ignoring statutes.''

And this quote by Judge Doumar says it all: ''. . . the Secretary has produced a so-called economic report that obviously is designed to justify a prior determination''.

Mr. Chairman, although our life has been like a roller coaster ride over the years, Renona and I have done ok. But we really fear for the future of our younger fishing families because of all the regulations and the lack of feeling for hard working people. There was one year when our summer flounder fishery was closed in December due to regulations, when families just didn't have the money for Christmas. That's because shrimping, crabbing, and other fisheries have naturally slacked out in December and many of us depended on the summer flounder fishing for Christmas money. Yet, we find out that our own government says that the regulations have no significant impact.

Maybe they think a slack Christmas is not having an impact. In my wildest dreams, it's hard for me to figure how they think.

Mr. Chairman, speaking on behalf of commercial fishing families, I want to thank you for scheduling this hearing. Our small businesses are so small that we don't have the time to stay on top of a lot of these kinds of issues. We do know that we are expected to abide by the laws of our land, and we expect that our own government should do that also.

It's been discouraging to see our incomes drop as regulations increase, and read reports by the government that the regulations will have no significant impact on us. Although it's hard work, we love what we do, and we would like to be able to continue providing our country with a healthy and tasty source of protein.

We really hope that our government wants us to continue doing that too.

Thank you, and I would be glad to answer any questions from the Committee.

TESTIMONY OF TIM KALINOWSKI

Good Morning and thank you for the opportunity to address this distinguished committee. My name is Tim Kalinowski and I am the Vice-President of Operations for Foam Supplies, Inc. (FSI) located in Earth City, Missouri.

FSI is a typical, small, mid western family owned business. It is still run by Dave and Karen Keske who founded the business in 1972. They bought the first facility with the help of two small business loans and built their current facility by offering shares in the building and land to their 62 employees, who receive monthly rental income for their investment.

FSI has always operated in an environmentally responsible manner and we are proud of our reputation. FSI manufacturers rigid non-CFC urethane foams and solvent less urethane dispensing equipment. These products have uses ranging from flotation foam used in boat building to insulation foam used in building construction. Our company has always been a leader in the field. In the 1980's, aware of EPA's plans to phase out CFCs due to its negative effect on the earth's ozone layer, FSI worked aggressively to find suitable substitutes. FSI was the first company to patent an HCFC–22 blown urethane foam, years before the EPA mandated phase-out.

Technology development does not occur overnight and it does not come cheap. FSI spends a lot of money to develop new products and is wiling to do so because it is how we compete against the large companies. FSI is a small company with tight margins and we can only be innovative if we are able to spread the costs over time. FSI had the ability to do this in the CFC rulemaking, because the EPA notified us well in advance of the phase out and we had the time to properly test and prepare new formulations.

I am here today to take exception to EPA's actions in the July 11, 2000 Notice of Proposed Rulemaking regarding the Significant New Alternatives Policy or SNAP program. The EPA SNAP program was not designed to accelerate the phase out of ozone depleting substances. For example, under the plan developed by EPA and industry in the early 1990's, HCFC–22 may be produced and imported until 2010. Use may continue after that date until stocks are depleted. In this recent SNAP proposal EPA has ignored the current production and manufacturing deadline and has proposed to accelerate the deadline for not only the manufacture, but also the use of these substitutes to 2005. This new deadline would hit small businesses extremely hard because it changes the rules midstream and gives us less time to develop new products and also absorb the costs of research and development. In addition to finding this new deadline unacceptable, it is our position that this action is not within the scope of the SNAP program.

While this particular issue is extremely important to my small business, the concern that I bring before this committee has more to do with how the EPA approached this proposed rulemaking. I think everyone would agree that regulation works best when all concerned parties work together to consider all the issues. When the regulatory process is by-passed and rules are broken the resulting regulation can be both harmful and ineffective. Sadly, EPA did not follow the rules when it proposed the SNAP program last year.

In late June, 2000 during an unrelated call to EPA, I was informed that EPA was about to publish this proposed rule in the Federal Register. When questioning why the EPA had not contacted manufacturers or end users that this proposal was being considered, I was told that they considered it a success that they were able to keep this proposal quiet, prior to publication.

This would have been less of a concern if EPA understood our industry.

In the NPRM the EPA stated that: (1) ''EPA believes that today's proposal will not result in a significant cost to appliance manufacturers or consumers''; (2) ''This rule would not have a significant impact on a substantial number of small entities because we expect the cost of the SNAP requirements to be minor''; and (3) ''EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposal.''

We take great exception to these remarks.

I am here to tell you that this rule will have an affect on thousands of small manufacturers across the country. The only economic study that EPA seems to have done was based on data from a multi-billion dollar appliance manufacturer. If EPA was truly interested in knowing what companies would be impacted by this rule, they only had to make a few phone calls or pull up a few web sites to identify boatbuilders, truck body manufacturers, refrigerator equipment manufacturers, and many other small entities. But they never did. In fact they overlooked our industry. They did not know how much this rule would cost my small business and they did not know how many small businesses would face similar costs.

The only phone call that I am aware of to an end-user was made after the rule was proposed. An EPA staff person contacted the National Marine Manufacturers Association and informed them that boat builders never had an extension and were currently violating the law. When the NMMA called me for a clarification, there was panic in the voice on the other end of the phone. They believed that by commenting they had struck

a hornet's nest. I faxed them a copy of the initial rule, which clearly stated that boat builders did have an extension and were not in violation of the law. EPA was eventually forced to recognize that indeed boat builders did have an extension and were overlooked in this rulemaking process.

Instead of accusing boat builders of operating illegally, EPA should have learned from them and tried to find out how the proposed rule affected them. EPA would have learned that the Coast Guard requires boats under 20 feet to have flotation foam injected or poured into the hull of the boat. EPA would have learned that over 1500 small business boat builders use these products and would be impacted by this rule. EPA would have known that it made a big mistake in overlooking these types of small businesses and that it needed to go back and look, listen, and learn about these impacts.

The EPA also stated that ''non-ozone depleting substitutes are now available for all end-users.'' As evidence they cite a 1998 United Nations Technical Options Committee Report. However, one of the authors of that report took exception to EPA's interpretation of the report and commented that, ''the proposed rule incorrectly interprets the UNTOC 1998 report. (Copies of the author's comments are in your handouts)

The bottom line is that this rule will affect many small businesses that EPA never considered when the proposal was developed. In addition, it is obvious that the EPA staff did not do their homework, because the proposed alternatives are more expensive, unavailable at this time, less effective or present other VOC or flammability hazards.

This rule will severely jeopardize FSI and it's customers who cannot possibly pass on the increased chemical and testing costs to their customers and still hope to be able to compete with the larger corporations.

Another very important overlooked casualty of this rule would be the environment itself. Breakthroughs in any industry are commonly a result of the efforts of the little guy who has to stay one step ahead of the big corporations just to stay in business. Our industry is constantly trying to develop new products, which benefit our customers and improve the environment. There are products being tested and developed by FSI and others like us that would have to be abandoned due to this new deadline. These products would not only be better for the environment, but also more cost effective for the small businessman.

Dave and Karen Keske's of FSI and other small business entrepreneurs want to be able to continue to dedicate their limited resources to test and develop new products. These are products that they are confident will be better for their customers and for the environment. This will only happen if the issues and concerns of companies directly impacted by the rules are made aware of these rules before they are proposed. This was supposed to happen in this rulemaking. The SBREFA law requires it and in this case the law was ignored. Because this has happened, EPA has put FSI and many other small businesses in serious economic jeopardy.

In closing, I would like to make one point very clear, FSI is not looking for special treatment. We only want to be treated in accordance with the law. It is our belief that when the playing field is kept level, FSI and other small businesses prosper.

Thank you for your attention.

TESTIMONY OF VICTOR REZENDES

I am pleased to be here today to discuss the implementation of the Regulatory Flexibility Act of 1980 (RFA), as amended, and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). As you requested, I will discuss our work on the implementation of these two statutes in recent years, with particular emphasis on a report that we prepared for this committee last year on the implementation of the acts by the Environmental Protection Agency (EPA).

The RFA requires federal agencies to examine the impact of their proposed and final rules on ''small entities'' (small businesses, small governmental jurisdictions, and small organizations) and to solicit the ideas and comments of such entities for this purpose. Specifically, whenever agencies are required to publish a notice of proposed rulemaking, the RFA requires agencies to prepare an initial and a final regulatory flexibility analysis. However, the RFA also states that those analytical requirements do not apply if the head of the agency certifies that the rule will not have a ''significant economic impact on a substantial number of small entities,'' or what I will—for the sake of brevity—term a ''significant impact.'' SBREFA was enacted to strengthen the RFA's protections for small entities, and some of the act's requirements are built on this ''significant impact'' determination. For example, one provision of SBREFA requires that before publishing a proposed rule that may have a significant impact, EPA and the Occupational Safety and Health Administration must convene a small business advocacy review panel for the draft rule, and collect the advice and recommendations of representatives of affected small entities about the potential impact of the draft rule.

We have reviewed the implementation of the RFA and SBREFA several times during recent years, with topics ranging from specific provisions in each statute to the overall implementation of the RFA. Although both of these reform initiatives have clearly affected how federal agencies regulate, we believe that their full promise has not been realized. To achieve that promise, Congress may need to clarify what it expects the agencies to do with regard to the statutes' requirements. In particular, Congress may need to clearly delineate—or have some other organization delineate—what is meant by the terms ''significant economic impact'' and ''substantial number of small entities.'' The RFA does not define what Congress meant by these terms and does not give any entity the authority or responsibility to define them governmentwide. As a result, agencies have had to construct their own definitions, and those definitions vary. Over the past decade, we have recommended several times that Congress provide greater clarity with regard to these terms, but to date Congress has not acted on our recommendations.

The questions that remain unanswered are numerous and varied. For example, does Congress believe that the economic impact of a rule should be measured in terms of compliance costs as a percentage of businesses' annual revenues or the percentage of work hours available to the firms? If so, is 3 percent (or 1 percent) of revenues or work hours the appropriate definition of ''significant?'' Should agencies take into account the cumulative impact of their rules on small entities, even within a particular program area? Should agencies count the impact of the underlying statutes when determining whether their rules have a significant impact? What should be considered a ''rule'' for purposes of the requirement in the RFA that the agencies review rules with a significant impact within 10 years of their promulgation? Should agencies review rules that had a significant impact at the time they were originally published, or only those that currently have that effect?

These questions are not simply matters of administrative conjecture within the agencies. They lie at the heart of the RFA and SBREFA, and the answers to the questions can be a substantive effect on the amount of regulatory relief provided through those statutes. Because Congress did not answer these questions when the statutes were enacted, agencies have had to developed their own answers. If Congress does not like the answers that the agencies have developed, it needs to either amend the underlying statutes and provide what it believes are the correct answers or give some other entity the authority to issue guidance on these issues.

PROPOSED EPA LEAD RULE

The implications of the current lack of clarity with regard to the term ''significant impact'' and the discretion that agencies have to define it were clearly illustrated in a report that we prepared for this committee last year. One part of our report focused on a proposed rule that EPA published in August 1999 that would, upon implementation, lower certain reporting thresholds for lead and lead compounds under the Toxics Release Inventory program from as high as 25,000 pounds to 10 pounds. EPA estimated that approximately 5,600 small businesses would be affected by the rule, and that the first-year costs of the rule for each of these small businesses would be between $5,200 and $7,500. EPA said that the total cost of the rule in the first year of implementation would be about $116 million. However, EPA certified that the rule would not have a significant impact, and therefore did not trigger certain analytical and procedural requirements of the RFA.

Mr. Chairman, last year you asked us to review the methodology that EPA used in the economic analysis for the proposed lead rule and describe key aspects of that methodology that may have contributed to the agency's conclusion that the rule would not have a significant impact. You also asked us to determine whether additional data or analysis could have yielded a different conclusion about the rule's impact on small entities. Finally, you also asked us to describe and compare the rates at which EPA's major program offices certified that their substantive proposed rules would not have a significant impact. We did not examine whether lead was a persistent bioaccumulative toxic or the value of the Toxics Release Inventory program in general.

EPA's current guidance on how the RFA should be implemented gives the agency's program offices substantial discretion with regard to certification decisions but also provides numerical guidelines to help define what constitutes a significant impact. For example, the guidance indicates that a rule should be presumed eligible for certification as not having a significant impact if it does not impose annual compliance costs amounting to 1 percent of estimated annual revenues on any number of small entities. However, if those compliance costs amount to 3 percent or more of revenues on 1,000 or more small entities, the guidance indicates that the program office should presume that the rule is ineligible for certification.

These numerical guidelines establish what appears to be a high threshold for what constitutes a significant impact. For example, an EPA rule could theoretically impose $10,000 in compliance costs on 10,000 small businesses, but the guidelines indicate that the agency can presume that the rule does not trigger the requirements of the RFA as long as those costs do not represent at least 1 percent of the affected businesses' annual revenues. The guidance does not take into account the profit margins of the businesses involved. Therefore, if the profit margin in

the affected businesses is less than 5 percent, the costs required to implement a rule could conceivably take one-fifth of that profit and, under EPA's guidelines, still not be considered to have a significant impact. Neither does the guidance take into account the cumulative impact of the agency's rules on small businesses. Therefore, if EPA issued 100 rules, each of which imposed compliance costs amounting to one-half of 1 percent of annual sales on 10,000 businesses, the agency could certify each of the rules as not having a significant impact even though the cumulative impact amounted to 50 percent of the affected businesses' revenues. Consideration of cumulative regulatory impact is not even required within a particular area like the Toxics Release Inventory program. Each toxic substance added to the approximately 600 substances already listed in the program, or each change in the reporting threshold for a listed toxin, constitutes a separate regulatory action under the RFA.

An agency's conclusions about the impact of a rule on small entities can also be driven by the agency's analytical approach. In its original economic analysis for the proposed lead rule, EPA made a number of assumptions that clearly contributed to its determination that no small entities would experience significant economic effects. For example, to estimate the annual revenues of companies expected to file new Toxics Release Inventory reports for lead, EPA assumed that (1) the new filers would have employment and economic characteristics similar to current filers, (2) different types of manufacturers would experience similar economic effects, and (3) the revenues of the smallest manufacturers covered by the proposed rule could be exemplified by the firm at the 25th percentile of the agency's projected revenue distribution for small manufacturers. As a result of these and other assumptions, EPA estimated that the smallest manufacturers affected by the proposed lead rule had annual revenues of $4 million. Using that $4 million revenue estimate and other information, EPA concluded that none of the 5,600 small businesses would experience first-year compliance costs of 1 percent or more of their annual revenues. Therefore, EPA certified that the proposed lead rule would not have a significant impact.

EPA revised these and other parts of the economic analysis for the proposed lead rule before submitting it to the Office of Management and Budget (OMB) for final review in July 2000. According to a summary of the draft revised economic analysis that we reviewed, EPA changed several analytic assumptions and methods, and revised its estimates of the rule's impact on small businesses. Specifically, the agency said that the lead rule would affect more than 8,600 small companies (up from about 5,600 in the original analysis), and as many as 464 of them would experience first-year compliance costs of at least 1 percent of their annual revenues (up from zero in the original estimate). Nevertheless, EPA again concluded that the rule would not have a significant impact. During our review, we discovered that the agency's revised estimate of the number of small companies that would experience a 1 percent economic impact was based on only 36 of the 69 industries that the agency said could be affected by the rule. EPA officials said that the other 33 industries were not included in the agency's estimate because of lack of data.

We attempted to provided a more complete picture of how the lead rule would affect small businesses by estimating how many companies in these missing 33 industries could experience a first-year economic impact of at least 1 percent of annual revenues. We obtained data from the Bureau of the Census for 32 of these 33 industries and estimated that as many as 1,098 additional small businesses could experience this 1-percent effect. If EPA had used this analytic approach in combination with its own studies, it would have concluded that as many as 1,500 small businesses would experience compliance costs amounting to at least 1 percent of annual revenues. Therefore, using its own guidance, EPA could have concluded that the rule should not be certified, prepared a regulatory flexibility analysis, and convened an advocacy review panel for the rule. However, we ultimately concluded that the agency's initial and revised analyses and the conclusions that it based on those studies were within the broad discretion that the RFA and the EPA guidance provided in determining what constituted a ''significant economic impact'' on a ''substantial number of small entities.''

In the final lead rule that EPA published in January 2001, EPA set the new reporting threshold for lead at 100 pounds—up from 10 pounds in the proposed rule. However, just as it did for the proposed rule, EPA concluded that the final rule would not have a significant impact. EPA said that it reached this conclusion because it did not believe the rule would have a significant economic impact (defined as annual costs between 1 and 3 percent of annual revenues) on more than 250 of the 4,100 small businesses expected to be affected by the rule. EPA also illustrated what it viewed as nonsignificant impact in terms of work hours. The agency said that it would take a first-time filer about 110 hours to fill out the form. Because the smallest firm that could be affected by the rule must have at least 20,000 labor hours per year (10 employees times 50 weeks per year per employee times 40 hours per week), EPA said that the 110 hours required to fill out the Toxics Release Inventory form in the first year represents only about one-half of 1 percent of the total amount of time the firm has available in that year.

EPA' determination that the proposed lead rule would not have a significant impact on small entities was not unique. Its four major program offices certified about 78 percent of the substantive proposed rules that they published in the 2½ years before SBREFA took effect in 1996 but certified 96 percent of the proposed rules published in the 2½ years after the act's implementation. In fact, two of the program offices—the Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste—certified all 47 of their proposed rules in this post-SBREFA period as not having a significant impact. The Office of Air and Radiation certified 97 percent of its proposed rules during this period, and the Office of Water certified 88 percent. EPA officials told us that the increased rate of certification after SBREFA's implementation was caused by a change in the agency's RFA guidance on what constituted a significant impact. Prior to SBREFA, EPA's policy was to prepare a regulatory flexibility analysis for any rule that the agency expected to have any impact on any small entities. The officials said that this guidance was changed because the SBREFA requirement to convene an advocacy review panel for any proposed rule that was not certified made the continuation of the agency's more inclusive RFA policy too costly and impractical.

PREVIOUS REPORTS ON THE RFA AND SBREFA

We have issued several other reports in recent years on the implementation of the RFA and SBREFA that, in combination, illustrate both the promise and the problems associated with the statutes. For example, in 1991, we examined the implementation of the RFA with regard to small governments and concluded that each of the four federal agencies we reviewed had a different interpretation of key RFA provisions. We said that the act allowed agencies to interpret when they believed their proposed regulations affected small government, and recommended that Congress consider amending the RFA to require the Small Business Administration (SBA) to develop criteria regarding whether and how to conduct the required analyses.

In 1994, we noted that the RFA required the SBA Chief Counsel for Advocacy to monitor agencies' compliance with the act. However, we also said that one reason for agencies' lack of compliance with the RFA's requirements was that the act did not expressly authorize SBA to interpret key provisions in the statute and did not require SBA to develop criteria for agencies to follow in reviewing their rules. We said that if Congress wanted to strengthen the implementation of the RFA, it should consider amending the act to (1) provide SBA with clearer authority and responsibility to interpret the RFA's provisions, and (2) require SBA, in consultation with OMB, to develop criteria as to whether and how federal agencies should conduct RFA analyses.

In our 1998 report on the implementation of the small business advocacy review requirements in SBREFA, we said that the lack of clarity regarding whether EPA should have convened panels for two of its proposed rules was traceable to the lack of agreed-upon governmentwide criteria as to whether a rule has a significant impact. Nevertheless, we said that the panels that had been convened were generally well received by both the agencies and the small business representatives. We also said that if Congress wished to clarify and strengthen the implementation of the RFA and SBREFA, it should consider (1) providing SBA or another entity with clearer authority and responsibility to interpret the RFA's provisions and (2) requiring SBA or some other entity to develop criteria defining a ''significant economic impact on a substantial number of small entities.'' In 1999, we noted a similar lack of clarity regarding the RFA's requirement that agencies review their existing rules that have a significant impact within 10 years of their promulgation. We said that if Congress is concerned that this section of the RFA has been subject to varying interpretations, it may wish to clarify those provisions. We also recommended that OMB take certain actions to improve the administration of these review requirements, some of which have been implemented.

Last year we convened a meeting at GAO on the rule review provision of the RFA, focusing on why the required reviews were not being conducted. Attending that meeting were representatives from 12 agencies that appeared to issue rules with an impact on small entities, representatives from relevant oversight organizations (e.g., OMB and SBA's Office of Advocacy), and congressional staff from the House and Senate Committees on Small Business. The meeting revealed significant differences of opinion regarding key terms in the statute. For example, some agencies did not consider their rules to have a significant impact because they believed the underlying statutes, not the agency-developed regulations, caused the effect on small entities. There was also confusion regarding whether the agencies were supposed to review rules that *had* a significant impact on small entities at the time the rule was first published in the Fedeal Register or those that currently have such an impact. It was not even clear what should be considered to ''rule'' under RFA's rule review requirements—the entire section of the Code of Federal Regulations that was affected by the rule, or just the part of the existing rule that was being amended. By the end of the meeting it was clear that, as one congressional

staff member said, ''determining compliance with (the RFA) is less obvious that we believed before.''

Mr. Chairman, this concludes my prepared statement. I reveal would be happy to responded to any questions.

AGENCY ACCOUNTABILITY ACT—SUMMARY OF PROVISIONS

SECTION 1. SHORT TITLE

This act may be cited as the ''Agency Accountability Act of 2001''.

SECTION 2. FINDINGS AND PURPOSES

SECTION 3. ENSURING FULL ANALYSIS OF POTENTIAL IMPACTS ON SMALL ENTITIES OF RULES PROPOSED BY CERTAIN AGENCIES

This section improves the procedure for the conducting Small Business Advocacy Review Panels by requiring the agency to collaborate with the Chief Counsel for Advocacy of the Small Business Administration in selecting the small entity representatives. It requires the agency to publish the panel report in the Federal Register and to distribute the report to the small entity representatives.

SECTION 4. DEFINITIONS

This section expands the list of agencies required to conduct Small Business Advocacy Review Panels for regulations that will have a significant economic impact on a substantial number of small entities to include the Internal Revenue Service of the Treasury Department, the National Marine Fisheries Service of the Commerce Department, the U.S. Forest Service of the Agriculture Department, and the U.S. Fish and Wildlife Service of the Interior Department. The section also allows organizations that primarily represent small entities to serve as Small Entity Representatives. Finally, this section directs the Chief Counsel for Advocacy of the Small Business Administration to promulgate a rule making to further define the terms ''significant economic impact'' and ''substantial number of small entities'' and to consider the indirect impacts regulations have on small businesses when promulgating these regulations.

SECTION 5. COLLECTION OF INFORMATION REQUIREMENT

This section revises the conditions under which the Internal Revenue Service must conduct an initial regulatory flexibility analysis for interpretative regulations. If the IRS is promulgating a temporary regulation, the IRS may avoid this requirement but it must inform the Chief Counsel for Advocacy at the time of the decision and include an explanation of why the temporary regulation is required because using a notice and comment procedure would be impracticable, unnecessary, or contrary to the public interest, and an explanation of the reasons that circumstances warrant an exception from the panel review requirement. This notice and explanation must also be published in the Federal Register.

SECTION 6. INITIAL REGULATORY FLEXIBILITY ANALYSIS

This sections adds the requirement of conducting a cost/benefit analysis of the regulation to the requirements of the Initial Regulatory Flexibility Analysis required under the Regulatory Flexibility Act. Agencies are also directed to take into account, to the extent practical, the cumulative cost of their regulations on small businesses and the effect of the proposed regulation on those cumulative costs. Finally, agencies are directed to make an initial certification that the benefits of the proposed rule justify the costs of the proposed rule to small entities.

SECTION 7. FINAL REGULATORY FLEXIBILITY ANALYSIS

This section adds cost/benefit analyses to the requirements of the Final Regulatory Flexibility Analysis called for under the Regulatory Flexibility Act. It also requires agencies to make a final certification that the benefits of the regulation justify the costs of the regulation to the small entities that will be subject to it. Finally, agencies are required to describe the comments received on the Initial Regulatory Flexibility Analysis and a statement of any change made as a result of those comments.

SECTION 8. PUBLICATION OF DECISION TO CERTIFY A RULE

This section requires agencies to publish separately in the Federal Register their decision to certify a regulation as not having a significant economic impact on a substantial number of small entities instead of the current requirement of publishing that decision with the proposed rule. This also requires the agency to publish a summary of the economic analysis supporting that decision and indicates what must be in that summary. The complete analysis is to be made available on the Internet to the extent practicable.

SECTION 9. JUDICIAL REVIEW OF CERTIFICATION DECISION

This section makes the agency decision to certify a regulation as not having a singificant economic impact on a substantial number of small entities judicially reviewable and specifies that the remedy shall be voiding of the certification and requiring the agency to conduct the Initial Regulatory Flexibility Analysis, Final Regulatory Flexibility Analysis, and the small business advocacy review panel if required.

SECTION 10. EXCLUSION OF AGENCY OUTREACH TO SMALL BUSINESSES FROM CERTAIN COLLECTION OF INFORMATION REQUIREMENTS

This section excludes outreach efforts to small businesses to determine the impact of regulations from the requirements for Office of Management and Budget clearance under the Paperwork Reduction Act.

SECTION 11. EFFECTIVE DATE

This act shall take effect 90 days after the date of enactment.

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. LINCOLN, Mr. TORRICELLI, and Mr. KOHL):

S. 850. A bill to expand the Federal tax refund intercept program to cover children who are not minors; to the Committee on Finance.

Mr. CHAFEE. Mr. President, I am pleased to be joined today by Senators GRAHAM, LINCOLN, TORRICELLI, and KOHL in introducing the Child Support Fairness and Tax Refund Interception Act of 2001.

The Child Support Fairness and Tax Refund Interception Act of 2001 closes a loophole in current federal statute by expanding the eligibility of one of the most effective means of enforcing child support orders, that of intercepting the federal tax refunds of parents who are delinquent in paying their court-ordered financial support for their children.

Under current law, eligibility for the federal tax refund offset program is limited to cases involving minors, parents on public assistance, or adult children who are disabled. Custodial parents of adult, non-disabled children are not assisted under the IRS tax refund intercept program, and in many cases, they must work multiple jobs in order to make ends meet. Some of these parents have gone into debt to put their college-age children through school.

The legislation we are introducing today will address this inequity by expanding the eligibility of the federal tax refund offset program to cover parents of all children, regardless of whether the child is disabled or a minor. This legislation will not create a cause of action for a custodial parent to seek additional child support. In will merely assist the custodial parent in removing debt that is owed for a level of child support that was determined by a court.

Improving our child support enforcement programs is an issue that should be of concern to us all as it remains a serious problem in the United States. According to the most recent government statistics, there are approximately twelve million active cases in which a child support order requires a noncustodial parent to contribute to the support of his or her child. Of the $22 billion owed in 1999, only $12 billion has been collected. In 1998, only 23 percent of children entitled to child support through our public system received some form of payment, despite federal and state efforts. Similar shortfalls in previous years bring the combined delinquency total to approximately $47 billion. We can fix this injustice in our federal tax refund offset program by helping some of our most needy constituents receive the financial assistance they are owed.

While previous administrations have been somewhat successful in using tax refunds as a tool to collect child support payments, more needs to be done. The IRS tax refund interception program has only collected one-third of tardy child support payments. The Child Support Fairness and Tax Refund Interception Act of 2001 will remove the current barrier to fulfilling an individual's obligation to pay child support, while helping to provide for the future of our nation's children.

I urge my colleagues to join me in supporting this important legislation, and 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. 850

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 ''Child Support Fairness and Tax Refund Interception Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Enforcing child support orders remains a serious problem in the United States. There are approximately 12,000,000 active cases in which a child support order requires a noncustodial parent to contribute to the support of his or her child. Of the $22,000,000,000 owed in 1999 pursuant to such orders, $12,000,000,000, or 54 percent, has been collected.

(2) It is an injustice for the Federal Government to issue tax refunds to a deadbeat

spouse while a custodial parent has to work 2 or 3 jobs to compensate for the shortfall in providing for their children.

(3) The Internal Revenue Service (IRS) program to intercept the tax refunds of parents who owe child support arrears has been successful in collecting a tenth of such arrears.

(4) The Congress has periodically expanded eligibility for the IRS tax refund intercept program. Initially, the program was limited to intercepting Federal tax refunds owed to parents on public assistance. In 1984, the Congress expanded the program to cover parents not on public assistance. Finally, the Omnibus Budget Reconciliation Act of 1990 made the program permanent and expanded the program to cover parents of adult children who are disabled.

(5) The injustice to the custodial parent is the same regardless of whether the child is disabled, non-disabled, a minor, or an adult, so long as the child support obligation is provided for by a court or administrative order. It is common for parents to help their adult children finance a college education, a wedding, or a first home. Some parents cannot afford to do that because they are recovering from debt they incurred to cover expenses that would have been covered if they had been paid the child support owed to them in a timely manner.

(6) This Act would address this injustice by expanding the program to cover parents of all adult children, regardless of whether the child is disabled.

(7) This Act does not create a cause of action for a custodial parent to seek additional child support. This Act merely helps the custodial parent recover debt they are owed for a level of child support that was set by a court after both sides had the opportunity to present their arguments about the proper amount of child support.

SEC. 3. USE OF TAX REFUND INTERCEPT PROGRAM TO COLLECT PAST-DUE CHILD SUPPORT ON BEHALF OF CHILDREN WHO ARE NOT MINORS.

Section 464 of the Social Security Act (42 U.S.C. 664) is amended—

(1) in subsection (a)(2)(A), by striking ''(as that term is defined for purposes of this paragraph under subsection (c))''; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''(1) Except as provided in paragraph (2), as used in'' and inserting ''In''; and

(ii) by inserting ''(whether or not a minor)'' after ''a child'' each place it appears; and

(B) by striking paragraphs (2) and (3).

By Mr. THOMPSON (for himself, Mr. KOHL, Mr. VOINOVICH, Mr. LEVIN, Mr. THURMOND, Ms. COLLINS, and Mr. FITZGERALD):

S. 851. A bill to establish a commission to conduct a study of government privacy practices, and for other purposes; to the Committee on Governmental Affairs.

Mr. THOMPSON. Mr. President, I rise today to introduce the ''Citizens' Privacy Commission Act of 2001.'' This legislation will establish an 11-member commission to examine how Federal, State, and local governments collect and use our personal information and to make recommendations to Congress as we consider how to map out government privacy protections for the future. The Citizens' Privacy Commission, whose members will include experts with a diversity of experiences, will look at the spectrum of privacy concerns involving Federal, State, and local government, from protecting citizens' genetic information, to guaranteeing the safe use of Social Security numbers, to ensuring confidentiality to citizens visiting government web sites.

As we all know, Americans are increasingly concerned about the potential misuse of their personal information. A variety of measures intended to address the collection, use, and distribution of personal information by the private sector have been introduced in Congress. Recent events, however, suggest that government privacy practices warrant closer scrutiny. For example, details surfaced last summer about the FBI's new e-mail surveillance system—Carnivore. Civil libertarians and Internet users alike continue to question the legitimacy of this ''online wiretapping.''

Also last summer, after the White House Office of National Drug Control Policy was found to be using ''cookies'' on Internet search engines, I requested that GAO investigate Federal agencies' use of these information-collection devices on their own Web sites. GAO only had time to investigate a small sample of Federal agency sites, but they found a number of unauthorized ''cookies,'' including one that was operated by a third-party private company on an agency Web site under an agreement that gave the private company co-ownership of the data collected on visitors to the site.

As a follow-up to the GAO investigation, Congressman JAY INSLEE and I worked together on an amendment to require all agency Inspectors General to report to Congress on each agency's Internet information-collection practices. Fewer than half of the Inspectors General have completed their investigations, but the preliminary findings are cause for concern. In audits performed this past winter, sixteen Inspectors General identified sixty-four agency Web sites that were violating the privacy policies established by the last Administration by using information-collection devices called ''cookies'' without the required approval.

Last fall, Congressmen ARMEY and TAUZIN released a GAO report that revealed that 97 percent of the Web sites of Federal agencies, including the Federal Trade Commission, weren't in compliance with privacy standards that the FTC was advocating for private sector Web sites.

On top of all these examples, there is the issue of computer security at Federal agencies, which has been notoriously lax for years. GAO and Federal agency Inspectors General report time and time again that sensitive information on citizens' health and financial records is vulnerable to hackers. Just this spring, GAO issued a report which explained how easily their investigators were able to hack into IRS computers and gain access to citizens' e-filed taxes. Not surprisingly, a recent poll shows that most Americans perceive government as the greatest threat to their personal privacy, above both the media and corporations.

Last year, Senator KOHL and I sponsored the Senate companion bill to the Hutchinson-Moran Privacy Commission Act. This bill would have created a commission to study privacy issues in both the government and the private sector. The House bill failed a suspension vote by a narrow margin. There was a lack of consensus on whether a commission was warranted for the private sector issues being deliberated by the Congress. There was no disagreement, however, on the need for a commission to study the government's management of citizens' personal privacy. Many privacy advocates believe that the Privacy Act of 1974 and other laws addressing government privacy practices need to be updated, but we need a better understanding of the extent of the problem and of what exactly needs to be done.

Federal, State, and local governments collect, use, and distribute a large quantity of personal information for legitimate purposes. Yet because governments operate under different incentives and under a different legal relationship than the private sector, they may pose unique privacy problems. Unlike businesses, governments collect personal information under the force of law. Furthermore, governments do not face the market incentives that can discourage information collection or sharing. With the power and authority of government and the breadth of information it collects comes the potential for mistakes or abuse. The risk of privacy violations could also threaten to undermine the public's confidence in e-Government, our effort to make government more accessible and responsive to citizens through the Internet. In fact, according to a recent Pew Internet and American Life report, only 31 percent of Americans say they trust the government to do the right thing most of the time or all of the time.

The last Federal privacy commission operated over 25 years ago, from 1975 to 1977. Since then, there have been enormous leaps in technology. Today, a few keystrokes on a computer hooked up to the Internet can produce a quantity of information that was unimaginable in 1975. The question we must answer today is the same question Congress addressed in 1975: ''How can government achieve the correct balance between protecting personal privacy and allowing appropriate uses of information?'' The technological advances and other changes that have occurred since the 1970's, however, demand a reevaluation of the government privacy protections that we currently have in place. While we have passed laws laying out a framework for the Federal government, it is time to reassess the laws designed to safeguard citizens' privacy in light of the current state of technology.

The Citizens' Privacy Commission will help us find the balance between protecting the privacy of individuals

and permitting specific and appropriate uses of personal information for legitimate and necessary government purposes. The Commission will be directed to study a wide variety of issues relating to personal privacy and the government, including the collection, use, and distribution of personal information by Federal, State, and local governments, as well as current legislative and regulatory efforts to respond to privacy problems in the government. In the course of its examination of these issues, the Commission will also be required to hold at least three field hearings around the country and to set up a Web site to facilitate public participation and public comment. After 18 months of study, the Commission will submit a report to Congress on its findings, including any recommendations for legislation to reform or augment current laws. The Commission's report will be available for consideration by the next Congress.

It is my hope that we all can work together to pass the Citizens' Privacy Commission Act of 2001 to help us make informed and thoughtful decisions to protect the privacy of the American people. I would like to thank Senator KOHL, who has worked with me on a privacy commission bill for some time, as well as Senators VOINOVICH, LEVIN, THURMOND, COLLINS, and FITZGERALD for joining us as cosponsors. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 851

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 ''Citizens' Privacy Commission Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Americans are increasingly concerned about their civil liberties and the security, collection, use, and distribution of their personal information by government, including medical records and genetic information, educational records, health records, tax records, library records, driver's license numbers, and other records.

(2) The shift from a paper based government to an information technology reliant government calls for a reassessment of the most effective way to balance personal privacy and information use, keeping in mind the potential for unintended effects on technology development and privacy needs.

(3) Concerns have been raised about the adequacy of existing government privacy laws and the adequacy of their enforcement in light of new technologies.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the ''Citizens' Privacy Commission'' (in this Act referred to as the ''Commission'').

SEC. 4. DUTIES OF COMMISSION.

(a) STUDY.—The Commission shall conduct a study of issues relating to protection of individual privacy and the appropriate balance to be achieved between protecting individual privacy and allowing appropriate uses of information, including the following:

(1) The collection, use, and distribution of personal information by Federal, State, and local governments.

(2) Current efforts and proposals to address the collection, use, and distribution of personal information by Federal and State governments, including—

(A) existing statutes and regulations relating to the protection of individual privacy, including section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and section 552 of that title (commonly referred to as the Freedom of Information Act); and

(B) privacy protection efforts undertaken by the Federal Government, State governments, foreign governments, and international governing bodies.

(3) The extent to which individuals in the United States can obtain redress for privacy violations by government.

(b) FIELD HEARINGS.—The Commission shall conduct at least 3 field hearings in different geographical regions of the United States.

(c) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the appointment of all members of the Commission—

(A) a majority of the members of the Commission shall approve a report; and

(B) the Commission shall submit the approved report to the Congress and the President.

(2) CONTENTS.—The report shall include a detailed statement of findings, conclusions, and recommendations regarding government collection, use and disclosure of personal information, including the following:

(A) Findings on potential threats posed to individual privacy.

(B) Analysis of purposes for which sharing of information is appropriate and beneficial to the public.

(C) Analysis of the effectiveness of existing statutes, regulations, technology advances, third-party verification, and market forces in protecting individual privacy.

(D) Recommendations on whether additional legislation or regulation is necessary, and if so, specific suggestions on proposals to reform or augment current laws and regulations relating to citizens' privacy.

(E) Analysis of laws, regulations, or proposals which may impose unreasonable costs or burdens, raise constitutional concerns, or cause unintended harm in other policy areas, such as security, law enforcement, medical research and treatment, employee benefits, or critical infrastructure protection.

(F) Cost analysis of legislative or regulatory changes proposed in the report.

(G) Recommendations on non-legislative solutions to individual privacy concerns, including new technology, education, best practices, and third party verification.

(H) Recommendations on alternatives to government collection of information, including private sector retention.

(I) Review of the effectiveness and utility of third-party verification.

(d) ADDITIONAL REPORT.—Together with the report under subsection (c), the Commission shall submit to the Congress and the President any additional report of dissenting opinions or minority views by a member of the Commission.

(e) INTERIM REPORT.—The Commission may submit to the Congress and the President an interim report approved by a majority of the members of the Commission.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 11 members appointed as follows:

(1) 2 members appointed by the President.

(2) 2 members appointed by the Majority Leader of the Senate.

(3) 2 members appointed by the Minority Leader of the Senate.

(4) 2 members appointed by the Speaker of the House of Representatives.

(5) 2 members appointed by the Minority Leader of the House of Representatives.

(6) 1 member, who shall serve as Chairperson of the Commission, appointed jointly by the President, the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

(b) DIVERSITY OF VIEWS.—The appointing authorities under subsection (a) shall seek to ensure that the membership of the Commission has a diversity of experiences and expertise on the issues to be studied by the Commission, such as views and experiences of Federal, State, and local governments, the media, the academic community, consumer groups, public policy groups and other advocacy organizations, civil liberties experts, and business and industry (including small business, the information technology industry, the health care industry, and the financial services industry).

(c) DATE OF APPOINTMENT.—The appointment of the members of the Commission shall be made not later than 30 days after the date of the enactment of this Act.

(d) TERMS.—Each member of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(f) COMPENSATION; TRAVEL EXPENSES.—Members of the Commission shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(h) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(2) INITIAL MEETING.—Not later than 45 days after the date of the enactment of this Act, the Commission shall hold its initial meeting.

SEC. 6. DIRECTOR; STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—

(1) IN GENERAL.—Not later than 40 days after the date of enactment of this Act, the Chairperson of the Commission shall appoint a Director without regard to the provisions of title 5, United States Code, governing appointments to the competitive service.

(2) PAY.—The Director shall be paid at the rate payable for level III of the Executive Schedule established under section 5314 of such title.

(b) STAFF.—The Director may appoint staff as the Director determines appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—

(1) IN GENERAL.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(2) PAY.—The staff of the Commission shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for grade GS–15 of the General Schedule under section 5332 of that title.

(d) EXPERTS AND CONSULTANTS.—The Director may procure temporary and intermittent

services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—

(1) IN GENERAL.—Upon request of the Director, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out this Act.

(2) NOTIFICATION.—Before making a request under this subsection, the Director shall give notice of the request to each member of the Commission.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), if the Chairperson of the Commission submits a request to a Federal department or agency for information necessary to enable the Commission to carry out this Act, the head of that department or agency shall furnish that information to the Commission.

(2) EXCEPTION FOR NATIONAL SECURITY.—If the head of that department or agency determines that it is necessary to guard that information from disclosure to protect the national security interests of the United States, the head shall not furnish that information to the Commission.

(d) WEBSITE.—The Commission shall establish a website to facilitate public participation and the submission of public comments.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Director, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out this Act.

(g) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property to carry out this Act, but only to the extent or in the amounts provided in advance in appropriation Acts.

(h) CONTRACTS.—The Commission may contract with and compensate persons and government agencies for supplies and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(i) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter that the Commission is empowered to investigate by section 4. The attendance of witnesses and the production of evidence may be required by such subpoena from any place within the United States and at any specified place of hearing within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

SEC. 8. PRIVACY PROTECTIONS.

(a) DESTRUCTION OR RETURN OF INFORMATION REQUIRED.—Upon the conclusion of the matter or need for which individually identifiable information was disclosed to the Commission, the Commission shall either destroy the individually identifiable information or return it to the person or entity from which it was obtained, unless the individual that is the subject of the individually identifiable information has authorized its disclosure.

(b) DISCLOSURE OF INFORMATION PROHIBITED.—The Commission—

(1) shall protect individually identifiable information from improper use; and

(2) may not disclose such information to any person, including the Congress or the President, unless the individual that is the subject of the information has authorized such a disclosure.

(c) PROPRIETARY BUSINESS INFORMATION AND FINANCIAL INFORMATION.—The Commission shall protect from improper use, and may not disclose to any person, proprietary business information and proprietary financial information that may be viewed or obtained by the Commission in the course of carrying out its duties under this Act.

(d) INDIVIDUALLY IDENTIFIABLE INFORMATION DEFINED.—In this section, the term ''individually identifiable information'' means any information, whether oral or recorded in any form or medium, that identifies an individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

SEC. 9. BUDGET ACT COMPLIANCE.

Any new contract authority authorized by this Act shall be effective only to the extent or in the amounts provided in advance in appropriation Acts.

SEC. 10. TERMINATION.

The Commission shall terminate 30 days after submitting a report under section 4(c).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Commission $3,000,000 to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated pursuant to the authorization in subsection (a) shall remain available until expended.

Mr. KOHL. Mr. President, I rise today to introduce the ''Citizens' Privacy Commission Act'' with my colleague, Senator FRED THOMPSON. Privacy has become an issue of paramount importance in this era of electronic commerce, advanced communications, and far-reaching business conglomerates. Our challenge is to clearly define privacy concerns and decide how best to protect privacy as technology and the economy move forward. However, even as we consider privacy guidelines for the private sector, the government should follow the highest privacy standards and demonstrate not only that they are preferable, but that they work.

The measure we introduce today would create a Commission to examine how the various levels of government collect, use and share information about citizens. Although the recent privacy debate has been focused on online privacy and how the private sector collects and sells personally identifiable information, the government should not be overlooked. All levels of government have their own websites that are as capable of collecting sensitive information. There is also concern that the Privacy Act of 1974, which regulates how the government can collect, use and share personal information, is not being enforced or properly adhered to by federal government agencies. Furthermore, there is evidence that some government websites continue to collect information through the use of ''cookies'' in direct violation of former President Clinton's June 2000 executive order forbidding them to do so absent a ''compelling reason'' to do so.

Our proposal is simple, and its goals are modest and meaningful. Specifically, our measure creates an 11 member, bipartisan panel to study data collection practices, privacy protection standards, and existing privacy laws that apply to government collection and use of personal information. We also ask the Commission to examine pending privacy initiatives before Congress. Furthermore, we ask the Commission to determine if federal legislation is needed, and what impact new privacy laws would be. Finally, we direct the Commission to detail its findings and recommendations in a Final Report to be issued 18 months after enactment.

There is ample precedent for this Commission. In the mid-1970's, the privacy debate focused on government collection and misuse of personal data. Ultimately, Congress enacted the Freedom of Information Act, the Privacy Act, and the Privacy Study Commission. Since that time, however, very little attention has been paid to genuine concerns about government use of sensitive personal information. Having passed critical legislation in the 1970s, many people felt satisfied that the issue was taken care of. Unfortunately, we have grown lax about policing ourselves in this area. This bill will right the course and change that. In fact, this legislation provides us with the opportunity to establish a model of privacy protection. The intellectual capital created by the work of this Commission will help us set a responsible example for the private sector.

Privacy protection is a unique struggle, cutting across the public and private sector and involving virtually every sector of our nation's economy. Perhaps there is no possibility of a universal principle defining necessary privacy protections. But the federal government has an unparalleled opportunity to try to craft a set of guidelines for privacy protection that can serve as a model. We believe the time

has come for Congress to enact reasonable and thoughtful privacy legislation. This legislation is a sensible first step in that process.

In closing, let me be clear that this bill is neither a ploy to prevent the enactment of more specific privacy proposals, nor a stalling tactic to suspend discussion of privacy protection until the Commission publishes its final report. Rather, this legislation is a both a genuine effort to gather information on this increasingly complex topic and a plan to accomplish something positive in this field. This is legislation that can and should be passed by the Congress. Therefore, I truly hope we can move quickly to enact this measure into law, so that the Commission can get to work as soon as possible.

By Mrs. FEINSTEIN (for herself, Mr. THOMAS, Mr. LEAHY, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. LEVIN, Mr. WELLSTONE, Mrs. BOXER, Mr. AKAKA, Mr. FEINGOLD, Mr. KENNEDY, Mrs. MURRAY, and Mr. TORRICELLI):

S. 852. A bill to support the aspirations of the Tibetan people to safeguard their distinct identity; to the Committee on Foreign Relations.

Mrs. FEINSTEIN. Mr. President, I rise today to address the tragedy that is unfolding in Tibet and, alongside Senators THOMAS, LEAHY, JEFFORDS, LIEBERMAN, LEVIN, WELLSTONE, BOXER, AKAKA, FEINGOLD, KENNEDY, MURRAY, and TORICELLI introduce the Tibetan Policy Act of 2001.

This legislation is intended to safeguard the legitimate aspirations of the Tibetan people in their struggle to preserve their cultural and religious identity, and to encourage dialogue between the Dalai Lama or his representative and the Government of the People's Republic of China about the future of Tibet.

As many of my colleagues are aware, I have worked for well over a decade, since before I came to the Senate, to find the right balance for establishing a lasting, constructive dialogue between Chinese and Tibetan leaders. I have tried to do so with the best interests of both sides in mind. For years, I have tried to build trust and improve communication between Chinese and Tibetan leaders.

For me this is very personal. I first met the Dalai Lama in 1978. I have watched him, I have seen him, I have talked with him many, many times.

The Dalai Lama has pledged, over and over again, that what he wants is ''one-country, two systems'' approach, whereby Tibetans could live their life, practice their religion, educate their children, and maintain their language with dignity and respect among the Han Chinese people.

I have had the opportunity to speak, at great length, with the President of China and other senior members of the Chinese leadership about Tibet.

For years, I believed compromise, good will, and moderation were the right tools for tearing down obstacles and building cooperation between the peoples of China and Tibet.

I have even carried messages between the Dalai Lama and the President of China seeking to bring the two together.

In 1997, for example, I carried a letter from the Dalai Lama to President Jiang which, in part, stated that ''I have, for my part, openly and in confidence conveyed to you that I am not demanding independence for Tibet, which I believe is fundamental to the Chinese government.'' The letter also suggested that the Dalai Lama and President Jiang meet to discuss relations between the Tibetans and the Chinese government, and the ''maintenance and enhancement of those cultural, civic, and religious institutions that are so important to the Tibetan people and others throughout the world.''

What I got back was essentially that the Dalai Lama was just a splittist and that his word was not good.

I, for one, believe he is sincere, in his non-violence, in his dedication to being a monk, in his concern for the Tibetan people, heritage, and religion.

Yet Beijing has consistently ignored promises to preserve indigenous Tibetan political, cultural and religious systems. Indeed, Beijing has not kept its commitments made twice by China's paramount leaders—Deng Xiaoping in 1979 and Jiang Zemin in 1997.

I believe that the time has come for the United States government to increase our attention to enhanced Tibetan cultural and religious autonomy.

And I feel that I can no longer, in conscience, sit quietly and allow the situation in Tibet, the wiping away of Tibetan culture from the Tibetan Plateau, in fact, to deteriorate further.

In many ways, introducing this legislation, especially now, is a very difficult step for me. I have a strong, abiding interest in good relations between the United States and China, and I am fully aware that in the current environment there will be many in China who would rather dismiss this legislation out of hand than work together to address the underlying issues.

But, the many reasonable overtures made by me, many of my colleagues in Congress, and other individuals and organizations throughout the world to work together with China over the past several years to address this issue have thus far failed to persuade Beijing to reconsider its approach to Tibet.

And there does not appear to be a ''good time'' in U.S.-China relations to introduce this legislation.

So I would say this to my friends in China that as they consider this legislation and its intent: I take this action now because I and many of my colleagues are at the point where we feel that this legislation is necessary to open Beijing's eyes to a simple truth: honoring the basic rights of minorities in China is not a threat to China's sovereignty, and running roughshod over its own citizens is not in China's best interest.

I say this because many senior Chinese leaders, including Mao Zedong, Zhou En Lai, Deng Xiaoping, Hu Yaobang, and Jiang Zemin have acknowledged as much in the past.

And I say this because the aspirations of the Tibetan people are not for independence, but for autonomy and respect for their cultural and religious institutions. As both the letter I conveyed to President Jiang in 1997 and the Dalai Lama's statement on the 41st Anniversary of the Tibetan National Uprising stated, ''my approach envisages that Tibet enjoy genuine autonomy within the framework of the People's Republic of China . . . such a mutually beneficial solution would contribute to the stability and unity of China, their two most important priorities, while at the same time the Tibetans would be ensured of their basic right to preserve their own civilization and to protect the delicate environment of the Tibetan plateau.''

And I say this because I recognize that China is a rising great nation, with a rich culture and long history. Careful reading of its history shows that China, like the United States, draws real strength from its diversity, from its cultural, religious, and ethnic multiplicity.

But, I am now convinced China's leadership will not modify its behavior in Tibet until it becomes crystal clear that China's behavior risks tarnishing its international image and burdening China with tangible costs.

Unfortnately, the situation in Tibet today is dreadful, and promises only to get worse. Beijing is pursuing policies that threaten the Tibetan people's very existence and distinct identity, and Chinese security forces hold the region in an iron grip.

As Secretary Powell stated in his confirmation hearing before the Foreign Relations Committee. ''It is a very difficult situation right now with the Chinese sending more and more Han Chinese in to settle Tibet.'' Chinese settlers are flooding into Tibet, displacing ethnic Tibetans, guiding development in ways that clash with traditional Tibetan needs and values, and monopolizing local resources.

I do not want to debate the complex historical interactions that characterize the history of relations between China and Tibet. I am not interested in arguing about events in the past. What I am interested in is the quality of life and the right to exist as these concepts apply to Tibetans and Chinese today.

And, without question, a strong case can be made that Tibet has fared poorly under Chinese stewardship during the past fifty years: Beijing has consistently ignored promises to preserve indigenous Tibetan political, cultural and religious systems and institutions, despite having formally guaranteed these rights in the 1951 Seventeen

Point Agreement that incorporated Tibet into China. And, as I stated earlier, Beijing has never seriously moved itself to carry through on promises to find solutions to the Tibet problem, promises made at least twice by China's paramount leaders, Deng Xiaoping in 1979 and Jiang Zemin in 1997. Tibet has been the scene of many grassroots movements protesting unwelcome Chinese intrusions and policies since 1956, when Beijing first began seriously disrupting Tibetan society by forcefully imposing so-called ''democratic reforms'' in the region. China's response to Tibetan protests has typically been violent, excessive, and unrestrained. In 1959, Beijing viciously and bloodily suppressed the massive popular protest known as the Lhasa Uprising. Indeed, it is estimated that nearly 1.2 million Tibetans died at the hands of Chinese forces during the worst years of violence, between 1956 and 1976. International commissions and third-party courts of opinion, most notably the International Commission of Jurists and numerous United Nations resolutions, consistently pointed fingers at China as a violator in Tibet of fundamental human rights and of the basic principles of international law.

According to the 2000 State Department Country Report on Human Rights Practices: Chinese Government authorities continued to commit numerous serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing political or religious views. Tight controls on religion and on other fundamental freedoms continued and intensified during the year.

And, as Human Rights Watch/Asia reports, China's activities are targeting not just the present, but Tibet's future as well: Children in the Tibetan capital, Lhasa, are being discouraged from expressing religious faith and practicing devotional activities as part of the authorities' campaign in middle schools and some primary schools. Children aged between seven and thirteen in schools targeted by the campaign are being told that Tibetan Buddhist practice is 'backward behavior' and an obstacle to progress. In some schools, children are given detention of forced to pay fines when they fail to observe a ban on wearing traditional Buddhist ''protection cords.''

Corrupt officials. Oppressive police tactics and midnight arrests. Seizure and imprisonment without formal charges. Beatings and unexplained deaths while in custody. The steady grinding down of Tibetan cultural and religious institutions. The list of abuses in Tibet goes on and on. There is no need for me to repeat them here.

I say all this as one who wants to work with China's leadership to help find a solution to this, and other, problems, and see a positive relationship between the U.S. and China, and between the people of China and the people of Tibet.

I want to be a positive force for bringing Tibetan and Chinese leaders to the table for face-to-face dialogue.

It is not my intention with this legislation to merely point fingers and lay blame. My intent in introducing the Tibetan Policy Act of 2001 is not to stigmatize or chastise China.

My intent in introducing the Tibetan Policy Act of 2001 is to place the full faith of the United States government behind efforts to preserve the distinct cultural, religious and ethnic autonomy of the Tibetan people.

Specifically, the Tibetan Policy Act of 2001: Outlines Tibet's unique historical, cultural and religious heritage and describes the efforts by the United States, the Dalai Lama, and others to initiate dialogue with China on the status of Tibet. Codifies the position of Special Coordinator for Tibetan Issues at the Department of State, assures that relevant U.S. government reports will list Tibet as a separate section under China and that the Congressional-Executive Commission on the People's Republic of China will hold Beijing to acceptable standards of behavior in Tibet. Authorizes $2.75 million for humanitarian assistance for Tibetan refugees, scholarships for Tibetan exiles, and human rights activities by Tibetan non-governmental organizations. Establishes U.S. policy goals for international economic assistance to and in Tibet to ensure that ethnic Tibetans benefit from development policies in Tibet. Calls on the Secretary of State to make best efforts to establish an office in Lhasa, the Capital of Tibet. Provides U.S. support for consideration of Tibet at the United Nations. Ensures that Tibetan language training is available for foreign service officers. Highlights concerns about the lack of religious freedom in Tibet by calling on China to cease activities which attack the fundamental characteristics of religious freedom in Tibet.

In addition, the Tibet Policy Act expresses the Sense of the Congress that: The President and the Secretary of State should initiate steps to encourage China to enter into negotiations with the Dalai Lama or his representatives on the question of Tibet and the cultural and religious autonomy of the Tibetan people. That the President and the Secretary of State should request the immediate and unconditional release of political or religious prisoners in Tibet; seek access for international humanitarian organizations to prisons in Tibet; and seek the immediate medical parole of Ngawang Choephel and other Tibetan prisoners known to be in ill-health. The United States will seek ways to support economic development, cultural preservation, health care, and education and environmental sustainability for Tibetans inside Tibet.

The Tibetan Policy Act does not aim to punish anyone. I do not believe that threats or force will sway Beijing from its present course.

But, I am convinced that we must send a clear message.

I am under no illusion that passing the Tibetan Policy Act of 2001 will immediately change the situation in Tibet.

Nor am I under any illusion that changing current conditions in Tibet will be an easy process. It will be a long and difficult process requiring patience and perseverance.

But I am hopeful that better, more effective efforts on our part and better coordination with like-minded members of the international community will encourage China to change its thinking and modify its behavior towards Tibet.

To paraphrase an old Chinese proverb: you have to take a first step to start any journey. This legislation, I hope, is a first step in bringing together the Dalai Lama or his representative and the Chinese government to discuss the future of Tibet and to take action to safeguard the distinct cultural, religious, and social identity of the Tibetan people.

I urge my colleagues here in the Senate, as well as my friends in China, to join with me in taking it.

By Mrs. BOXER:

S. 855. A bill to protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes; to the Committee on Environment and Publc Works.

Mrs. BOXER. Mr. President, today I am reintroducing a bill to protect children from the dangers posed by pollution and toxic chemicals in our environment. The Children's Environmental Protection Act, (CEPA), is based on the fact that children are not small adults. Children eat more food, drink more water, and breathe more air as a percentage of their body weight than adults. Children also grow rapidly, and therefore are physiologically more vulnerable to toxic substances than adults. This makes them more susceptible to the dangers posed by those substances.

How is this understanding that children suffer higher risks from the dangers posed by toxic and harmful substances taken into account in our environmental and public health standards? Do we gather and consider data that specifically evaluates how those substances affect children? If that data is lacking, do we apply extra caution when we determine the amount of toxics that can be released into the air and water, the level of harmful contaminants that may be present in our drinking water, or the amount of pesticides that may be present in our food?

In most cases, the answer to all of these questions is ''no.'' In fact, most of these standards are designed to protect adults rather than children. In

most cases, we do not even have the data that would allow us to measure how those substances specifically affect children. And, in the face of that uncertainty, we generally assume that what we don't know about the dangers toxic and harmful substances pose to our children won't hurt them. We generally don't apply extra caution to take account of that uncertainty.

CEPA would change the answers to those questions from ''no'' to ''yes.'' It would childproof our environmental laws. CEPA is based on the premise that what we don't know about the dangers toxic and harmful substances pose to our children may very well hurt them.

CEPA would require the Environmental Protection Agency (EPA) to set environmental and public health standards to protect children. It would require EPA to explicitly consider the dangers that toxic and harmful substances pose to children when setting those standards. Finally, if EPA discovers that it does not have specific data that would allow it to measure those dangers, EPA would be required to apply an additional safety factor, an additional measure of caution, to account for that lack of information. The Safe Drinking Water Act Amendments of 1996 included my amendment to require EPA to set drinking water standards at safe levels for children. All of our environmental laws should reflect the special needs of children. CEPA would ensure that children's health risks are properly taken into account.

This process would, I acknowledge, take some time. So, while EPA is in the process of updating the standards, CEPA would provide parents and teachers with a number of tools to immediately protect their children from toxic and harmful substances.

First, CEPA would require EPA to provide all schools and day care centers that receive federal funding a copy of EPA's guide to help schools adopt a least toxic pest management policy. CEPA would also prohibit the use of dangerous pesticides—those containing known or probably carcinogens, reproductive toxins, acute nerve toxins and endocrine disrupters—in those areas. Under CEPA, parents would also receive advance notification before pesticides are applied on school or day care center grounds.

Second, CEPA would expand the federal Toxics Release Inventory (TRI) to require the reporting of toxic chemical releases that may pose special risks to children. In particular, CEPA provides that releases of small amounts of lead, mercury, dioxin, cadmium and chromium be reported under TRI. These chemicals are either highly toxic, persist in the environment or can accumulate in the human body over many years—all features that render them particularly dangerous to children. Lead, for example, will seriously affect a child's development, but is still released into the environment through lead smelting and waste incineration. CEPA would then require EPA to identify other toxic chemicals that may present special risks to children, and to provide that releases of those chemicals be reported under TRI.

Third, CEPA would direct EPA to create a list of recommended safer-for-children products that minimize potential risks to children.

Finally, CEPA would require EPA to create a family right-to-know information kit that would include practical suggestions to help parents reduce their children's exposure to toxic and harmful substances in the environment.

My CEPA bill is based on the premise that what we don't know about the dangers that toxic and harmful substances pose to our children may very well hurt them. It would require EPA to apply caution in the face of that uncertainty. And, ultimately, it would childproof our environmental laws to ensure that those laws protect the most vulnerable among us—our children.

I encourage my colleagues to support this bill.

By Mr. KERRY (for himself, Mr. BOND, Mr. CLELAND, Ms. LANDRIEU, Mr. BENNETT, Mr. LEVIN, Mr. LIEBERMAN, Mr. HARKIN, Mr. BINGAMAN, Mr. ENZI, and Ms. CANTWELL):

S. 856. A bill to reauthorize the Small Business Technology Transfer Program, and for other purposes; to the Committee on Small Business.

Mr. KERRY. Mr. President, today I rise to introduce legislation to reauthorize the Small Business Administration's Small Business Technology Transfer, STTR, Program.

The STTR program funds cooperative R&D projects between small companies and research institutions as an incentive to advance the nation's technological progress. For those of us who were here when Congress created this program in 1992, we will remember that we were looking for ways to move research from the laboratories to market. What could we do to keep promising research from stagnating in Federal labs and research universities? Our research in this country is world renowned, so it wasn't a question of good science and engineering. We, without a doubt, have one of the finest university systems in the world, and we have outstanding research institutions. What we needed was more development, development of innovative technology. We needed a system that would take this research and find ways it could be applied to everyday life and national priorities. One such company is Sterling Semiconductor. Sterling, in conjunction with the University of Colorado, has developed silicon carbide wafers for use in semiconductors that can withstand extreme temperatures and conditions. In addition to defense applications, these wafers can be used for everything from traffic lights to automobile dashboards and communications equipment.

With technology transfer, it was not just the issue of the tenured professor who risked security if he or she left to try and commercialize their research; it was also an issue of creating businesses and jobs that maximized the contributions of our scientists and engineers once they graduated. There simply weren't enough opportunities at universities and labs for these bright individuals to do research and development. The answer was to encourage the creation of small businesses dedicated to research, its development, and ultimately moving that research out of the lab and finding a commercial application.

We knew that the SBA's existing Small Business Innovation Research, SBIR, program had proven to be extremely successful over the previous ten years, so we established what is now known as the Small Business Technology Transfer program. The STTR program complements the SBIR program. Whereas the SBIR program funds R&D projects at small companies, STTR funds cooperative R&D projects between a small company and a research institution, such as a university or Federally funded R&D lab. The STTR program fosters development and commercialization of ideas that either originate at a research institution or require significant research institution involvement, such as expertise or facilities, for their successful development.

This has been a very successful program. One company, Cambridge Research Instruments of Woburn, Massachusetts, has been working on an STTR project with the Marine Biological Lab in Woods Hole. They have developed a liquid crystal-based polarized light microscope for structural imaging. While that is a mouthful, I'm told that it helps in manufacturing flat screen computer monitors, and even helps improve the in vitro fertilization procedure. Together this company and the lab expect to have sales in excess of $1 million dollars next year from this STTR project.

As this example illustrates, the STTR program serves an important purpose for this country's research and development, our small businesses, our economy, and our nation. The program is set to expire at midnight on Sunday, September 30th. By the way, we absolutely have no intention of letting reauthorization get down to the wire, which was the unfortunate fate of the reauthorization of the SBIR program last year. I have worked in partnership with Senator BOND to develop this legislation, and as part of the process we have consulted with and listened to our friends in the House, both on the Small Business Committee and the Science Committee. We do not see this legislation as contentious, and we have every intention of seeing this bill signed into law well before September.

Shaping this legislation has gone beyond policy makers; we have reached out to small companies that conduct

the STTR projects and research universities and Federal labs. On my part, I sponsored two meetings in Massachusetts on March 16th to discuss the STTR program. At my office in Boston, there was a very helpful discussion with six of Massachusetts' research universities expressing what they like and dislike about the program, and why they use it, or don't use it more. The meeting included the licensing managers from Boston University, Harvard, MIT, Northeastern University, and the University of Massachusetts. They said they need to hear more about the STTR program and have more outreach to their scientists and engineers so that they understand when and how to apply for the program. Based on their suggestions, we've included an outreach mandate in our bill. In addition, we're trying to provide SBA with more resources in its Office of Technology to be responsive to the concerns of STTR institutions and small businesses.

Later that day, my office was part of a meeting in Newton at Innovative Training Systems in which about 20 leaders and representatives of small high-tech companies talked about the SBIR and STTR programs. They make a tremendous contribution to the economy and state of Massachusetts. They said that the Phase II award for STTR should be raised form $500,000 to $750,000 to be consistent with the SBIR program. Otherwise, since a minimum of 30 percent of the award goes to the university partner, it was too little money to really develop the research.

As I said, we listened to them. And we also listened to what the program managers of the participating agencies had to say. Agencies participate in this program if their extramural R&D budget is greater than $1 billion. Consequently, there are five eligible agencies: the Department of Defense, the Department of Energy, the National Aeronautics and Space Administration, the Department of Health and Human Services, and the National Science Foundation. For the STTR projects, they set aside .15 percent of their extramural R&D budget. The comes to about $65 million per year invested in these collaborations between small business and research institutions.

Combining all the suggestions for improvement, the STTR Program Reauthorization Act of 2001 does the following:

1. It reauthorizes the program for nine years, setting the expiration date for September 30th, 2010.

2. Starting in two years, FY2003, it raises in small increments the percentage that Departments and Agencies set aside for STTR R&D. In FY2004, the percentage increases from .15 percent to .3 percent. After three years, in FY2007, the bill raises the percentage from .3 percent to .5 percent;

3. Starting in two years, FY2003, the legislation raises the Phase II grant award amount from $500,000 to $750,000;

4. It requires the participating agencies to implement an outreach program to research institutions in conjunction with any such outreach done with the SBIR program;

5. As last year's legislation did for the SBIR program, this bill strengthens the data collection requirements regarding awards and the data rights for companies and research institutions that conduct STTR projects. The goal is to collect better information about the companies doing the projects, as well as the research and development, so that we can measure success and track technologies.

While I believe that these changes reflect common sense and are reasonable, I would like to discuss two of the proposed changes.

First, I would like to talk about reauthorizing the program for nine years. The STTR program was a pilot program when it was first enacted in 1992. Upon review in 1997, the results of the program were generally good and the program was reauthorized that year. A more recent review and study of the program shows that the program has become more successful as it has had more time to develop. Specifically, the commercialization rate of the research is higher than for most research and development expenditures. Further, universities and research is higher than for most research and development expenditures. Further, universities and research institutions have developed excellent working relationships with small businesses, and the program has also had good geographic diversity, involving small companies and research institutions throughout the country. The nine-year reauthorization will allow the agencies, small businesses and universities to gradually ramp up to the higher percentage in a predictable and orderly manner.

Second, I would like to talk about the gradual, incremental increases in the percentages reserved for STTR contracts and the increase in the Phase II awards. When we reached out to the small businesses and the research institutions that conduct STTR projects, and the program managers of the five agencies that participate in the STTR program, we heard two recurring themes: one, raise the amount of the Phase II awards; and two, increase the amount of the percentage reserved for STTR projects.

Speaking to the first issue, we heard that the Phase II awards of $500,000 generally are not sufficient for the research and development projects and should be increased to $750,000, the same as the SBIR Phase II awards, to make the awards worth applying for the small businesses and research institutions.

As for the second issue, we were told that the percentage of .15 reserved for STTR awards needed to be increased in order to better meet the needs of the agencies. Last year, that .15 percent of the five agencies' extramural research and development budgets amounted to a total $65 million dollars available for small businesses and research institutions to further develop research and transfer technology from the lab to market through the STTR program. Less than a quarter of one percent to help strengthen this country's technological progress is not extravagant; in fact, it is not adequate support for this important segment of the economy.

Nevertheless, we are very conscientious about the needs of the departments and agencies to meet their missions for the nation and have proposed gradual increases that take into full consideration the realities of implementing the changes for the agencies and departments that participate in the program. Consequently, the legislation does not increase the percentage for STTR awards until two full years after the program has been reauthorized.

We are also conscientious about the fact that we want more research, not less, so we have timed the increase of the Phase II awards to coincide with the initial percentage increase reserved for STTR projects.

Overall, we believe this gradual increase will help encourage more innovation and greater cooperation between research institutions and small businesses. As the program requires, at least 30 percent of these additional funds will go to university and research institutions. Not only do the universities and research institutions that collaborate with small businesses get 30 percent of the STTR award money for each contract, they also benefit in that they often receive license fees and royalties. We are also conscientious about being fiscally responsible, the percentage increases will have no budget implication since it does not increase the amount of the money spent. Rather, it ultimately, after six years, redirects one half of one percent to this very successful program which benefits the economy overall.

This bill will ensure that this successful program is continued and increased. It will also provide Congress with important information and data on the program and encourage more outreach to small businesses and research institutions.

I want to encourage my colleagues to learn about this program, to find out the benefits to their state's hi-tech small businesses and research universities and labs, and to join me in passing this legislation in the Senate as soon as possible. To my friend from Missouri, Senator BOND, I want to thank you and your staff for working with me and my staff to build this country's technological progress. I also want to thank all of the cosponsors: Senators CLELAND, LANDRIEU, BENNETT, LEVIN, LIEBERMAN, HARKIN, BINGAMAN, ENZI, and CANTWELL.

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. 856

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 ''Small Business Technology Transfer Program Reauthorization Act of 2001''.

SEC. 2. EXTENSION OF PROGRAM AND EXPENDITURE AMOUNTS.

(a) IN GENERAL.—Section 9(n)(1) of the Small Business Act (15 U.S.C. 638(n)(1)) is amended to read as follows:

''(1) REQUIRED EXPENDITURE AMOUNTS.—

''(A) IN GENERAL.—With respect to each fiscal year through fiscal year 2010, each Federal agency that has an extramural budget for research, or research and development, in excess of $1,000,000,000 for that fiscal year, shall expend with small business concerns not less than the percentage of that extramural budget specified in subparagraph (B), specifically in connection with STTR programs that meet the requirements of this section and any policy directives and regulations issued under this section.

''(B) EXPENDITURE AMOUNTS.—The percentage of the extramural budget required to be expended by an agency in accordance with subparagraph (A) shall be—

''(i) 0.15 percent for each fiscal year through fiscal year 2003;

''(ii) 0.3 percent for each of fiscal years 2004 through 2006; and

''(iii) 0.5 percent for fiscal year 2007 and each fiscal year thereafter.

(b) CONFORMING AMENDMENT.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended in subsections (b)(4) and (e)(6), by striking ''pilot'' each place it appears.

SEC. 3. INCREASE IN AUTHORIZED PHASE II AWARDS.

(a) IN GENERAL.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking ''$500,000'' and inserting ''$750,000''; and

(2) by inserting before the semicolon at the end the following: '', and shorter or longer periods of time to be approved at the discretion of the awarding agency where appropriate for a particular project''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective beginning in fiscal year 2004.

SEC. 4. AGENCY OUTREACH.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) 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) implement an outreach program to research institutions and small business concerns for the purpose of enhancing its STTR program, in conjunction with any such outreach done for purposes of the SBIR program; and''.

SEC. 5. POLICY DIRECTIVE MODIFICATIONS.

Section 9(p) of the Small Business Act (15 U.S.C. 638(p)) is amended by adding at the end the following:

''(3) MODIFICATIONS.—Not later than 120 days after the date of enactment of this paragraph, the Administrator shall modify the policy directive issued pursuant to this subsection to clarify that the rights provided for under paragraph (2)(B)(v) apply to all Federal funding awards under this section, including the first phase (as described in subsection (e)(6)(A)), the second phase (as described in subsection (e)(6)(B)), and the third phase (as described in subsection (e)(6)(C)).''.

SEC. 6. STTR PROGRAM DATA COLLECTION.

(a) IN GENERAL.—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by this Act, is amended by adding at the end the following:

''(15) collect, and maintain in a common format in accordance with subsection (v), such information from awardees as is necessary to assess the STTR program, including information necessary to maintain the database described in subsection (k).''.

(b) DATABASE.—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or STTR'' after ''SBIR'' each place it appears;

(B) in subparagraph (C), by striking ''and'' at the end;

(C) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(E) with respect to assistance under the STTR program only—

''(i) whether the small business concern or the research institution initiated their collaboration on each assisted STTR project;

''(ii) whether the small business concern or the research institution originated any technology relating to the assisted STTR project;

''(iii) the length of time it took to negotiate any licensing agreement between the small business concern and the research institution under each assisted STTR project; and

''(iv) how the proceeds from commercialization, marketing, or sale of technology resulting from each assisted STTR project were allocated (by percentage) between the small business concern and the research institution.''; and

(2) in paragraph (2)—

(A) by inserting ''or an STTR program under subsection (n)(1)'' after ''(f)(1)'';

(B) in subparagraph (A)(iii), by inserting ''and STTR'' after ''SBIR''; and

(C) in subparagraph (D), by inserting ''or STTR'' after ''SBIR''.

(c) SIMPLIFIED REPORTING REQUIREMENTS.—Section 9(v) of the Small Business Act (15 U.S.C. 638(v)) is amended by inserting ''or STTR'' after ''SBIR'' each place it appears.

(d) REPORTS TO CONGRESS.—Section 9(b)(7) of the Small Business Act (15 U.S.C. 638(b)(7)) is amended by striking ''and (o)(9)'' and inserting '', (o)(9), and (o)(15)''.

Mr. BOND. Mr. President, I am pleased to join with Senator JOHN KERRY, my colleague and ranking member on the Small Business Committee, in sponsoring legislation to reauthorize the Small Business Technology Transfer, STTR, Program. This program has proven itself to be highly effective. The bill we are introducing today acknowledges the success of the STTR Program by expanding it during the length of the reauthorization so that its benefits will increase in the coming years.

The STTR Program was created in 1992 to stimulate technology transfer from research institutions to small firms while, at the same time, accomplishing the Federal government's research and development goals. The program is designed to convert the billions of dollars invested in research and development at our nation's universities, federal laboratories and nonprofit research institutions into new commercial technologies. It does this by joining the ideas and resources of research institutions with the commercialization experience of small companies.

Each agency with an extramural research and development budget of more than $1 billion participates in the program. Currently, the Department of Defense, the National Institutes of Health, the National Aeronautics and Space Administration, NASA, the National Science Foundation, NSF, and the Department of Energy, DOE, have STTR Programs.

To receive an award under the STTR Program, a research institution and a small firm jointly submit a proposal to conduct research on a topic that reflects an agency's mission and research and development needs. The proposals are then peer-reviewed and judged on their scientific, technical and commercial merit. Similar to the Small Business Innovation Research Program, awards are provided in three phases. Phase one awards are designed to determine the scientific and technical merit and feasibility of a proposed research idea, with funding for individual awards limited to $100,000. Phase two awards further develop research from phase one and emphasize the idea's commercialization potential, with individual awards up to $500,000. Phase three awards consist of non-Federal funds for the commercial application of the technology, non-STTR Federal funds for the commercialization of products or services intended for procurement by the Federal government, or non-STTR Federal funds for continued research and development of the technology.

The benefits of fostering collaboration between research institutions and small firms are numerous. Small firms have shown themselves to be excellent at commercializing research when they are provided the opportunity to take advantage of the expertise and resources that reside in our nation's universities. A recent Small Business Administration Office of Advocacy report reviewed the rate of return for research and development by large and small firms both with and without university partners. When these firms do not have university partners, their rate of return is 14 percent. When a collaboration is formed between universities and small firms, however, the rate of return jumps to 44 percent. By contrast, the rate of return only increases to 30 percent when large firms and universities collaborate.

Moreover, partnerships between small firms and universities have led to world-class high-technology economic development. Numerous studies cite the emergence of Silicon Valley and the Route 128 corridor in Massachusetts as directly resulting from the partnerships and technology transfer that occurred, and are still occurring, among small firms, Stanford University and the Massachusetts Institute of Technology. The cooperation between industry and these universities has strengthened considerably our economic competitiveness in the world. The STTR Program seeks to foster this same type of economic development in the hundreds of communities around the country that contain universities

and federal laboratories. And, the STTR Program has proven to be immensely successful at growing small firms from these types of partnerships.

The Committee on Small Business has recently received data on the commercial success of small firms that received STTR awards between 1995 and 1997. The results are truly outstanding. Of the 102 projects surveyed in that time-frame, 53 percent had either resulted in sales or the companies involved in the projects had received follow-on developmental funding for the technology. To date, these projects had resulted in $132 million from sales and $53 million in additional developmental funding. Moreover, the Committee has learned that the companies who had received these STTR awards are projecting an additional $186 million in sales in 2001 and an estimated additional $900 million in sales by 2005. These numbers are even more remarkable when one considers that it typically takes between 7 to 10 years to successfully commercialize new technologies.

In addition to proving to be an amazing commercial success, the STTR Program has also provided high-quality research to the Federal Government. In the most recent published report of the General Accounting Office on the STTR Program, Federal agencies rated highly the technical quality of the proposals. The DOE, as an example, rated the quality of the proposed research in the top ten percent of all research funded by the Department.

A good example of the benefits that the STTR Program provides to small firms and universities is the experience of Engineering Software Research and Development, Inc. in St. Louis, MO. Engineering Software, in partnership with Washington University in St. Louis, received a phase two award from the Air Force to develop an innovative method of analyzing the stresses placed on composite materials. While this technology is currently being used in the aeronautics industry, it has many other practical applications.

The STTR Program permitted Dr. Barna Szabo, who had originated an algorithm he developed at Washington University, to transfer the technology to Engineering Software, which had the software infrastructure to transition the technology from an academic to a practical commercial application. According to Dr. Szabo, Engineering Software has received to date at an estimated $1.25 million in sales and follow-on developmental funding resulting from the technology funded by the STTR award and that the STTR Program was of great assistance in transferring the technology from the academic environment to actual use and application.

Based on the proven success of the STTR Program to date, this legislation increases the funds allocated for the program. This increase is phased-in through the length of the reauthorization. When a program is working as well as the STTR Program, it would be a mistake if Congress did not build on its success.

This is especially true for Federal investment in small business research and development. Despite report after report demonstrating that small businesses innovate at a greater rate than large firms, small businesses only receive less than four percent of all Federal research and development dollars. This number has remained essentially unchanged for the past 22 years. Increasing funds for the STTR Program sends a strong message that the Federal Government acknowledges the contributions that small businesses have made and will continue to make to government research and development efforts and to our nation's economy.

I am pleased that my colleague Senator KERRY and I have worked together on this bi-partisan legislation. It is a good bill for the small business high-technology community and will ensure that our Federal research and development needs are well met in the next decade. When this bill is debated by the full Senate, I trust that it will receive the support of all of our colleagues.

Ms. CANTWELL. Mr. President, research and development has been a fundamental driver of the growth of our economy. It is critical that we continue significant investment in R&D and improve commercialization of the research undertaken at our non-profit institutions.

I thank the Small Business Committee ranking member JOHN KERRY and Chairman CHRISTOPHER BOND for taking a leadership role in reauthorizing the Small Business Technology Transfer program. The program is a companion to the very successful Small Business Innovation Research (SBIR) program which funds R&D projects undertaken by small businesses. Under the STTR program, the U.S. Departments of Defense, Energy, and Health and Human Services, the National Aeronautics and Space Administration, and the National Science Foundation must set-aside .15 percent of their research dollars for award to small high technology firms that partner with non-profit research institutions.

The STTR program is scheduled to expire on September 30, 2001. The Kerry-Bond bill, entitled the Small Business Technology Transfer Program Reauthorization Act of 2001, extends the program until 2010. In addition to extending the STTR program it gradually increases the percentage of Federal R&D funding going to the program from .15 percent to .5 percent over 9 years. There is also a provision to encourage agencies to increase outreach to small business and universities to promote the STTR Program.

Many of our most successful businesses in the changing economy were only recently small businesses. Going back only 25 years, one of my State's largest employers, Microsoft, was a small business. Even today, many of the innovators driving the rapid industrial evolution work in small businesses. But the risk and expense of conducting serious R&D efforts can be beyond the means of many of these businesses.

On the other side of the equation, the commercial value of non-profit research often remains unrealized because there are not adequate opportunities to bring researchers together with those who could best make the research into a marketable product.

This program fills a very important need by bringing together the capabilities of our non-profit research institutions with the entrepreneurial spirit of our small businesses. The program holds great promise as one way to meet the scientific and technological challenges of our changing economy. And this program has already been successful throughout the United States. In my state alone over the past 5 years, 52 grants have been awarded for work in biotechnology, medicine, fluid mechanics, chemistry, electronics and computer technologies. I am very pleased to be able to lend my support to this program and look forward to this bill moving rapidly into law.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 85—DESIGNATING THE WEEK OF MAY 6 THROUGH 12, 2001, AS ''TEACHER APPRECIATION WEEK'', AND DESIGNATING TUESDAY, MAY 8, 2001 AS ''NATIONAL TEACHER DAY''

Mr. WARNER (for himself, Mr. ALLEN, Mr. COCHRAN, Mr. BROWNBACK, Mr. JEFFORDS, Mr. CRAIG, Mr. THURMOND, Mr. CRAPO, Mr. ENZI, Mr. DEWINE, Ms. MIKULSKI, Mr. HATCH, Mr. SMITH of Oregon, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 85

Whereas the foundation of American Freedom and democracy is a strong, effective system of education where every child has the opportunity to learn in a safe and nurturing environment;

Whereas a first rate education system depends on a partnership between parents, principals, teachers, and children;

Whereas much of the success of our Nation is the result of the hard work and dedication of teachers across the Nation;

Whereas in addition to a child's family, knowledgeable and skillful teachers can have a profound impact on the child's early development and future success;

Whereas many people spend their lives building careers, teachers spend their careers building lives;

Whereas our Nation's teachers serve our Nation's children beyond the call of duty as coaches, mentors, and adviser's without regard to fame or fortune; and

Whereas across our Nation, nearly 3,000,000 men and women experience the joys of teaching young minds the virtues of reading, writing, and arithmetic: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 6 through 12, 2001, as ''Teacher Appreciation Week'':

(2) designates Tuesday, May 8, 2001 as ''National Teacher Day''; and

(3) calls upon the people of the United States to take a moment out of their busy lives to say thanks and pay tribute to our Nation's teachers.

Mr. WARNER. Mr. President, I rise today to say thank you to the over 3,000,000 teachers in this Nation for all of the hard work and personal sacrifices they make to educate our youth. For this reason, I introduce a resolution designating the week of May 6 through 12, 2001, as ''Teacher Appreciation Week'' and designating Tuesday, May 8, 2001 as ''National Teacher Day.''

All of us know that individuals do not pursue a career in the teaching profession for the money. People go into the teaching profession for grander reasons—to educate our youth, to make a lasting influence.

While many people spend their lives building careers, our teachers spend their careers building lives. Simply put, to teach is to touch a life forever.

How true that is. I venture to say that every one of us can remember at least one teacher and the special influence he or she had on our lives.

By educating today's youth, our teacher's are preparing tomorrow's leaders.

This week in the Senate, we are considering legislation to reauthorize the Elementary and Secondary Education Act. How appropriate it is that during this debate Teacher Appreciation Week and National Teacher Day are upon us.

The education legislation before us this week is based on the principle that our education system must ensure that no child is left behind.

As we move towards education reforms to achieve this goal, we must keep in mind the other component in our education system—the teachers. If we forget our teachers in this debate, our children will be left behind.

Quality, caring teachers, along with quality, caring parents, play the predominant roles in ensuring that no child is left behind.

I urge my colleagues to join me in recognizing our Nation's teachers by passing this resolution designating the week of May 6 through 12, 2001, as ''Teacher Appreciation Week, and Tuesday, May 8, 2001, as ''National Teacher Day.''

SENATE RESOLUTION 86—TO EXPRESS THE SENSE OF THE SENATE RECOGNIZING THE IMPORTANT ROLE PLAYED BY THE SMALL BUSINESS ADMINISTRATION ON BEHALF OF THE UNITED STATES SMALL BUSINESS COMMUNITY

Mr. BOND (for himself, Mr. KERRY, Mr. BURNS, Mr. LEVIN, Mr. BENNETT, Mr. HARKIN, Ms. SNOWE, Mr. LIEBERMAN, Mr. ENZI, Mr. WELLSTONE, Mr. CRAPO, Mr. CLELAND, Mr. ENSIGN, Ms. LANDRIEU, Mr. EDWARDS, Ms. CANTWELL, and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 86

Whereas small businesses comprise 99 percent of all firms in the United States;

Whereas small businesses offer a significant number of job opportunities, with 52 percent of all private sector workers employed by small businesses;

Whereas small businesses contribute to the economic well-being of the Nation by providing 51 percent of the private sector output;

Whereas small businesses represent 96 percent of all exporters of goods; and

Whereas the Congress established the Small Business Administration in 1953 to aid, counsel, assist, and protect the interests of small business concerns in order to preserve free competitive enterprise, to ensure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Federal Government be placed with small business enterprises, to ensure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy for the Nation: Now, therefore, be it

Resolved, That—

(1) the Small Business Administration should continue to be the leading advocate in the Federal Government for small business concerns;

(2) the Senate strongly urges the President to strengthen and expand assistance to small business concerns through Federal Government programs to ensure that—

(A) a growing number of small business concerns receive contracts for goods and services from the Federal Government;

(B) the Federal Government undertakes steps to increase the number of opportunities provided to women-owned and minority-owned small business concerns for contracting with the Federal Government for the provision of goods and services;

(C) guaranteed loans, including microloans and microloan technical assistance for start-up and growing small business concerns, and venture capital are made available to all qualified small business concerns;

(D) special programs are implemented in economically distressed urban and rural areas in order to create new business opportunities for small business concerns that will create meaningful jobs and economic growth; and

(E) the management assistance programs delivered by resource partners on behalf of the Small Business Administration, such as the Service Corps of Retired Executives (SCORE) and the Small Business Development Center and Women's Business Center programs, are provided with the Federal resources necessary to do their jobs;

(3) the Senate strongly urges the President to adopt a policy to achieve the applicable procurement goals for small business concerns, including the goals for women-owned small business concerns, HUBZone small business concerns, socially and economically disadvantaged small business concerns, and small business concerns owned by service-disabled veterans;

(4) the President should hold the head of each Federal department and agency accountable to ensure that the small business procurement goals are achieved during the term of his Administration;

(5) the President should direct the heads of each Federal department and agency to comply fully with the requirements of the Small Business Regulatory Enforcement Fairness Act and the Regulatory Flexibility Act; and

(6) the Administrator of the Small Business Administration should have an active role as a member of the President's Cabinet and the Domestic and National Economic Policy Councils.

AMENDMENTS SUBMITTED AND PROPOSED

SA 396. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table.

SA 397. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 398. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 399. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 400. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 401. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 402. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 403. Mr. WELLSTONE proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) supra.

SA 404. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 405. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 406. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 407. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 408. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 409. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 410. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 411. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 412. Mr. GRAHAM (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 413. Mr. BROWNBACK (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 414. Mr. DOMENICI (for himself and Mr. DODD) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 415. Mr. DOMENICI (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 416. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 417. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 418. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 419. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 420. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 421. Mr. REID proposed an amendment to amendment SA 384 proposed by Mr. MCCONNELL to the amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) supra.

SA 422. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 423. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 424. Mr. HATCH (for himself, Mr. LEAHY, Mr. THURMOND, Mr. KOHL, Mr. BIDEN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 425. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. CLINTON, Mr. SARBANES, Mr. JOHNSON, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKEFELLER, Mr. DURBIN, and Mr. DAYTON) proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) supra.

SA 426. Mr. CONRAD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 427. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 428. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 429. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 430. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 431. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 432. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 433. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 434. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 435. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 436. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 437. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 438. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 439. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 440. Mr. CAMPBELL (for himself, Mr. GRASSLEY, Mr. AKAKA, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 441. Mr. LUGAR (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 442. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 443. Mr. VOINOVICH (for himself, Mrs. FEINSTEIN, Mr. COCHRAN, Mr. BAUCUS, Ms. LANDRIEU, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 444. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 445. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 446. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 447. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 448. Mrs. CARNAHAN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 449. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 450. Mr. WYDEN (for himself, Mr. SESSIONS, Mr. BREAUX, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 451. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 452. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 453. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 454. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 455. Mr. KERRY (for himself, Mr. SMITH, of Oregon, Mr. CARPER, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 456. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 457. Mr. DODD (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 458. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 459. Mr. DODD (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 460. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 461. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 462. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 463. Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 464. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 465. Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 466. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 467. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 468. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 469. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 470. Mr. ROBERTS (for himself, Mr. FRIST, Mr. GREGG, Mr. CRAPO, Mr. WARNER, Mr. SCHUMER, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 471. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 472. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 473. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 474. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 475. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 476. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 477. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 478. Mr. MCCAIN (for himself, Mr. EDWARDS, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 479. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 480. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 481. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 482. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 483. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 484. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 485. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 486. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 487. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 488. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 489. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 490. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 491. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 492. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 493. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 494. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 495. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 496. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 497. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 498. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 499. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 500. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 501. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 502. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 503. Mr. BENNETT (for himself, Ms. COLLINS, and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 504. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 505. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 506. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 507. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 508. Ms. COLLINS (for herself and Mr. CONRAD) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 509. Ms. COLLINS (for herself and Mr. CONRAD) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 510. Ms. COLLINS (for herself, Mr. HATCH, Mr. COCHRAN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 511. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 512. Mr. COCHRAN (for himself, Mr. WARNER, Mr. CHAFEE, Mr. GRASSLEY, Mr. ENSIGN, Mr. DOMENICI, Mr. HATCH, Mr. STEVENS, Mr. SPECTER, Mrs. HUTCHISON, and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 513. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 514. Mr. DODD (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 515. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 516. Mrs. CLINTON (for herself, Mr. TORRICELLI, and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 517. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 518. Mr. CARPER (for himself, Mr. GREGG, Mr. FRIST, Mr. LIEBERMAN, Mr. BIDEN, Mr. BINGAMAN, Mr. KERRY, Mr. HUTCHINSON, Mr. CRAPO, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 519. Mr. BINGAMAN (for himself, Mr. HUTCHINSON, Mr. HOLLINGS, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 520. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 521. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 522. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 523. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 524. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 525. Mr. HARKIN (for himself, Mr. KERRY, Mr. LEVIN, Mr. REID, Mr. BIDEN, Mr. CORZINE, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 526. Mr. HARKIN (for himself, Mr. LEVIN, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 527. Mr. KYL (for himself and Mr. McCAIN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 528. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 529. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 530. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 531. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 532. Mr. DURBIN (for himself, Mr. SCHUMER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 533. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 534. Mrs. HUTCHISON (for herself, Mr. WELLSTONE, Mr. DEWINE, Mrs. CLINTON, Mr. SCHUMER, Mr. BIDEN, Mr. CRAPO, and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 535. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 536. Mr. GREGG (for himself and Mr. HUTCHINSON) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 537. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 538. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 539. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 540. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 541. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 542. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 543. Mr. KYL (for himself and Mr. HUTCHINSON) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 544. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 545. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 546. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 547. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 548. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 549. Mr. HAGEL (for himself, Mr. BAUCUS, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 550. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 551. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 552. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 553. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 554. Mr. HUTCHINSON (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 555. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 556. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 557. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 558. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 559. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 560. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 561. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 562. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 563. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 564. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 565. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 566. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 567. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 568. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 569. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 570. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 571. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 572. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 573. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 574. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 575. Mr. HARKIN (for himself, Mr. KERRY, Mr. LEVIN, Mr. BIDEN, Mr. REID, Mr. JOHNSON, Mr. CORZINE, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 576. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 577. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 578. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 579. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 580. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 581. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 582. Mr. HUTCHINSON submitted an amendment intended to be proposed to amendment SA 457 submitted by Mr. DODD and intended to be proposed to the bill (S. 1) supra; which was ordered to lie on the table.

SA 583. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 584. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 585. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 586. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

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SA 588. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 589. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 590. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 591. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 592. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 593. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 594. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 595. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 596. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 597. Mr. WELLSTONE (for himself, Mr. DAYTON, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 598. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 599. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 600. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 601. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 602. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 604. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 605. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 606. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 607. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 608. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 609. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 610. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 611. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 612. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 613. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 614. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 615. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 616. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 617. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 618. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 619. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 620. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 621. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 622. Mr. DAYTON (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 623. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 624. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 625. Mr. WYDEN (for himself, Mr. CONRAD, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 626. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 627. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 628. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 629. Mr. WELLSTONE (for himself, Mr. DEWINE, Mrs. CLINTON, Mr. SCHUMER, Mr. BIDEN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 630. Ms. CANTWELL (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill S. 1 , supra; which was ordered to lie on the table.

SA 631. Mr. LEVIN (for himself, Ms. LANDRIEU, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 632. Mr. LEVIN (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 633. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 634. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 635. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 636. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 637. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 638. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 639. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 640. Mr. DORGAN (for himself, Mr. REID, Mr. DURBIN, Mrs. BOXER, Mrs. FEINSTEIN, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 641. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 642. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 643. Mr. ENZI (for himself, Ms. COLLINS, Mrs. MURRAY, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 644. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 645. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 646. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 647. Mr. HATCH proposed an amendment to the bill H.R. 428, concerning the participation of Taiwan in the World Health Organization.

TEXT OF AMENDMENTS

SA 396. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 246, line 4, insert ''health services programs,'' before ''art,''.

On page 246, line 6, insert ''that provide a comprehensive approach to learning and'' after ''programs,''.

On page 246, line 8, insert ''and meet other needs of students and families'' after ''students''.

On page 246, line 24, insert ''health service programs,'' before ''art,''.

On page 247, lines 1 and 2, insert ''that provide a comprehensive approach to learning and'' after ''programs)''.

On page 247, line 3, insert ''and meet other needs of students and families'' after ''students''.

On page 255, strike lines 21 and 22 and insert the following:

''(B) an identification and assessment of Federal, State, and local programs and services that will be combined or co-

On page 256, line 21, strike ''and''.

On page 256, line 24, strike the period and insert ''; and''.

On page 256, after line 24, insert the following:

''(I) a description of how the eligible organization will use the funds made available under this part to provide comprehensive support services and how those services will be integrated with existing (as of the date of submission of the application) Federal, State, and local programs and services; and

''(J) a description of measurable outcomes anticipated from the use of the funds, including outcomes related to improving student achievement and the wellbeing of students, families, and the community, and other related outcomes.

On page 257, line 7, strike ''and''.

On page 257, line 10, strike the period and insert ''; and''.

On page 257, between lines 10 and 11, and insert the following:

''(4) describing programs that—

''(A) offer a broad selection of services that address the needs of the community; and

''(B) have a comprehensive approach to integrating Federal, State, and local programs and services to reach clearly defined outcomes, including outcomes related to improving student achievement and the wellbeing of students, family, and the community, and other related outcomes.

SA 397. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 77, line 10, strike ''and'' after the semicolon.

On page 77, between lines 17 and 18, insert the following:

(iii) by adding at the end the following:

''(I) Coordination and integration of Federal, State, and local services and programs, including services that support improved student learning through access for children and families to health, social and human services, recreation, and cultural services.''; and

On page 77, line 24, strike ''and''.

On page 78, line 4, strike ''and''.

On page 78, between lines 4 and 5, insert the following:

(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 services that support improved student learning through access for children and families to health, social and human services, recreation, and cultural services.''; and

On page 79, line 11, strike ''and'' both places it appears.

On page 79, strike line 18, and insert the following:

teams; and''; and

On page 79, between lines 18 and 19, insert the following:

(C) by adding at the end the following:

''(I) coordinate and integrate Federal, State, and local services and programs, including services that support improved student learning through access for children and families to health, social and human services, recreation, and cultural services.''.

SA 398. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 62, line 16, strike ''and''.

On page 62, line 22, strike the period and insert ''; and''.

On page 62, between lines 22 and 23, insert the following:

''(ix) information on the extent of parental participation in schools in the State, and information on parental involvement activities in the State.

On page 63, strike lines 17 through 20.

On page 63, line 21, strike ''(viii);; and insert ''(vi)''.

On page 63, line 23, strike ''(ix)'' and insert ''(vii)''.

On page 64, line 1, strike ''(x)'' and insert ''(viii)''.

SA 399. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 739, between lines 15 and 16, insert the following:

''(iii) ensure compliance with the parental involvement provisions of this Act;''.

SA 400. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 249, line 7, strike ''1'' and insert ''2.5''.

On page 257, between lines 18 and 19, insert the following:

''SEC. 1610. NATIONAL ACTIVITIES.

''(a) DEFINITION.—In this section, the term 'eligible partnership' means a partnership—

''(1) that contains—

''(A) at least 1 public elementary school or secondary school that—

''(i) receives assistance under this title and for which a measure of poverty determination is made under section 1113(a)(5) with respect to a minimum of 40 percent of the children in the school; and

''(ii) demonstrates parent involvement and parent support for the partnership's activities;

''(B) a local educational agency;

''(C) a public agency, other than a local educational agency, such as a local or State department of health, mental health, or social services;

''(D) a nonprofit community-based organization, providing health, mental health, or social services;

''(E) a local child care resource and referral agency; and

''(F) a local organization representing parents; and

''(2) that may contain—

''(A) an institution of higher education; and

''(B) other public or private nonprofit entities with experience in providing services to disadvantaged families.

''(b) GRANTS.—

''(1) IN GENERAL.—From funds reserved under section 1605(a)(2), the Secretary may award grants to eligible partnerships to pay for the Federal share of the cost of establishing and expanding school-based or school-linked community service centers that provide to children and families, or link children and families with, comprehensive support services to improve the children's educational, health, and mental health outcomes and overall wellbeing.

''(2) DURATION.—The Secretary shall award grants under this section for periods of 5 years.

''(c) REQUIRED ACTIVITIES.—Each eligible partnership receiving a grant under this section shall use the grant funds—

''(1) in accordance with the needs assessment described in subsection (d)(2)(A), to provide or link children and their families with information, support, activities, or services in core areas such as education, child care, before- and after-school care and enrichment programs, health services, mental health services, family support, nutrition, literacy services, parenting skills, and drop-out prevention; and

''(2) to provide intensive, high-quality, research-based programs that—

''(A) provide violence prevention education for families and developmentally appropriate instructional services to children (including children below the age of compulsory school attendance); and

''(B) provide effective strategies for nurturing and supporting the emotional, social, and cognitive growth of children.

''(d) APPLICATIONS.—

''(1) IN GENERAL.—Each eligible partnership desiring 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 require.

''(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

''(A) include a needs assessment, including a description of how the partnership will ensure that the activities to be assisted under this section will be tailored to meet the specific needs of the children and families to be served;

''(B) describe arrangements that have been formalized between the participating public elementary school or secondary school, and other partnership members;

''(C) describe how the partnership will effectively coordinate activities with the centers described in section 1118(g) and utilize Federal, State, and local sources of funding that provide assistance to families and their children;

''(D) describe the partnership's plan to—

''(i) develop and carry out the activities assisted under this section with extensive participation of parents, administrators, teachers, pupil services personnel, social and human service agencies, and community organizations and leaders; and

''(ii) coordinate the activities assisted under this section with the education reform efforts of the participating public elementary school or secondary school, and the participating local educational agency;

''(E) describe how the partnership will ensure that underserved populations such as families of students with limited English proficiency, or families of students with disabilities, are effectively involved, informed, and assisted;

''(F) describe how the partnership will collect and analyze data, and will utilize specific performance measures and indicators to—

''(i) determine the impact of activities assisted under this section as described in subsection (g); and

''(ii) improve the activities assisted under this section; and

''(G) describe how the partnership will protect the privacy of families and their children participating in the activities assisted under this section.

''(e) FEDERAL SHARE.—The Federal share of the cost described in subsection (b)(1)—

''(1) for the first year for which an eligible partnership receives assistance under this section shall not exceed 90 percent;

''(2) for the second such year, shall not exceed 80 percent;

''(3) for the third such year, shall not exceed 70 percent;

''(4) for the fourth such year, shall not exceed 60 percent; and

''(5) for the fifth such year, shall not exceed 50 percent.

''(f) FUNDING.—

''(1) CONTINUATION OF FUNDING.—Each eligible partnership that receives a grant under this section shall, after the third year for which the partnership receives funds through the grant, be eligible to continue to receive the funds only if the Secretary determines that the partnership has made significant progress in meeting the performance measures used for the partnership's local evaluation under subsection (g).

''(2) LIMITATION ON USE OF FUNDS TO OFFSET OTHER PROGRAMS.—Notwithstanding any other provision of law, none of the funds received under a grant under this section may be used to pay for expenses related to any other Federal program, including treating such funds as an offset against such a Federal program.

''(g) EVALUATIONS AND REPORTS.—Each partnership receiving funds under this section shall conduct annual evaluations and submit to the Secretary reports containing the results of the evaluations. The reports shall include the results of an evaluation of the partnership's effectiveness in reaching and meeting the needs of families and children served under this section, assessed through performance measures, including performance measures assessing—

''(1) improvements in areas such as student achievement, family participation in schools, and access to health care, mental health care, child care, and family support services, resulting from activities assisted under this section; and

''(2) reductions in such areas as violence among youth, truancy, suspension, and drop-out rates, resulting from activities assisted under this section.

''(h) REFERENCES.—References in this part (other than this section and section 1605(a)(2)) to activities or funding provided under this part shall not be considered to be references to activities or funding provided under this section.

SA 401. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 479, strike line 8 and insert the following: for limited English proficient students, and to assist parents to become active participants in the education of their children.

SA 402. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

SEC. ___. GRANTS FOR THE TEACHING OF TRADITIONAL AMERICAN HISTORY AS A SEPARATE SUBJECT.

Title IX (as added by section 901) is amended by adding at the end the following:

"PART B—TEACHING OF TRADITIONAL AMERICAN HISTORY

"SEC. 9201. 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.''.

SA 403. Mr. WELLSTONE proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 46, strike line 19 and replace with the following:

''sessments 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 for which the assessment is used, such evidence to be made public by the Secretary upon request;''.

On page 51, between lines 15 and 16, insert the following:

''(K) 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.''

On page 125, between lines 4 and 5, insert the following:

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).''.

SA 404. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 507, line 4, strike ''and''.

On page 507, line 6, strike the period and insert ''; and''.

On page 507, between lines 6 and 7, insert the following:

''(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.''.

On page 565, between lines 18 and 19, insert the following:

"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; 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 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.''

SA 405. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1 to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 778, strike line 21 and insert the following:

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 have the highest percentage 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, rather than remediation, 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; and

''(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);

''(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; and

''(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.

''(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 $10,000,000 for each of fiscal years 2002 through 2005.

''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.''.

SA 406. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 573, after line 25, add the following:

''SEC. 4203. 24-HOUR HOLDING PERIOD FOR STUDENTS WHO UNLAWFULLY BRING A GUN TO SCHOOL.

''(a) IN GENERAL.—Notwithstanding section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) or any other provision of law, for fiscal year 2002 and each fiscal year thereafter, to be eligible for Federal safe and drug free schools and communities grants under this title for a fiscal year, a State shall have in effect a policy or practice described in subsection (b) by not later than the first day of the fiscal year involved.

''(b) STATE POLICY OR PRACTICE DESCRIBED.—A policy or practice described in this subsection is a policy or practice of the State that requires State and local law enforcement agencies to detain, in an appropriate juvenile community-based placement setting or in an appropriate juvenile justice facility, for not less than 24 hours, any juvenile who—

''(1) unlawfully possesses a firearm in a school; and

''(2) is found by a judicial officer to be a possible danger to himself or herself or to the community.''.

SA 407. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 482, lines 23 and 24, strike ''which are recognized by the Governor of the State of Hawaii''.

SA 408. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING TAX TREATMENT OF TEACHER BONUSES.

(a) FINDINGS.—The Senate finds the following:

(1) The combination of growing enrollment and teacher shortages is putting a strain on communities in the United States to provide quality education for our children and their teachers.

(2) In addition, the current emphasis on accountability and standards and improving low-performing schools makes paramount the need for high quality teachers.

(3) Yet, the teachers who we rely on to educate our children are not paid nearly what they are worth and entry level teacher salaries are not competitive with salaries paid in other entry level professions.

(4) Some States are developing teacher bonuses in order to attract students to teaching and provide additional support.

(5) This year, Maryland is paying $2,000 to each of the teachers in schools performing poorly on test scores.

(6) In South Carolina, teachers working in low-scoring rural schools will receive an extra $19,000 each this year.

(7) States throughout the Nation are developing teacher bonus programs to encourage high quality teachers to commit to the education of our children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Government should support the increase in teacher salaries and the incentives to commit to teaching by allowing teachers to keep all of their bonuses, and

(2) State teacher bonuses granted to teachers in low-performing and high poverty schools should be excluded from gross income for purposes of Federal taxation.

SA 409. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

SEC. ___. NOTIFICATION.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) is amended—

(1) by redesignating paragraph (15) as paragraph (16); and

(2) by inserting after paragraph (14) the following:

''(15) NOTIFICATION.—(A) Each institution participating in any program under this title, after the campus police or security authority for the institution receives a report that a student is missing, shall—

''(i) make a preliminary investigation to determine the whereabouts of the student; and

''(ii) subject to subparagraph (B) and if the authority is unable to verify that the student is safe within 24 hours of receiving the report—

''(I) notify the student's parents and the local police agency that the student is missing; and

''(II) cooperate with the local police agency regarding the investigation of the missing student including entering into a written agreement with the local police agency that establishes the authority's and agency's responsibilities with respect to the investigation.

''(B) The 24 hour period described in subparagraph (A)(ii) excludes holiday periods at the institution.''.

SA 410. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE X—MISCELLANEOUS JUVENILE FIREARMS PROVISIONS

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Miscellaneous Juvenile Firearms Provisions of 2001''.

SEC. 1002. PENALTIES FOR UNLAWFUL ACTS BY JUVENILES.

(a) JUVENILE WEAPONS PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (4) by striking ''Whoever'' and inserting ''Except as provided in paragraph (6) of this subsection, whoever''; and

(2) in paragraph (6), to read as follows:

''(6)(A) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that—

''(i) a juvenile shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation, if—

''(I) the offense of which the juvenile is charged is possession of a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense; or

''(ii) a juvenile shall be fined under this title, imprisoned not more than 20 years, or both, if—

''(I) the offense of which the juvenile is charged is possession of a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon in violation of section 922(x)(2); and

''(II) during the same course of conduct in violating section 922(x)(2), the juvenile violated section 922(q), with the intent to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, large capacity ammunition feeding device, or semiautomatic assault weapon in the commission of a violent felony.

''(B) A person other than a juvenile who knowingly violates section 922(x)—

''(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

''(ii) if the person sold, delivered, or otherwise transferred a handgun, ammunition, large capacity ammunition feeding device, or a semiautomatic assault weapon to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun, ammunition, large capacity ammunition feeding device, or semiautomatic assault weapon in the commission of a violent felony, shall be fined under this title, imprisoned not more than 20 years, or both.

''(C) For purposes of this paragraph the term 'violent felony' has the same meaning given that term in section 924(e)(2)(B).

''(D) Except as otherwise provided in this chapter, in any case in which a juvenile is prosecuted in a district court of the United States, and the juvenile is subject to the penalties under clause (ii) of paragraph (A), the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing (including the availability of probation, restitution, fines, forfeiture, imprisonment, and supervised release) that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile has reached the age of 18 years.''.

(b) UNLAWFUL WEAPONS TRANSFERS TO JUVENILES.—Section 922(x) of title 18, United States Code, is amended to read as follows:

''(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun;

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.

''(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

''(A) a handgun;

''(B) ammunition that is suitable for use only in a handgun;

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.

''(3) This subsection does not apply to—

''(A) a temporary transfer of a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon to a juvenile or to the possession or use of a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon by a juvenile—

''(i) if the handgun, ammunition, large capacity ammunition feeding device, or semiautomatic assault weapon are possessed and used by the juvenile—

''(I) in the course of employment;

''(II) in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch);

''(III) for target practice;

''(IV) for hunting; or

''(V) for a course of instruction in the safe and lawful use of a firearm; and

''(ii) if the possession and use of a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon by the juvenile under this subparagraph are in accordance with State and local law, and—

''(I) except when a parent or guardian of the juvenile is in the immediate and supervisory presence of the juvenile, the juvenile shall have in the juvenile's possession at all times when a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon is in the possession of the juvenile, the prior written consent of the parent or guardian of the juvenile who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition; and

''(II) during transportation by the juvenile directly from the place of transfer to a place at which an activity described in clause (i) is to take place the firearm shall be unloaded and in a locked container or case, and during the transportation by the juvenile of that firearm, directly from the place at which such an activity took place to the transferor, the firearm shall also be unloaded and in a locked container or case; or

''(III) with respect to employment, ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault rifle with the prior written approval of the parent or legal guardian of the juvenile, if such approval is on file with the adult who is not prohibited by Federal, State, or local law from possessing a firearm or ammunition and that person is directing the ranching or farming activities of the juvenile;

''(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon in the line of duty;

''(C) a transfer by inheritance of title (but not possession) of a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon to a juvenile; or

''(D) the possession of a handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon taken in lawful defense of the juvenile or other persons in the residence of the juvenile or a residence in which the juvenile is an invited guest.

''(4) A handgun, ammunition, a large capacity ammunition feeding device, or a semiautomatic assault weapon, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection, shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when that handgun, ammunition, large capacity ammunition feeding device, or semiautomatic assault weapon is no longer required by the Government for the purposes of investigation or prosecution.

''(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

''(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a parent or legal guardian of a juvenile defendant at all proceedings.

''(B) The court may use the contempt power to enforce subparagraph (A).

''(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

''(7) For purposes of this subsection only, the term 'large capacity ammunition feeding device' has the same meaning as in section 921(a)(31) and includes similar devices manufactured before the effective date of the Violent Crime Control and Law Enforcement Act of 1994.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this title.

SEC. 1003. PROHIBITION ON FIREARMS POSSESSION BY VIOLENT JUVENILE OFFENDERS.

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' after ''(20)'';

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting after subparagraph (A) the following:

''(B) For purposes of subsections (d) and (g) of section 922, the term 'act of violent juvenile delinquency' means an adjudication of delinquency in a Federal or State court, based on a finding of the commission of an act by a person before that person has reached the age of 18 years that, if committed by an adult, would be a serious or violent felony, as defined in section 3559(c)(2)(F)(i) had Federal jurisdiction existed and been exercised (except that section 3559(c)(3)(A) shall not apply to this subparagraph).''; and

(4) in the undesignated paragraph following subparagraph (B) (as added by paragraph (3) of this subsection), by striking ''What constitutes'' and all that follows through ''this chapter,'' and inserting the following:

''(C) What constitutes a conviction of such a crime or an adjudication of an act of violent juvenile delinquency shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any State conviction or adjudication of an act of violent juvenile delinquency that has been expunged or set aside, or for which a person has been pardoned or has had civil rights restored, by the jurisdiction in which the conviction or adjudication of an act of violent juvenile delinquency occurred shall not be considered to be a conviction or adjudication of an act of violent juvenile delinquency for purposes of this chapter,''.

(b) PROHIBITION.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) has committed an act of violent juvenile delinquency.''; and

(2) in subsection (g)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the comma at the end and inserting ''; or''; and

(C) by inserting after paragraph (9) the following:

''(10) who has committed an act of violent juvenile delinquency,''.

(c) EFFECTIVE DATE OF ADJUDICATION PROVISIONS.—The amendments made by this section shall only apply to an adjudication of an act of violent juvenile delinquency that occurs after the date that is 30 days after the date on which the Attorney General certifies to Congress and separately notifies Federal firearms licensees, through publication in the Federal Register by the Secretary of the Treasury, that the records of such adjudications are routinely available in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act.

SEC. 1004. CHILD HANDGUN SAFETY.

(a) PURPOSES.—The purposes of this section are to:

(1) promote the safe storage and use of handguns by consumers;

(2) prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun, unless it is under one of the circumstances provided for in the Youth Handgun Safety Act; and

(3) avoid hindering industry from supplying law abiding citizens firearms for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(b) UNLAWFUL ACTS.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under the provisions of this chapter, unless the transferee is provided with a secure gun storage or safety device, as described in section 921(a)(34) of this chapter, for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the—

''(A)(i) manufacture for, transfer to, or possession by, the United States or a State, or a department or agency of the United States or a State, or a department, agency, or political subdivision of a State, of a handgun; or

''(ii) transfer to, or possession by, a law enforcement officer of a handgun for law enforcement purposes (whether on or off duty), if that officer is employed by an entity referred to in clause (i); or

''(B) transfer to, or possession by, a rail police officer of a handgun for purposes of law enforcement (whether on or off duty), if that officer is employed by a rail carrier and certified or commissioned as a police officer under the laws of a State ;

''(C) transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

''(D) transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), so long as the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee, within 10 calendar days from the date of the delivery of the handgun to the transferee, a secure gun storage or safety device for the handgun.

''(3) IMMUNITY FOR A LAWFUL POSSESSOR.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action as described in paragraph (4).

''(4) QUALIFIED CIVIL LIABILITY ACTION.—

''(A) DEFINITION.—The term 'qualified civil liability action' means a civil action brought by any person against a person described in paragraph (3) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, where—

''(i) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to the handgun; and

''(ii) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device.

''(B) JURISDICTION.—A qualified civil liability action, as defined in this paragraph, may not be brought in any Federal or State court.

''(C) NEGLIGENCE OF LAWFUL POSSESSOR.—A qualified civil liability action, as defined in this paragraph, shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.''.

(c) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

''(i) suspend for up to six months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

(d) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce paragraphs (1) and (2) of section 922(z), or to give effect to paragraphs (3) and (4) of section 922(z).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this title.

SA 411. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 46, line 13, insert ''the school's contribution to the'' after ''about''.

On page 47, line 4, insert ''and of the school's contribution to student performance,'' after ''performance,''.

SA 412. Mr. GRAHAM (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 53, between lines 7 and 8, insert the following:

''(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 nonacademic factors that may have impacted student achievement at the school.

On page 71, line 24, strike ''and''.

On page 72, line 3, strike the period and end quotation mark, and insert ''and'' after the semicolon.

On page 72, between lines 3 and 4, insert the following:

''(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 nonacademic factors that may have impacted student achievement at the school.'';

On page 104, line 7, strike ''and''.

On page 104, line 13, strike the period and insert a semicolon.

On page 104, between lines 13 and 14, insert the following:

''(C) for each school in the State that is identified for school improvement or corrective action, notify the Secretary of any factors outside of the school that were determined by the State educational agency under section 1111(b)(8) as impacting student achievement; and

''(D) if a school in the State is identified for corrective action, encourage appropriate State and local agencies and community groups to mitigate any factors that were determined by the State educational agency under section 1111(b)(8) as impacting student achievement.''.

On page 119, line 19, strike the end quotation mark and the second period.

On page 119, between lines 19 and 20, insert the following:

''(g) OTHER AGENCIES.—If a school is identified for school improvement, the Secretary shall notify any agency having jurisdiction over issues related to factors outside of the identified school that were determined by

the State educational agency under section 1111(b)(8) as impacting student achievement that such factors were so identified.''.

SA 413. Mr. BROWNBACK (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 902. 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.''.

SA 414. Mr. DOMENICI (for himself and Mr. DODD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

"PART B—PARTNERSHIPS IN CHARACTER EDUCATION

"SEC. 9201. SHORT TITLE.

''This part may be cited as the 'Strong Character for Strong Schools Act'.

"SEC. 9202. 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.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.''.

SA 415. Mr. DOMENICI (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 565, between lines 18 and 19, insert the following:

''SEC. 4126. 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.

SA 416. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 319, between lines 19 and 20, insert the following:

''(12) 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.

SA 417. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

SEC. 902. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) SHORT TITLE.—This section may be cited as the ''Growing Resources in Educational Achievement for Today and Tomorrow Act'' or the ''GREATT IDEA Act''.

(b) PURPOSE.—It is the purpose of this section to more than double the Federal funding authorized for programs and services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(c) AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—

(1) ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES.—Section 611(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(j)) is amended to read as follows:

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

''(1) $7,779,800,800 for fiscal year 2002;

''(2) $9,714,403,800 for fiscal year 2003;

''(3) $12,130,084,000 for fiscal year 2004; and

''(4) $15,146,471,000 for fiscal year 2005.''.

(2) GENERAL PROVISIONS.—Part A of the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) is amended by adding at the end the following:

''SEC. 608. MAINTENANCE OF EFFORT.

''A State utilizing the proceeds of a grant received under this Act, shall maintain expenditures for activities carried out under this Act for each of fiscal years 2002 through 2005 at least at a level equal to not less than the level of such expenditures maintained by such State for fiscal year 2001.''.

SA 418. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Open page 64, between lines 2 and 3, insert the following

(F) PROTECTION OF PUPIL RIGHTS.—Notwithstanding any other provision in law, Section 445 of the General Education Provisions Act (20 U.S.C. 1232h) is applicable to all activities undertaken by a State in order to provide the information allowable in this section.

SA 419. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 233, strike lines 9 through 14, and insert the following:

''(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.

On page 233, strike lines 20 through 24.

On page 234, between lines 4 and 5, insert the following:

''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.

On page 242, line 19, strike ''and''.

On page 242, line 22, strike the period and insert ''; and''.

On page 242, between lines 22 and 23, insert the following:

''(5) participate in postsecondary education and job training programs.

On page 243, line 6, insert ''and the Secretary'' after ''agency''.

SA 420. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. EXEMPTION.

Section 13(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)) is amended by adding at the end the following:

''(6)(A) Subject to subparagraph (B), in the administration and enforcement of the child labor provisions of this Act, it shall not be considered oppressive child labor for an individual who—

''(i) is under the age of 18 and over the age of 14, and

''(ii) by statute or judicial order is exempt from compulsory school attendance beyond the eighth grade,

to be employed inside or outside places of business where machinery is used to process wood products.

''(B) The employment of an individual under subparagraph (A) shall be permitted—

''(i) if the individual is supervised by an adult relative of the individual or is supervised by an adult member of the same religious sect or division as the individual;

''(ii) if the individual does not operate or assist in the operation of power-driven woodworking machines;

''(iii) if the individual is protected from wood particles or other flying debris within the workplace by a barrier appropriate to the potential hazard of such wood particles or flying debris or by maintaining a sufficient distance from machinery in operation; and

''(iv) if the individual is required to use personal protective equipment to prevent exposure to excessive levels of noise and saw dust.''.

SA 421. Mr. REID proposed an amendment to amendment SA 384 proposed by Mr. MCCONNELL to the amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 4, line 23, insert a comma after (b), strike ''and'' and insert ''and (d)'' after (c).

On page 6, line 6, insert a new subsection (c), as follows, and renumber accordingly:

''(c) Nothing in this section shall be construed to apply to any action of a teacher that involves the striking of a child, including, but not limited to paddling, whipping, spanking, slapping, kicking, hitting, or punching of a child, unless such action is necessary to control discipline or maintain order in the classroom or school and unless a parent or legal guardian of that child has given written consent to the teacher prior to the striking of the child and during the school year in which the striking incident occurs.''

SA 422. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

SEC. 902. MICROBIOLOGICAL PERFORMANCE STANDARDS FOR MEAT AND POULTRY FOR SCHOOL NUTRITION PROGRAMS.

Section 9(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)) is amended by adding at the end the following:

''(4) MICROBIOLOGICAL PERFORMANCE STANDARDS FOR MEAT AND POULTRY FOR SCHOOL NUTRITION PROGRAMS.—

''(A) IN GENERAL.—The Secretary shall ensure that all meat and poultry purchased by the Secretary for a program carried out under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) meets performance standards for microbiological hazards, as determined by the Secretary.

''(B) BASIS.—The standards shall be based on and comparable to the stringent requirements used by national purchasers of meat

and poultry (including purchasers for fast food restaurants), as determined by the Secretary.

''(C) REVIEW.—The Secretary shall periodically review the standards to determine the impact of the standards on reducing human illness.''.

SA 423. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 383, after line 21, insert the following:

SEC. ___. 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 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;

''(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,'';

(4) in section 2112(b)(4), by striking ''teaching force'' and inserting ''teachers and 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 or a 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 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 and principals''; and

(ii) by striking ''teaching'' and inserting ''employment as teachers or 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 have the instructional leadership skills that will help the 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 and principals in the first 3 years of their careers as teachers and principals, respectively; and''.

SA 424. Mr. HATCH (for himself, Mr. LEAHY, Mr. THURMOND, Mr. KOHL, Mr. BIDEN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1, toextend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. 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.''.

SA 425. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. CLINTON, Mr. SARBANES, Mr. JOHNSON, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKFELLER, Mr. DURBIN, and Mr. DAYTON) proposed an amendment to amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 32, line 11, strike ''$900,000,000'' and insert ''$1,400,000,000''.

On page 201, line 19, strike ''and''.

On page 201, line 21, strike the period and insert ''; and''.

On page 201, between lines 21 and 22, insert the following:

''(3) shall reserve $500,000,000 for fiscal year 2002 and each of the 6 succeeding fiscal years to carry out section 1228 (relating to school libraries).

On page 203, between lines 20 and 21, insert the following:

''SEC. 1228. IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.

''(a) IN GENERAL.—From funds reserved under section 1225(3) for a fiscal year that are not reserved under subsection (h), 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 (e)) 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 (e) 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) a description of 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) 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).

''(e) 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.

''(f) 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.

''(g) 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.

''(h) NATIONAL ACTIVITIES.—From the total amount made available under section 1225(3) 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.

On page 203, line 21, strike ''1228'' and insert ''1229''.

SA 426. Mr. CONRAD (for himself and Mr. BINGMAN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____. 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.

SA 427. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. ____. ADDITION TO LIST OF 1994 INSTITUTIONS.

Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

''(31) White Earth Tribal and Community College.''.

SA 428. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 752, strike line 16.

SA 429. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 319, between lines 19 and 20, insert the following:

''(12) 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, including teachers certified by the National Board for Professional Teaching Standards, and student teacher interns as a part of an extended teacher education program; and

''(D) supporting teams of master teachers, including teachers certified by the National Board for Professional Teaching Standards, to serve in low-performing schools.

On page 329, line 7, strike ''; and'' and insert a semicolon.

On page 329, line 13, strike the period and insert ''; and''.

On page 329, between lines 13 and 14, insert the following:

''(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.

On page 329, between lines 18 and 19, insert the following:

''(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; 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 determined to be low-performing by a State, on the basis of factors such as low student achievement, low student performance, unclear academic standards, high rates of student absenteeism, high dropout rates, and high rates of staff turnover or absenteeism.

''(3) PROFESSIONAL DEVELOPMENT SCHOOL.—The term 'professional development school' means a partnership that—

''(A) is established between—

''(i) a local educational agency on behalf of an elementary or secondary school within the local educational agency's jurisdiction; and

''(ii) an institution of higher education, including a community college, that meets the requirements applicable to the institution 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.

SA 430. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 480, line 12, strike the period at the end and insert a semicolon and the following:

''(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''.

SA 431. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 125, line 6, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 127, between lines 20 and 21, insert the following:

(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 and 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.

''(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 $500,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.''.

SA 432. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 324, between lines 10 and 11, insert the following:

''(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.

On page 326, line 2, strike ''and''.

On page 326, line 7, strike the period and insert ''; and''.

On page 326, between lines 7 and 8, insert the following:

''(D) 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.

SA 433. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 307, line 16, strike ''and''.

On page 307, line 18, strike the period and insert ''; and''.

On page 307, between lines 18 and 19, insert the following:

''(v) encourage and provide instruction on how to work with and involve parents to foster student achievement.''

SA 434. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 12, strike lines 23 through 24.

On page 13, strike lines 1 through 2, and insert the following:

''(23) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents in regular, two-way, and meaningful communication, including ensuring—

''(A) that parenting skills are promoted and supported;

''(B) that parents play an integral role in assisting student learning;

''(C) that parents are welcome in the schools;

''(D) that parents are included in decision-making and advisory committees; and

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

SA 435. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 369, between lines 6 and 7, insert the following and redesignate the remaining paragraphs accordingly:

''(2) outlines the strategies for increasing parental involvement in schools through the effective use of technology;''.

On page 370, line 24, strike ''and''

On page 370, line 26, strike the period and insert a semicolon.

On page 371, line 1, insert the following:

''(7) 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

''(8) 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.''.

On page 371, between lines 23 and 24, insert the following and redesignate the remaining paragraphs accordingly:

''(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;''.

On page 374, line 24, strike ''and''.

On page 375, line 1, insert the following and redesignate the remaining paragraph accordingly:

''(3) increased parental involvement through the use of technology; and''.

On page 378, line 24, strike ''and''.

On page 379, line 1, insert the following and redesignate the remaining subparagraph accordingly:

''(F) increased parental involvement in schools through the use of technology; and''.

SA 436. Mr. REED submitted an amendment intended to be proposed by

him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 90, line 5, after ''problems'' insert the following:

''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''.

SA 437. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 586, between lines 18 and 19, insert the following:

PART B—DISCIPLINARY MEASURES RELATING TO SCHOOL VIOLENCE

SEC. 411. SHORT TITLE.

This part may be cited as the ''School Safety Act of 2001''.

SEC. 412. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) PROCEDURAL SAFEGUARDS.— Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by adding at the end the following:

''(n) DISCIPLINE BY LOCAL AUTHORITY WITH RESPECT TO WEAPONS, DRUGS, AND TEACHER ASSAULTS.—

''(1) AUTHORITY OF SCHOOL PERSONNEL WITH RESPECT TO WEAPONS, DRUGS, AND TEACHER ASSAULTS.—Notwithstanding any other provision of this title, school personnel may discipline (including expel or suspend) a child with a disability in the same manner in which such personnel may discipline a child without a disability if the child with a disability—

''(A) carries or possesses a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

''(B) threatens to carry, possess, or use a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

''(C) possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or

''(D) assaults or threatens to assault a teacher, teacher's aide, principal, school counselor, or other school personnel, including independent contractors and volunteers.

''(2) INDIVIDUAL DETERMINATIONS.—In carrying out any disciplinary action described in paragraph (1), school personnel have discretion to consider all germane factors in each individual case and modify any disciplinary action on a case-by-case basis.

''(3) DEFENSE.—Nothing in paragraph (1) shall be construed to prevent a child with a disability who is disciplined pursuant to the authority provided under paragraph (1) from asserting a defense that the alleged act was unintentional or innocent.

''(4) FREE APPROPRIATE PUBLIC EDUCATION.—

''(A) CEASING TO PROVIDE EDUCATION.—Notwithstanding section 612(a)(1)(A), or any other provision of this title, a child expelled or suspended under paragraph (1) shall not be entitled to continued educational services, including a free appropriate public education, under this subsection, during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child does not require a child without a disability to receive educational services after being expelled or suspended.

''(B) PROVIDING EDUCATION.—Notwithstanding subparagraph (A), the local educational agency responsible for providing educational services to a child with a disability who is expelled or suspended under paragraph (1) may choose to continue to provide educational services to such child. If the local educational agency so chooses to continue to provide the services—

''(i) nothing in this subsection shall be construed to require the local educational agency to provide such child with a free appropriate public education, or any particular level of service; and

''(ii) the location where the local educational agency provides the services shall be left to the discretion of the local educational agency.

''(5) RELATIONSHIP TO OTHER REQUIREMENTS.—

''(A) PLAN REQUIREMENTS.—No agency shall be considered to be in violation of section 612 or 613 because the agency has provided discipline, services, or assistance in accordance with this subsection.

''(B) PROCEDURE.—None of the procedural safeguards or disciplinary procedures of this Act shall apply to this subsection, and the relevant procedural safeguards and disciplinary procedures applicable to children without disabilities may be applied to the child with a disability in the same manner in which such safeguards and procedures would be applied to children without disabilities.

''(6) DEFINITIONS.—In this subsection:

''(A) THREATEN TO CARRY, POSSESS, OR USE A WEAPON.—The term 'threaten to carry, possess, or use a weapon' includes behavior in which a child verbally threatens to kill another person.

''(B) WEAPON, ILLEGAL DRUG, CONTROLLED SUBSTANCE, AND ASSAULT.—The terms 'weapon', 'illegal drug', 'controlled substance', 'assault', 'unintentional', and 'innocent' have the meanings given such terms under State law.''.

(b) CONFORMING AMENDMENTS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) in subsection (f)(1), by striking ''Whenever'' and inserting the following: ''Except as provided in section 615(n), whenever''; and

(2) in subsection (k)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

''(A) In any disciplinary situation except for such situations as described in subsection (n), school personnel under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would apply to children without disabilities).'';

(B) by striking paragraph (3) and inserting the following:

''(3) Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall—

''(A) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

''(B) include services and modifications designed to address the behavior described in paragraphs (1) or (2) so that it does not recur.'';

(C) in paragraph (6)(B)—

(i) in clause (i), by striking ''(i) In reviewing'' and inserting ''In reviewing''; and

(ii) by striking clause (ii);

(D) in paragraph (7)—

(i) in subparagraph (A), by striking ''paragraph (1)(A)(ii) or'' each place it appears; and

(ii) in subparagraph (B), by striking ''paragraph (1)(A)(ii) or''; and

(E) by striking paragraph (10) and inserting the following:

''(10) SUBSTANTIAL EVIDENCE.—The term 'substantial evidence' means beyond a preponderance of the evidence.''.

SEC. 413. AMENDMENT TO THE GUN-FREE SCHOOLS ACT OF 1994.

Subsection (c) of section 14601 of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921) is amended to read as follows:

''(c) SPECIAL RULE.—Notwithstanding any other provision of this section, this section shall be subject to section 615(n) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(n)).''.

SEC. 414. APPLICATION.

The amendments made by sections 412 and 413 shall not apply to conduct occurring prior to the date of the enactment of this Act.

SA 438. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 586, between lines 18 and 19, insert the following:

PART B—SCHOOL SAFETY AND VIOLENCE PREVENTION

SEC. 411. SCHOOL SAFETY AND VIOLENCE PREVENTION.

Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

''PART I—SCHOOL SAFETY AND VIOLENCE PREVENTION

''SEC. 14851. SCHOOL SAFETY AND VIOLENCE PREVENTION.

''Notwithstanding any other provision of titles IV and VI, funds made available under such titles may be used for—

''(1) training, including in-service training, for school personnel (including custodians and bus drivers), with respect to—

''(A) 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 identification of and responses to early warning signs of troubled and violent youth;

''(3) innovative research-based delinquency and violence prevention programs, including—

''(A) school anti-violence programs; and

''(B) mentoring programs;

''(4) comprehensive assessments of school security;

''(5) 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, research-based violence prevention and intervention programs to school-aged children;

''(7) providing assistance to States, local educational agencies, and 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. 412. STUDY OF SCHOOL SAFETY ISSUES.

(a) STUDY.—The Comptroller General shall carry out a study regarding school safety issues, including an examination of—

(1) incidents of school-based violence in the United States;

(2) impediments to combating school-based violence, including local, state, and Federal education and law enforcement impediments;

(3) promising initiatives for addressing school-based violence;

(4) crisis preparedness of school personnel;

(5) preparedness of local, State, and Federal law enforcement to address incidents of school-based violence; and

(6) current school violence prevention programs.

(b) REPORT.—The Comptroller General shall submit to Congress a report regarding the results of the study conducted under subsection (a).

SA 439. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

SEC. 902. INTEGRATED PEST MANAGEMENT.

(a) SHORT TITLE.—This section may be cited as the ''School Environment Protection Act of 2001''.

(b) INTEGRATED PEST MANAGEMENT SYSTEMS FOR SCHOOLS.—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. INTEGRATED PEST MANAGEMENT SYSTEMS FOR SCHOOLS.

''(a) DEFINITIONS.—In this section:

''(1) BOARD.—The term 'Board' means the National School Integrated Pest Management Advisory Board established under subsection (c).

''(2) CONTACT PERSON.—The term 'contact person' means an individual who is—

''(A) knowledgeable about integrated pest management systems; and

''(B) designated by a local educational agency as the contact person under subsection (f).

''(3) CRACK AND CREVICE TREATMENT.—The term 'crack and crevice treatment' means the application of small quantities of a pesticide in a building into openings such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

''(4) 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.

''(5) FUND.—The term 'Fund' means the Integrated Pest Management Trust Fund established under subsection (m).

''(6) INTEGRATED PEST MANAGEMENT SYSTEM.—The term 'integrated pest management system' means a managed pest control system that—

''(A) eliminates or mitigates economic, health, and aesthetic damage caused by pests;

''(B) uses—

''(i) integrated methods;

''(ii) site or pest inspections;

''(iii) pest population monitoring;

''(iv) an evaluation of the need for pest control; and

''(v) 1 or more pest control methods, including sanitation, structural repair, mechanical and living biological controls, other nonchemical methods, and (if nontoxic options are unreasonable and have been exhausted) least toxic pesticides; and

''(C) minimizes—

''(i) the use of pesticides; and

''(ii) the risk to human health and the environment associated with pesticide applications.

''(7) LEAST TOXIC PESTICIDES.—

''(A) IN GENERAL.—The term 'least toxic pesticides' means—

''(i) boric acid and disodium octoborate tetrahydrate;

''(ii) silica gels;

''(iii) diatomaceous earth;

''(iv) nonvolatile insect and rodent baits in tamper resistant containers or for crack and crevice treatment only;

''(v) microbe-based pesticides;

''(vi) pesticides made with essential oils (not including synthetic pyrethroids) without toxic synergists; and

''(vii) materials for which the inert ingredients are nontoxic and disclosed.

''(B) EXCLUSIONS.—The term 'least toxic pesticides' does not include—

''(i) a pesticide that is determined by the Administrator to be an acutely or moderately toxic pesticide, probable, likely, or known carcinogen, mutagen, teratogen, reproductive toxin, developmental neurotoxin, endocrine disrupter, or immune system toxin; or

''(ii) and any application of a pesticide described in clause (i) using a broadcast spray, dust, tenting, fogging, or baseboard spray application.

''(8) LIST.—The term 'list' means the list of least toxic pesticides established under subsection (d).

''(9) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(10) PERSON.—The term 'person' means—

''(A) an individual that attends, has children enrolled in, works at, or uses a school;

''(B) a resident of a school district; and

''(C) any other individual that may be affected by pest management activities of a school.

''(11) OFFICIAL.—The term 'official' means the official appointed by the Administrator under subsection (e).

''(12) PESTICIDE.—

''(A) IN GENERAL.—The term 'pesticide' means any substance or mixture of substances, including herbicides and bait stations, intended for—

''(i) preventing, destroying, repelling, or mitigating any pest;

''(ii) use as a plant regulator, defoliant, or desiccant; or

''(iii) use as a spray adjuvant such as a wetting agent or adhesive.

''(B) EXCLUSION.—The term 'pesticide' does not include antimicrobial agents such as disinfectants or deodorizers used for cleaning products.

''(13) SCHOOL.—The term 'school' means a public—

''(A) elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801));

''(B) secondary school (as defined in section 14101 of that Act); or

''(C) kindergarten or nursery school.

''(14) SCHOOL GROUNDS.—

''(A) IN GENERAL.—The term 'school grounds' means the area outside of the school buildings controlled, managed, or owned by the school or school district.

''(B) INCLUSIONS.—The term 'school grounds' includes a lawn, playground, sports field, and any other property or facility controlled, managed, or owned by a school.

''(15) SPACE SPRAYING.—

''(A) IN GENERAL.—The term 'space spraying' means application of a pesticide by discharge into the air throughout an inside area.

''(B) INCLUSION.—The term 'space spraying' includes the application of a pesticide using a broadcast spray, dust, tenting, or fogging.

''(C) EXCLUSION.—The term 'space spraying' does not include crack and crevice treatment.

''(16) STAFF MEMBER.—

''(A) IN GENERAL.—The term 'staff member' means an employee of a school or local educational agency.

''(B) INCLUSIONS.—The term 'staff member' includes an administrator, teacher, and other person that is regularly employed by a school or local educational agency.

''(C) EXCLUSIONS.—The term 'staff member' does not include—

''(i) an employee hired by a school, local educational agency, or State to apply a pesticide; or

''(ii) a person assisting in the application of a pesticide.

''(17) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(18) UNIVERSAL NOTIFICATION.—The term 'universal notification' means notice provided by a local educational agency or school to—

''(A) all parents or guardians of children attending the school; and

''(B) staff members of the school or local educational agency.

''(b) INTEGRATED PEST MANAGEMENT SYSTEMS.—

''(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall establish a National School Integrated Pest Management Advisory System to develop and update uniform standards and criteria for implementing integrated pest management systems in schools.

''(2) IMPLEMENTATION.—Not later than 18 months after the date of enactment of this subsection, each local educational agency of a school district shall develop and implement in each of the schools in the school district an integrated pest management system that complies with this section.

''(3) STATE PROGRAMS.—If, on the date of enactment of this section, a State maintains an integrated pest management system that meets the standards and criteria established under paragraph (1) (as determined by the Board), a local educational agency in the State may continue to implement the system in a school or in the school district in accordance with paragraph (2).

''(4) APPLICATION TO SCHOOLS AND SCHOOL GROUNDS.—The requirements of this section that apply to a school, including the requirement to implement an integrated management system, apply to pesticide application in a school building and on the school grounds.

''(5) APPLICATION OF PESTICIDES WHEN SCHOOLS IN USE.—A school shall prohibit—

''(A) the application of a pesticide when a school or a school ground is occupied or in use; or

''(B) the use of an area or room treated by a pesticide, other than a least toxic pesticide, during the 24-hour period beginning at the end of the treatment.

''(c) NATIONAL SCHOOL INTEGRATED PEST MANAGEMENT ADVISORY BOARD.—

''(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall establish a National School Integrated Pest Management Advisory Board to—

''(A) establish uniform standards and criteria for developing integrated pest management systems and policies in schools;

''(B) develop standards for the use of least toxic pesticides in schools; and

''(C) advise the Administrator on any other aspects of the implementation of this section.

''(2) COMPOSITION OF BOARD.—The Board shall be composed of 12 members and include 1 representative from each of the following groups:

''(A) Parents.

''(B) Public health care professionals.

''(C) Medical professionals.

''(D) State integrated pest management system coordinators.

''(E) Independent integrated pest management specialists that have carried out school integrated pest management programs.

''(F) Environmental advocacy groups.

''(G) Children's health advocacy groups.

''(H) Trade organization for pest control operators.

''(I) Teachers and staff members.

''(J) School facility managers or school maintenance staff.

''(K) School administrators.

''(L) School board members.

''(3) APPOINTMENT.—Not later than 180 days after the date of enactment of this section, the Administrator shall appoint members of the Board from nominations received from Parent Teacher Associations, school districts, States, and other interested persons and organizations.

''(4) TERM.—

''(A) IN GENERAL.—A member of the Board shall serve for a term of 5 years, except that the Administrator may shorten the terms of the original members of the Board in order to provide for a staggered term of appointment for all members of the Board.

''(B) CONSECUTIVE TERMS.—Subject to subparagraph (C), a member of the Board shall not serve consecutive terms unless the term of the member has been reduced by the Administrator.

''(C) MAXIMUM TERM.—In no event may a member of the Board serve for more than 6 consecutive years.

''(5) MEETINGS.—The Administrator shall convene—

''(A) an initial meeting of the Board not later than 60 days after the appointment of the members; and

''(B) subsequent meetings on a periodic basis, but not less often than 2 times each year.

''(6) COMPENSATION.—A member of the Board shall serve without compensation, but may be reimbursed by the Administrator for expenses (in accordance with section 5703 of title 5, United States Code) incurred in performing duties as a member of the Board.

''(7) CHAIRPERSON.—The Board shall select a Chairperson for the Board.

''(8) QUORUM.—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

''(9) DECISIVE VOTES.—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive for any motion.

''(10) ADMINISTRATION.—The Administrator—

''(A) shall—

''(i) authorize the Board to hire a staff director; and

''(ii) detail staff of the Environmental Protection Agency, or allow for the hiring of staff for the Board; and

''(B) subject to the availability of appropriations, may pay necessary expenses incurred by the Board in carrying out this subtitle, as determined appropriate by the Administrator.

''(11) RESPONSIBILITIES OF THE BOARD.—

''(A) IN GENERAL.—The Board shall provide recommendations to the Administrator regarding the implementation of this section.

''(B) LIST OF LEAST TOXIC PESTICIDES.—Not later than 1 year after the initial meeting of the Board, the Board shall—

''(i) review implementation of this section (including use of least toxic pesticides); and

''(ii) review and make recommendations to the Administrator with respect to new proposed active and inert ingredients or proposed amendments to the list in accordance with subsection (d).

''(C) TECHNICAL ADVISORY PANELS.—

''(i) IN GENERAL.—The Board shall convene technical advisory panels to provide scientific evaluations of the materials considered for inclusion on the list.

''(ii) COMPOSITION.—A panel described in clause (i) shall include experts on integrated pest management, children's health, entomology, health sciences, and other relevant disciplines.

''(D) SPECIAL REVIEW.—

''(i) IN GENERAL.—Not later than 2 years after the initial meeting of the Board, the Board shall review, with the assistance of a technical advisory panel, pesticides used in school buildings and on school grounds for their acute toxicity and chronic effects, including cancer, mutations, birth defects, reproductive dysfunction, neurological and immune system effects, and endocrine system disruption.

''(ii) DETERMINATION.—The Board—

''(I) shall determine whether the use of pesticides described in clause (i) may endanger the health of children; and

''(II) may recommend to the Administrator restrictions on pesticide use in school buildings and on school grounds.

''(12) REQUIREMENTS.—In establishing the proposed list, the Board shall—

''(A) review available information from the Environmental Protection Agency, the National Institute of Environmental Health Studies, medical and scientific literature, and such other sources as appropriate, concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed list; and

''(B) cooperate with manufacturers of substances considered for inclusion in the proposed list to obtain a complete list of ingredients and determine that such substances contain inert ingredients that are generally recognized as safe.

''(13) PETITIONS.—The Board shall establish procedures under which individuals may petition the Board for the purpose of evaluating substances for inclusion on the list.

''(14) PERIODIC REVIEW.—

''(A) IN GENERAL.—The Board shall review each substance included on the list at least once during each 5-year period beginning on—

''(i) the date that the substance was initially included on the list; or

''(ii) the date of the last review of the substance under this subsection.

''(B) SUBMISSION TO ADMINISTRATOR.—The Board shall submit the results of a review under subparagraph (A) to the Administrator with a recommendation as to whether the substance should continue to be included on the list.

''(15) CONFIDENTIALITY.—Any business sensitive material obtained by the Board in carrying out this section shall be treated as confidential business information by the Board and shall not be released to the public.

''(d) LIST OF LEAST TOXIC PESTICIDES; PESTICIDE REVIEW.—

''(1) IN GENERAL.—The Board shall recommend to the Administrator a list of least toxic pesticides (including the pesticides described in subsection (a)(7)) that may be used as least toxic pesticides, any restrictions on the use of the listed pesticides, and any recommendations regarding restrictions on all other pesticides, in accordance with this section.

''(2) PROCEDURE FOR EVALUATING PESTICIDE USE.—

''(A) LIST OF LEAST TOXIC PESTICIDES.—

''(i) IN GENERAL.—The Administrator shall establish a list of least toxic pesticides that may be used in school buildings and on school grounds, including any restrictions on the use of the pesticides, that is based on the list prepared by the Board.

''(ii) REGULATORY REVIEW.—The Administrator shall initiate regulatory review of all other pesticides recommended for restriction by the Board.

''(B) RECOMMENDATIONS.—Not later than 1 year after receiving the proposed list and restrictions, and recommended restrictions on all other pesticides from the Board, the Administrator shall—

''(i) publish the proposed list and restrictions and all other proposed pesticide restrictions in the Federal Register and seek public comment on the proposed proposals; and

''(ii) after evaluating all comments received concerning the proposed list and restrictions, but not later than 1 year after the close of the period during which public comments are accepted, publish the final list and restrictions in the Federal Register, together with a discussion of comments received.

''(C) FINDINGS.—Not later than 2 years after publication of the final list and restrictions, the Administrator shall make a determination and issue findings on whether use of registered pesticides in school buildings and on school grounds may endanger the health of children.

''(D) NOTICE AND COMMENT.—

''(i) IN GENERAL.—Prior to establishing or making amendments to the list, the Administrator shall publish the proposed list or any proposed amendments to the list in the Federal Register and seek public comment on the proposals.

''(ii) RECOMMENDATIONS.—The Administrator shall include in any publication described in clause (i) any changes or amendments to the proposed list that are recommended to and by the Administrator.

''(E) PUBLICATION OF LIST.—After evaluating all comments received concerning the proposed list or proposed amendments to the list, the Administrator shall publish the final list in the Federal Register, together with a description of comments received.

''(e) OFFICE OF PESTICIDE PROGRAMS.—

''(1) ESTABLISHMENT.—The Administrator shall appoint an official for school pest management within the Office of Pesticide Programs of the Environmental Protection Agency to coordinate the development and implementation of integrated pest management systems in schools.

''(2) DUTIES.—The official shall—

''(A) coordinate the development of school integrated pest management systems and policies;

''(B) consult with schools concerning—

''(i) issues related to the integrated pest management systems of schools;

''(ii) the use of least toxic pesticides; and

''(iii) the registration of pesticides, and amendments to the registrations, as the registrations and amendments relate to the use of integrated pest management systems in schools; and

''(C) support and provide technical assistance to the Board.

''(f) CONTACT PERSON.—

''(1) IN GENERAL.—Each local educational agency of a school district shall designate a contact person for carrying out an integrated pest management system in schools in the school district.

''(2) DUTIES.—The contact person of a school district shall—

''(A) maintain information about pesticide applications inside and outside schools within the school district, in school buildings, and on school grounds;

''(B) act as a contact for inquiries about the integrated pest management system;

''(C) maintain material safety data sheets and labels for all pesticides that may be used in the school district;

''(D) be informed of Federal and State chemical health and safety information and contact information;

''(E) maintain scheduling of all pesticide usage for schools in the school district;

''(F) maintain contact with Federal and State integrated pest management system experts; and

''(G) obtain periodic updates and training from State integrated pest management system experts.

''(3) PESTICIDE USE DATA.—A local educational agency of a school district shall—

''(A) maintain all pesticide use data for each school in the school district; and

''(B) on request, make the data available to the public for review.

''(g) NOTICE OF INTEGRATED PEST MANAGEMENT SYSTEM.—

''(1) IN GENERAL.—At the beginning of each school year, each local educational agency or school of a school district shall include a notice of the integrated pest management system of the school district in school calendars or other forms of universal notification.

''(2) CONTENTS.—The notice shall include a description of—

''(A) the integrated pest management system of the school district;

''(B) any pesticide (including any least toxic pesticide) or bait station that may be used in a school building or on school grounds as part of the integrated pest management system;

''(C) the name, address, and telephone number of the contact person of the school district;

''(D) a statement that—

''(i) the contact person maintains the product label and material safety data sheet of each pesticide (including each least toxic pesticide) and bait station that may be used by a school in buildings or on school grounds;

''(ii) the label and data sheet is available for review by a parent, guardian, staff member, or student attending the school; and

''(iii) the contact person is available to parents, guardians, and staff members for information and comment; and

''(E) the time and place of any meetings that will be held under subsection (g)(1).

''(3) USE OF PESTICIDES.—A local educational agency or school may use a pesticide during a school year only if the use of the pesticide has been disclosed in the notice required under paragraph (1) at the beginning of the school year.

''(4) NEW EMPLOYEES AND STUDENTS.—After the beginning of each school year, a local educational agency or school of a school district shall provide the notice required under this subsection to—

''(A) each new staff member who is employed during the school year; and

''(B) the parent or guardian of each new student enrolled during the school year.

''(h) USE OF PESTICIDES.—

''(1) IN GENERAL.—If a local educational agency or school determines that a pest in the school or on school grounds cannot be controlled after having used the integrated pest management system of the school or school district and least toxic pesticides, the school may use a pesticide (other than space spraying of the pesticide) to control the pest in accordance with this subsection.

''(2) PRIOR NOTIFICATION OF PARENTS, GUARDIANS, AND STAFF MEMBERS.—

''(A) IN GENERAL.—Subject to paragraphs (4) and (5), not less than 72 hours before a pesticide (other than a least toxic pesticide) is used by a school, the school shall provide to a parent or guardian of each student enrolled at the school and each staff member of the school, notice that includes—

''(i) the common name, trade name, and Environmental Protection Agency registration number of the pesticide;

''(ii) a description of the location of the application of the pesticide;

''(iii) a description of the date and time of application, except that, in the case of outdoor pesticide applications, 1 notice shall include 3 dates, in chronological order, that the outdoor pesticide applications may take place if the preceding date is canceled;

''(iv) a statement that 'The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: 'Where possible, persons who potentially are sensitive, such as pregnant women and infants (less than 2 years old), should avoid any unnecessary pesticide exposure.';

''(v) a description of potential adverse effects of the pesticide based on the material safety data sheet of the pesticide;

''(vi) a description of the reasons for the application of the pesticide;

''(vii) the name and telephone number of the contact person of the school district; and

''(viii) any additional warning information related to the pesticide.

''(B) METHOD OF NOTIFICATION.—The school may provide the notice required by subparagraph (A) by—

''(i) written notice sent home with the student and provided to the staff member;

''(ii) a telephone call;

''(iii) direct contact; or

''(iv) written notice mailed at least 1 week before the application.

''(C) 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 reissue the notice under this paragraph for the new date of application.

''(3) POSTING OF SIGNS.—

''(A) IN GENERAL.—Subject to paragraphs (4) and (5), at least 72 hours before a pesticide (other than a least toxic pesticide) is used by a school, the school shall post a sign that provides notice of the application of the pesticide—

''(i) in a prominent place that is in or adjacent to the location to be treated; and

''(ii) at each entrance to the buildings or school grounds to be treated.

''(B) ADMINISTRATION.—A sign required under subparagraph (A) for the application of a pesticide shall—

''(i) remain posted for at least 72 hours after the end of the treatment;

''(ii) be at least 8½ inches by 11 inches; and

''(iii) state the same information as that required for prior notification of the application under paragraph (2).

''(C) OUTDOOR PESTICIDE APPLICATIONS.—

''(i) IN GENERAL.—In the case of outdoor pesticide applications, each sign shall include 3 dates, in chronological order, that the outdoor pesticide application may take place if the preceding date is canceled due to weather.

''(ii) DURATION OF POSTING.—A sign described in clause (i) shall be posted after an outdoor pesticide application in accordance with subparagraph (B).

''(4) ADMINISTRATION.—

''(A) APPLICATORS.—Paragraphs (2) and (3) shall apply to any person that applies a pesticide in a school or on school grounds, including a custodian, staff member, or commercial applicator.

''(B) TIME OF YEAR.—Paragraphs (2) and (3) shall apply to a school—

''(i) during the school year; and

''(ii) during holidays and the summer months, if the school is in use, with notice provided to all staff members and the parents or guardians of the students that are using the school in an authorized manner.

''(5) EMERGENCIES.—

''(A) IN GENERAL.—A school may apply a pesticide (other than a least toxic pesticide) in the school or on school grounds without complying with paragraphs (2) and (3) 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 school day, the school shall provide to each parent or guardian of a student enrolled at the school, and staff member of the school, notice of the application of the pesticide for emergency pest control that includes—

''(i) the information required for a notice under paragraph (2)(A);

''(ii) a description of the problem and the factors that qualified the problem as an emergency that threatened the health or safety of a student or staff member; and

''(iii) a description of the steps the school will take in the future to avoid emergency application of a pesticide under this paragraph.

''(C) METHOD OF NOTIFICATION.—The school may provide the notice required by subparagraph (B) by—

''(i) written notice sent home with the student and provided to the staff member;

''(ii) a telephone call; or

''(iii) direct contact.

''(D) POSTING OF SIGNS.—A school applying a pesticide under this paragraph shall post a sign warning of the pesticide application in accordance with paragraph (3).

''(E) MODIFICATION OF INTEGRATED PEST MANAGEMENT PLANS.—If a school in a school district applies a pesticide under this paragraph, the local educational agency of the school district shall modify the integrated pest management plan of the school district to minimize the future applications of pesticides under this paragraph.

''(6) DRIFT OF PESTICIDES ONTO SCHOOL GROUNDS.—Each local educational agency, State pesticide lead agency, and the Administrator are encouraged to—

''(A) identify sources of pesticides that drift from treated land to school grounds of the educational agency; and

''(B) take steps necessary to create an indoor and outdoor school environment that are protected from pesticides described in subparagraph (A).

''(i) MEETINGS.—

''(1) IN GENERAL.—Before the beginning of a school year, at the beginning of each new calendar year, and at a regularly scheduled meeting of a school board, each local educational agency shall provide an opportunity for the contact person designated under subsection (d) to receive and address public

comments regarding the integrated pest management system of the school district.

''(2) EMERGENCY MEETINGS.—An emergency meeting of a school board to address a pesticide application may be called under locally appropriate procedures for convening emergency meetings.

''(j) INVESTIGATIONS AND ORDERS.—

''(1) IN GENERAL.—Not later than 60 days after receiving a complaint of a violation of this section, the Administrator shall—

''(A) conduct an investigation of the complaint;

''(B) determine whether it is reasonable to believe the complaint has merit; and

''(C) notify the complainant and the person alleged to have committed the violation of the findings of the Administrator.

''(2) PRELIMINARY ORDER.—If the Administrator determines it is reasonable to believe a violation occurred, the Administrator shall issue a preliminary order (that includes findings) to impose the penalty described in subsection (j).

''(3) OBJECTIONS TO PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 30 days after the preliminary order is issued under paragraph (2), the complainant and the person alleged to have committed the violation may—

''(i) file objections to the preliminary order (including findings); and

''(ii) request a hearing on the record.

''(B) FINAL ORDER.—If a hearing is not requested within 30 days after the preliminary order is issued, the preliminary order shall be final and not subject to judicial review.

''(4) HEARING.—A hearing under this subsection shall be conducted expeditiously.

''(5) FINAL ORDER.—Not later than 120 days after the end of the hearing, the Administrator shall issue a final order.

''(6) SETTLEMENT AGREEMENT.—Before the final order is issued, the proceeding may be terminated by a settlement agreement, which shall remain open, entered into by the Administrator, the complainant, and the person alleged to have committed the violation.

''(7) COSTS.—

''(A) IN GENERAL.—If the Administrator issues a final order against a school or school district for violation of this section and the complainant requests, the Administrator may assess against the person against whom the order is issued the costs (including attorney's fees) reasonably incurred by the complainant in bringing the complaint.

''(B) AMOUNT.—The Administrator shall determine the amount of the costs that were reasonably incurred by the complainant.

''(8) JUDICIAL REVIEW AND VENUE.—

''(A) IN GENERAL.—A person adversely affected by an order issued after a hearing under this subsection may file a petition for review not later than 60 days after the date that the order is issued, in a district court of the United States or other United States court for any district in which a local educational agency or school is found, resides, or transacts business.

''(B) TIMING.—The review shall be heard and decided expeditiously.

''(C) COLLATERAL REVIEW.—An order of the Administrator subject to review under this paragraph shall not be subject to judicial review in a criminal or other civil proceeding.

''(k) CIVIL PENALTY.—

''(1) IN GENERAL.—Any local educational agency, school, or person that violates this section may be assessed a civil penalty by the Administrator under subsections (h) and (i), respectively, of not more than $10,000 for each offense.

''(2) TRANSFER TO TRUST FUND.—Except as provided in subsection (i)(4)(B), civil penalties collected under paragraph (1) shall be deposited in the Fund.

''(l) INTEGRATED PEST MANAGEMENT TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the 'Integrated Pest Management Trust Fund', consisting of—

''(A) amounts deposited in the Fund under subsection (j)(2);

''(B) amounts transferred to the Secretary of the Treasury for deposit into the Fund under paragraph (5); and

''(C) any interest earned on investment of amounts in the Fund under paragraph (3).

''(2) EXPENDITURES FROM FUND.—

''(A) IN GENERAL.—Subject to subparagraph (B), on request by the Administrator, the Secretary of the Treasury shall transfer from the Fund to the Administrator, without further appropriation, such amounts as the Secretary determines are necessary to provide funds to each State educational agency of a State, in proportion to the amount of civil penalties collected in the State under subsection (j)(1), to carry out education, training, propagation, and development activities under integrated pest management systems of schools in the State to remedy the harmful effects of actions taken by the persons that paid the civil penalties.

''(B) ADMINISTRATIVE EXPENSES.—An amount not to exceed 6 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subsection.

''(3) INVESTMENT OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

''(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

''(i) on original issue at the issue price; or

''(ii) by purchase of outstanding obligations at the market price.

''(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

''(4) TRANSFERS OF AMOUNTS.—

''(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

''(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

''(5) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out paragraph (2)(A). Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

''(m) EMPLOYEE PROTECTION.—

''(1) IN GENERAL.—No local educational agency, school, or person may harass, prosecute, hold liable, or discriminate against any employee or other person because the employee or other person—

''(A) is assisting or demonstrating an intent to assist in achieving compliance with this section (including any regulation);

''(B) is refusing to violate or assist in the violation of this section (including any regulation); or

''(C) has commenced, caused to be commenced, or is about to commence a proceeding, has testified or is about to testify at a proceeding, or has assisted or participated or is about to participate in any manner in such a proceeding or in any other action to carry out this section.

''(2) COMPLAINTS.—Not later than 1 year after an alleged violation occurred, an employee or other person alleging a violation of this section, or another person at the request of the employee, may file a complaint with the Administrator.

''(3) REMEDIAL ACTION.—If the Administrator decides, on the basis of a complaint, that a local educational agency, school, or person violated paragraph (1), the Administrator shall order the local educational agency, school, or person to—

''(A) take affirmative action to abate the violation;

''(B reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

''(C) pay compensatory damages, including back pay.

''(n) GRANTS.—

''(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall provide grants to local educational agencies to develop and implement integrated pest management systems in schools in the school district of the local educational agencies.

''(2) AMOUNT.—The amount of a grant provided to a local educational agency of a school district under paragraph (1) shall be based on the ratio that the number of students enrolled in schools in the school district bears to the total number of students enrolled in schools in all school districts in the United States.

''(o) RELATIONSHIP TO STATE AND LOCAL REQUIREMENTS.—This section (including regulations promulgated under this section) shall not preempt requirements imposed on local educational agencies and schools related to the use of integrated pest management by State or local law (including regulations) that are more stringent than the requirements imposed under this section.

''(p) REGULATIONS.—Subject to subsection (m), the Administrator shall promulgate such regulations as are necessary to carry out this section.

''(q) RESTRICTION ON PESTICIDE USE.—Not later than 6 years after the date of enactment of this section, no pesticide, other than a pesticide that is defined as a least toxic pesticide under this subsection, shall be used in a school or on school grounds unless the Administrator has met the deadlines and requirements of this section.

''(r) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2002 through 2006.''.

(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:

''Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

''Sec. 31. Environmental Protection Agency minor use program.

''Sec. 32. Department of Agriculture minor use program.

''(a) In general.

''(b)(1) Minor use pesticide data.

''(2) Minor Use Pesticide Data Revolving Fund.

''Sec. 33. Integrated pest management systems for schools.

''(a) Definitions.

''(1) Board.
''(2) Contact person.
''(3) Crack and crevice treatment.
''(4) Emergency.
''(5) Fund.
''(6) Integrated pest management system.
''(7) Least toxic pesticides.
''(8) List.
''(9) Local educational agency.
''(10) Official.
''(11) Person.
''(12) Pesticide.
''(13) School.
''(14) School grounds.
''(15) Space spraying.
''(16) Staff member.
''(17) State educational agency.
''(18) Universal notification.
''(b) Integrated pest management systems.
''(1) In general.
''(2) Implementation.
''(3) State programs.
''(4) Application to schools and school grounds.
''(5) Application of pesticides when schools in use.
''(c) National School Integrated Pest Management Advisory Board.
''(1) In general.
''(2) Composition of Board.
''(3) Appointment.
''(4) Term.
''(5) Meetings.
''(6) Compensation.
''(7) Chairperson.
''(8) Quorum.
''(9) Decisive votes.
''(10) Administration.
''(11) Responsibilities of the Board.
''(12) Requirements.
''(13) Petitions.
''(14) Periodic review.
''(15) Confidentiality.
''(d) List of least toxic pesticides.
''(1) In general.
''(2) Procedure for evaluating pesticide use.
''(e) Office of Pesticide Programs.
''(1) Establishment.
''(2) Duties.
''(f) Contact person.
''(1) In general.
''(2) Duties.
''(3) Pesticide use data.
''(g) Notice of integrated pest management system.
''(1) In general.
''(2) Contents.
''(3) Use of pesticides.
''(4) New employees and students.
''(h) Use of pesticides.
''(1) In general.
''(2) Prior notification of parents, guardians, and staff members.
''(3) Posting of signs.
''(4) Administration.
''(5) Emergencies.
''(6) Drift of pesticides onto school grounds.
''(i) Meetings.
''(1) In general.
''(2) Emergency meetings.
''(j) Investigations and orders.
''(1) In general.
''(2) Preliminary order.
''(3) Objections to preliminary order.
''(4) Hearing.
''(5) Final order.
''(6) Settlement agreement.
''(7) Costs.
''(8) Judicial review and venue.
''(k) Civil penalty.
''(1) In general.
''(2) Transfer to Trust Fund.
''(l) Integrated Pest Management Trust Fund.
''(1) Establishment.
''(2) Expenditures from Fund.
''(3) Investment of amounts.
''(4) Transfers of amounts.
''(5) Acceptance and use of donations.
''(m) Employee protection.
''(1) In general.
''(2) Complaints.
''(3) Remedial action.
''(n) Grants.
''(1) In general.
''(2) Amount.
''(o) Relationship to State and local requirements.
''(p) Regulations.
''(q) Restriction on pesticide use.
''(r) Authorization of appropriations.
''Sec. 34. Severability.
''Sec. 35. Authorization of appropriations.''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect on October 1, 2001.

SA 440. Mr. CAMPBELL (for himself, Mr. GRASSLEY, Mr. AKAKA, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENIOR OPPORTUNITIES.

(a) TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS.—Section 1609(a)(2) (as amended in section 151) is further amended—

(1) in subparagraph (G), by striking ''and'' after the semicolon;

(2) in subparagraph (H), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(I) 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 for activities that include mentoring, tutoring, and volunteering.''.

(c) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.—Section 4116(b) (as amended in section 401) is further amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring''; and

(B) in subparagraph (C)—

(i) in clause (i), by striking ''and'' after the semicolon;

(ii) in clause (ii), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(iii) drug and violence prevention activities that use the services of appropriately qualified seniors for such activities as mentoring, tutoring, and volunteering;'';

(2) in paragraph (4)(C), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring programs''; and

(3) in paragraph (8), by inserting '', which may involve appropriately qualified seniors working with students'' after ''settings''.

(d) SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES; FEDERAL ACTIVITIES.—Section 4121(a) (as amended in section 401) is further amended—

(1) in paragraph (10), by inserting '', including projects and activities that promote the interaction of youth and appropriately qualified seniors'' after ''responsibility''; and

(2) in paragraph (13), by inserting '', including activities that integrate appropriately qualified seniors in activities, such as mentoring, tutoring, and volunteering'' after ''title''.

(e) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; FORMULA GRANTS.—Section 7115(b) (as amended in section 701) is further amended—

(1) in paragraph (10), by striking ''and'' after the semicolon;

(2) in paragraph (11), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(12) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.''.

(f) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; SPECIAL PROGRAMS AND PROJECTS.—Section 7121(c)(1) (as amended in section 701) is further amended—

(1) in subparagraph (K), by striking ''or'' after the semicolon;

(2) in subparagraph (L), by striking ''(L)'' and inserting ''(M)''; and

(3) by inserting after subparagraph (K) the following:

''(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or''.

(g) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; PROFESSIONAL DEVELOPMENT.—The second sentence of section 7122(d)(1) (as amended in section 701) is further amended by striking the period and inserting '', and may include programs designed to train tribal elders and seniors.''.

(h) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; NATIVE HAWAIIAN PROGRAMS.—Section 7205(a)(3)(H) (as amended in section 701) is further amended—

(1) in clause (ii), by striking ''and'' after the semicolon;

(2) in clause (iii), by inserting ''and'' at the end; and

(3) by adding at the end the following:

''(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;''.

(i) INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION; ALASKA NATIVE PROGRAMS.—Section 7304(a)(2)(F) (as amended in section 701) is further amended—

(1) in clause (i), by striking ''and'' after the semicolon;

(2) in clause (ii), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(iii) may include activities that recognize and support the unique cultural and educational needs of Alaskan Native children, and incorporate appropriately qualified Alaskan Native elders and seniors;''.

SA 441. Mr. LUGAR (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 34, line 8, strike ''$250,000,000'' and insert ''$500,000,000''.

On page 86, line 22, insert before the semicolon the following: ''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)''.

On page 96, line 15, after ''curriculum'' insert '', or a comprehensive school reform model that meets each of the components described in section 1706(a)''.

On page 99, between lines 22 and 23, insert the following:

''(vi) Implementing a comprehensive school reform model that meets each of the components described in section 1706(a) and that shall, at a minimum, have been found, through rigorous field experiments in multiple sites, to significantly improve the academic performance of students participating in such activity or program as compared to similar students in similar schools, who have not participated in such activity or program.

On page 258, line 22, strike ''and''.

On page 258, line 25, strike the period and insert ''; and''.

On page 258, after line 25, add the following:

''(iii) 3 percent to promote quality initiatives described in section 1708.''.

On page 260, strike lines 5 through 9, and insert the following:

''(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, financial stability 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.''.

On page 260, line 15, insert ''annually'' before ''evaluate''.

On page 261, line 7, insert before the period the following: ''to support comprehensive school reforms in schools that are eligible for funds under part A''.

On page 261, line 11, strike ''for the particular'' and insert ''of''.

On page 261, line 12, strike ''reform plan'' and insert ''reforms''.

On page 261, line 22, strike ''shall'' and all through ''that'' on line 23.

On page 261, line 24, insert after ''(1)'' the following: ''may give priority to local educational agencies or consortia that''.

On page 262, line 1, insert after ''(2)'' the following: ''shall give priority to local educational agencies or consortia that''.

On page 263, line 1, strike ''and''.

On page 263, line 2, strike ''reform model selected and used'' and insert ''reforms selected and used, and a copy of the State's annual evaluation of the implementation of comprehensive school reforms supported under this part and the student results achieved''.

On page 263, strike lines 15 through 17, and insert the following:

''(2) describe the comprehensive school reforms based on scientifically-based research and effective practices that such schools will implement;''.

On page 264, line 1, insert ''comprehensive'' after ''such''.

On page 264, line 10, strike ''innovative'' and insert ''proven''.

On page 264, line 14, strike ''schools with diverse characteristics'' and insert ''schools''.

On page 265, line 17, insert ''annually'' after ''(8)''.

On page 265, line 18, strike ''and''.

On page 265, line 22, strike ''school reform effort.'' and insert ''comprehensive school reform effort; and''.

On page 265, between lines 22 and 23, insert the following:

''(10) has been found, through rigorous field experiments in multiple sites, to significantly improve the academic performance of students participating in such activity or program as compared to similar students in similar schools, who have not participated in such activity or program, or which has been found to have strong evidence that such model will significantly improve the performance of participating children.''.

On page 265, line 25 strike ''the approaches identified'' and all that follows through ''Secretary'' on line 1 of page 266, and insert ''nationally available''.

On page 266, line 2, strike ''programs'' and insert ''program''.

On page 266, after line 23, add the following:

''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.

SA 442. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 787, between lines 14 and 15, insert the following:

(c) SPECIAL RULE RELATING TO THE COMPUTATION OF PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.—Section 8003(a) (20 U.S.C. 7703(a)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SA 443. Mr. VOINOVICH (for himself, Mrs. FEINSTEIN, Mr. COCHRAN, Mr. BAUCUS, Ms. LANDRIEU, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ____. LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the ''Loan Forgiveness for Head Start Teachers Act of 2001''.

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C 1078–10) is amended—

(1) in subsection (b), by amending paragraph (1) to read as follows:

''(1)(A) has been employed—

''(i) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

''(ii) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

''(B)(i) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

''(ii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

''(iii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and'';

(2) in subsection (g), by adding at the end the following:

''(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (ii) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.''; and

(3) by adding at the end the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (ii) of subsection (b)(1)(A).''.

(c) CONFORMING AMENDMENTS.—Section 428J of such Act (20 U.S.C. 1078–10) is amended—

(1) in subsection (c)(1), by inserting ''or fifth complete program year'' after ''fifth complete school year of teaching'';

(2) in subsection (f), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)(i)'';

(3) in subsection (g)(1)(A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)''; and

(4) in subsection (h), by inserting ''except as part of the term 'program year','' before ''where''.

(d) DIRECT STUDENT LOAN FORGIVENESS.—

(1) IN GENERAL.—Section 460 of the Higher Education Act of 1965 (20 U.S.C 1087j) is amended—

(A) in subsection (b)(1), by amending subparagraph (A) to read as follows:

''(A)(i) has been employed—

''(I) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

''(II) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

''(ii)(I) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

''(II) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

''(III) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool

curriculum, with a focus on cognitive learning; and'';

(B) in subsection (g), by adding at the end the following:

''(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in subclause (II) of subsection (b)(1)(A)(i) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.''; and

(C) by adding at the end the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in subclause (II) of subsection (b)(1)(A)(i).''.

(2) CONFORMING AMENDMENTS.—Section 460 of such Act (20 U.S.C. 1087j) is amended—

(A) in subsection (c)(1), by inserting ''or fifth complete program year'' after ''fifth complete school year of teaching'';

(B) in subsection (f), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)(i)(I)'';

(C) in subsection (g)(1)(A), by striking ''subsection (b)(1)(A)'' and inserting ''subsection (b)(1)(A)(i)(I)''; and

(D) in subsection (h), by inserting ''except as part of the term 'program year','' before ''where''.

SA 444. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 13, line 12, insert ''therapists,'' before ''and other''.

On page 568, line 19, insert ''therapists,'' before ''nurses''.

SA 445. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 514, line 21, insert '', such as mentoring programs'' before the semicolon.

On page 516, line 15, insert ''mentoring providers,'' after ''providers,''.

On page 517, line 5, insert ''and mentoring programs'' before the semicolon.

On page 537, line 10, insert '', mentoring'' after ''services''

On page 550, line 15, insert ''mentoring,'' after ''mediation,''.

SA 446. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 504, between lines 5 and 6, insert the following:

''(3) The chronic level of violence among the Nation's youth of all ages, including elementary and secondary school students, constitutes a serious threat to such students's educational achievement, mental and physical well-being, and quality of life. For example, studies confirm that students have great difficulty learning in schools that are not safe and that the percentage of students in grades 9 through 12 who were threatened or injured with a weapon on school property has remained constant in recent years.

On page 514, line 10, insert '', suspended and expelled students,'' after ''dropouts''.

On page 524, line 7, insert before the semicolon the following: ''including administrative incident reports, anonymous surveys of students or teachers, and focus groups''.

On page 535, line 21, strike ''violence problem'' and insert ''and violence problems''.

On page 537, line 15, by inserting '' and violence'' after ''use,''.

On page 538, line 22, strike ''and peer mediation'' and insert '', peer mediation, and anger management''.

On page 539, between lines 17 and 18, insert the following:

''(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;''.

On page 545, line 9, insert '', that is subject to independent review,'' after ''data''.

On page 545, lines 10 and 11, strike ''social disapproval of''.

On page 545, line 12, after the period add the following: ''The collected data shall include incident reports by schools officials, anonymous student surveys, and anonymous teacher surveys.''.

On page 549, between lines 18 and 19, insert the following:

''(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;''.

On page 550, line 14, insert ''administrative approaches, security services, anger management,'' after ''include''.

On page 553, line 2, insert ''to'' after ''research''.

On page 553, after line 24, add the following:

''(J) Researchers and expert practitioners.

On page 557, line 6, strike ''or dispute resolution'' and insert '', dispute resolution, or anger management''.

SA 447. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 366, strike line 25 and all that follows through page 368, line 7, and insert the following:

''(a) GRANTS TO STATES.—

''(1) IN GENERAL.—From amounts made available under section 2303, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 2305.

''(2) USE OF GRANTS.—

''(A) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under paragraph (1) shall allocate such funds not reserved under section 2310(b) to make subgrants to local educational agencies to enable such local educational agencies to carry out the activities described in section 2306.

''(B) DETERMINATION OF ALLOCATIONS.—From the amount made available under subparagraph (A), the State shall allocate to each of the eligible local educational agencies the sum of—

''(i) an amount that bears the same relationship to 25 percent of the total amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and

''(ii) an amount that bears the same relationship to 75 percent of the total amount as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

Each State educational agency receiving a grant under paragraph (1) shall allocate such funds not reserved under section 2310(b) to make subgrants to local educational agencies to enable such local educational agencies to carry out the activities described in section 2306.

On page 369, line 6, insert ''and'' after the semicolon.

On page 369, line 13, strike ''; and'' and insert a period.

On page 369, strike lines 14 through 22.

On page 371, strike lines 5 through 7 and insert the following:

''(a) APPLICATION.—To be eligible to receive a grant under this part from a State educational agency, a local educational agency shall submit an application, consistent

On page 375, strike line 11 and insert the following:

''(c) SANCTION.—If after 3 years, and after receiving technical assistance under subsection (d), the local edu-''.

SA 448. Mrs. CARNAHAN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 319, line 4, insert '', including teaching specialists in core academic subjects'' after ''principals''.

On page 326, line 1, insert '', including strategies to implement a year-round school schedule that will allow the local educational agency to increase pay for veteran teachers after ''performance''.

On page 327, line 2, insert ''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'' after ''qualified''.

On page 517, line 18, strike ''and''.

On page 517, line 20, strike the period and insert ''; and''.

On page 517, between lines 20 and 21, insert the following:

''(I) alternative programs for the education and discipline of chronically violent and disruptive students as it relates to drug and violence prevention.

On page 528, line 11, strike ''and''.

On page 528, line 14, strike the period and insert ''; and''.

On page 528, between lines 14 and 15, insert the following:

''(16) alternative programs for the education and discipline of chronically violent and disruptive students as it relates to drug and violence prevention.

On page 539, line 10, strike ''and''.

On page 539, between lines 10 and 11, insert the following:

''(E) alternative programs for the education and discipline of chronically violent

and disruptive students as it relates to drug and violence prevention; and''.

SA 449. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 319, between lines 19 and 20, insert the following:

''(12) 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, including teachers certified by the National Board for Professional Teaching Standards, and student teacher interns as a part of an extended teacher education program; and

''(D) supporting teams of master teachers, including teachers certified by the National Board for Professional Teaching Standards, to serve in low-performing schools.

On page 329, line 7, strike ''; and'' and insert a semicolon.

On page 329, line 13, strike the period and insert ''; and''.

On page 329, between lines 13 and 14, insert the following:

''(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.

On page 329, between lines 18 and 19, insert the following:

''(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 determined to be low-performing by a State, on the basis of factors such as low student achievement, low student performance, unclear academic standards, high rates of student absenteeism, high dropout rates, and high rates of staff turnover or absenteeism.

''(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.''.

SA 450. Mr. WYDEN (for himself, Mr. SESSIONS, Mr. BREAUX, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 778, strike line 21 and insert the following:

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 have the highest percentage 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, rather than remediation, 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; and

''(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);

''(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; and

''(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.

''(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.''.

SA 451. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. 902. SENSE OF THE SENATE; AUTHORIZATION OF APPROPRIATIONS.

(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.

SA 452. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 887, between lines 2 and 3, insert the following

SEC. 900. ARTS IN EDUCATION; FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) the arts are forms of understanding and knowledge that are fundamentally important to education;

''(2) appreciation of the arts is important to excellence in 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) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

''(6) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

''(7) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

''(8) 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 maintstream 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.

SA 453. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE BENEFITS OF MUSIC 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 education enhances intellectual development and enriches the academic environment for children of all ages; and

(2) music 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.

SA 454. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 53, line 22, insert before the semicolon the following: '', except that a State in which less than .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''.

SA 455. Mr. KERRY (for himself, Mr. SMITH of Oregon, Mr. CARPER, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 505, line 18, insert after ''intervention,'' the following: ''high quality alternative education for chronically disruptive and violent students that includes drug and violence prevention programs,''.

On page 528, line 11, strike ''and''.

On page 528, between lines 11 and 12, insert the following:

''(15) developing, establishing, or improving alternative educational opportunities for chronically disruptive 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 and violent students; and''.

On page 528, line 12, strike ''(15)'' and insert ''(17)''.

On page 541, between lines 9 and 10, insert the following:

''(15) the provision of educational supports, services, and programs, including drug and violence prevention 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;

''(16) training teachers, pupil services personnel, and other appropriate school staff on effective strategies for dealing with disruptive students;''.

On page 541, line 10, strike ''(15)'' and insert ''(17)''.

On page 541, line 18, strike ''(16)'' and insert ''(18)''.

On page 550, between lines 16 and 17, insert the following:

''(10) 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 and violent students;

''(11) 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;''.

On page 550, line 17, strike ''(10)'' and insert ''(12)''.

On page 550, line 22, strike ''(11)'' and insert ''(13)''.

On page 551, line 3, strike ''(12)'' and insert ''(14)''.

On page 551, line 9, strike ''(13)'' and insert ''(15)''.

SA 456. Mr. DODD submitted an amendment intended to be proposed by

him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 383, after line 21, add the following:

"PART E—EARLY CHILDHOOD EDUCATOR PROFESSIONAL DEVELOPMENT

"SEC. 2501. 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. 2502. 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, nonprofit 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, nonprofit 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. 2503. 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 2506(a);

''(6) a description of the partnership's plan for institutionalizing 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. 2504. 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. 2505. 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. 2506. 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. 2507. 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. 2508. 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) for compensation 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. 2509. 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. 2510. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are 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.''.

SA 457. Mr. DODD (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 778, after line 21, add the following:

''PART C—INCREASING PARENTAL INVOLVEMENT AND PROTECTING STUDENT PRIVACY

''SEC. 6301. INTENT.

''It is the purpose of this part to provide parents with notice of and opportunity to make informed decisions regarding commercial activities occurring in their children's classrooms.

''SEC. 6302. COMMERCIALIZATION POLICIES AND PRIVACY FOR STUDENTS.

''(a) POLICY DEVELOPMENT.—A State educational agency or local educational agency that receives funds under this Act shall develop a policy regarding in-school commercialization activities in consultation with parents and provide notice to parents regarding such policy and any changes to such policy, including locally developed exceptions under subsection (e).

''(b) FUNDING PROHIBITION.—Except as provided in subsection (c), no State educational agency or local educational agency that receives 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 by contract 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.

''(c) 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 (b)(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 by contract, or assist, the gathering of data or information under subsection (b)(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.

''(d) 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 gathering data or information from a student for the purpose of 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, or to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(ii) 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, or to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(ii) the tests are conducted in accordance with applicable Federal, State, and local policies, if any.

''(e) LOCALLY DEVELOPED EXCEPTIONS.—A local educational agency, in consultation with parents, may develop appropriate exceptions to the consent requirements contained in this part.

''(f) FUNDING.—A State educational agency or local educational agency may use funds provided under part A of title VI to enhance parental involvement in areas affecting children's in-school privacy.

''(g) 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.

''(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede the Family Educational Rights and Privacy Act (20 U.S.C. 1232g).''.

SA 458. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 149, strike line 23 and all that follows through page 150, line 11, and insert the following:

''(4) PUERTO RICO.—For each fiscal year, the amount of the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section shall be the amount determined with respect to Puerto Rico under paragraph (1) multiplied by the larger 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; or

''(B) the minimum percentage, which shall not be less than—

''(i) for fiscal year 2002, 77.5 percent;

''(ii) for fiscal year 2003, 80.0 percent;

''(iii) for fiscal year 2004, 82.5 percent;

''(iv) for fiscal year 2005, 85 percent;

''(v) for fiscal year 2006, 89 percent;

''(vi) for fiscal year 2007, 94 percent; and

''(vii) for fiscal year 2008, and each subsequent fiscal year, 100 percent.''

SA 459. Mr. DODD (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 134, between lines 11 and 12, insert the following:

(5) by striking subsection (d) (as so redesignated) and inserting the following:

''(d) COMPARABILITY OF SERVICES.—

''(1) IN GENERAL.—(A) A State that receives funds under this part shall provide services in schools receiving funds under this part that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

''(B) A State shall meet the requirements of subparagraph (A) on a school-by-school basis.

''(2) WRITTEN ASSURANCE.—(A) A State shall be considered to have met the requirements of paragraph (1) if such State has filed with the Secretary a written assurance that such State has established and implemented policies to ensure comparability among schools in—

''(i) class size and qualifications of teachers (by category of assignment, such as regular education, special education, and bilingual education) and professional staff;

''(ii) curriculum, the range of courses offered (including the opportunity to participate in rigorous courses such as advanced placement courses), and instructional materials and instructional resources to ensure that participating children have the opportunity to achieve to the highest student performance levels under the State's challenging content and student performance standards;

''(iii) accessibility to technology; and

''(iv) the safety of school facilities.

''(B) A State need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed to require a jurisdiction to increase its property tax or other tax rates.

''(4) EFFECTIVE DATE.—A State shall comply with the requirements of this subsection by not later than the beginning of the 2003-2004 school year.

''(5) SANCTIONS.—If a State fails to comply with the requirements of this subsection, the Secretary shall withhold funds for State administration until such time as the Secretary determines that the State is in compliance with this subsection.''

SA 460. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 254, line 21, insert before the period the following: ''(including organizations and entities that carry out projects described in section 1609(d))''.

On page 257, between lines 18 and 19, insert the following:

''(d) AFTER SCHOOL SERVICES.—Grant funds awarded under this part 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.''

SA 461. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 379, line 24, insert after the period the following: ''Of the amount appropriated under the preceding sentence for each fiscal year, the Secretary shall make available 5 percent of such amount to carry out part E.''.

On page 383, after line 12, insert the following:

SEC. 203. RURAL TECHNOLOGY EDUCATION ACADEMIES.

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 E—RURAL TECHNOLOGY EDUCATION ACADEMIES

''SEC. 2501. SHORT TITLE.

This part may be cited as the 'Rural Technology Education Academies Act'.

''SEC. 2502. 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. 2503. GRANTS TO STATES.

''(a) IN GENERAL.—The Secretary shall use amounts made available under section 2310(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 800 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, as determined by the Secretary.

''(c) AMOUNT OF GRANT.—Of the amount made available under section 2310(a) to carry out this part for a fiscal year and reduced by amounts used under section 2504, 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; and

''(vii) the implementation of a centralized web-site for educators to exchange computer-related curriculum and lesson plans.

''(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; or

''(F) 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 (E).

''(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 in poverty.

''SEC. 2504. TECHNICAL ASSISTANCE.

''From amounts made available for a fiscal year under section 2310(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.''.

SA 462. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 679, after line 25, add the following:

''(6) support for arrangements that provide for independent analysis to measure and report on school district achievement.''.

SA 463. Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 47, between lines 12 and 13, insert the following:

''(i) during the period beginning on the date of enactment of the Better Education for Students and Teachers Act and ending on September 20, 2008, the assessments described in this subparagraph—

''(I) shall not be required to be considered in determining whether a school, school district, or the State is making adequate yearly progress with respect to the challenging State content and student performance standards; and

''(II) may be used for diagnostic purposes at the discretion of the State;''.

SA 464. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of

1965; which was ordered to lie on the table; as follows:

On page 48, between lines 14 and 15, insert the following:

''(iii) no State shall be required to conduct any assessments under this subparagraph in any school year if, by July 1, 2005, the amount appropriated to carry out the Head Start Program for fiscal year 2005 does not equal or exceed $92,408,000,000''.

SA 465. Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 776, strike lines 1 through 5, and insert the following:

''(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 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 involve up-to-date measures of student performance from multiple sources that 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.

SA 466. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 48, between lines 14 and 15, insert the following:

''(iii) no State shall be required to conduct any assessments under this subparagraph in any school year if, by July 1, 2005, the amount appropriated to carry out this part for fiscal year 2005 does not equal or exceed $24,720,000,000;''

SA 467. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. 902. EXPANSION OF EDUCATIONAL OPPORTUNITIES FOR WELFARE RECIPIENTS.

(a) POSTSECONDARY EDUCATION OR VOCATIONAL EDUCATIONAL TRAINING AS PERMISSIBLE WORK ACTIVITIES.—Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended to read as follows:

''(8) postsecondary education or vocational educational training (not to exceed 24 months or, at the option of the State, 48 months, with respect to any individual);''.

(b) MODIFICATIONS TO THE EDUCATIONAL CAP.—

(1) REMOVAL OF TEEN PARENTS FROM 30 PERCENT LIMITATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking '', or (if the month is in fiscal year 2000 or thereafter) deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph''.

(2) EXTENSION OF CAP TO POSTSECONDARY EDUCATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking ''vocational educational training'' and inserting ''education or training described in subsection (d)(8)''.

(c) CLARIFICATION THAT PARTICIPATION IN A FEDERAL WORK-STUDY PROGRAM IS A PERMISSIBLE WORK ACTIVITY UNDER THE TANF PROGRAM.—Paragraphs (2) and (3) of section 407(d) of the Social Security Act (42 U.S.C. 607(d)) are each amended by inserting ''(including participation in an activity under a program established under part C of title IV of the Higher Education Act of 1965)'' before the semicolon.

SA 468. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 4, between lines 16 and 17, insert the following:

''(1) ASSESSMENT.—The term 'assessment' means any systematic method of obtaining information from tests and other sources that is used to draw inferences about the characteristics of individuals, objects, or programs.

On page 44, strike lines 12 through 14, and insert the following: ''sistent with the Standards for Educational and Psychological Testing as developed by the American Educational Research Association, the American Psychological Association and the National Council on Measurement in Education;

''(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 for which the assessment is used, such evidence to be made public by the Secretary upon request;''.

On page 49, between lines 11 and 12, insert the following:

''(K) 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.

On page 110, between lines 21 and 22, insert the following:

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).''.

SA 469. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 773, strike lines 20–24, and insert the following:

''SEC. 6107.

''(1) IN GENERAL.—For the purpose of carrying out part D, 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.

''(2) RESERVATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

''(A) the Secretary shall reserve $50,000,000 to carry out part A, other than section 6106A; and

''(B) 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—

''(i) 85 percent of such excess to carry out section 6106A; and

''(ii) 15 percent of such excess to carry out part A, other than section 6106A.''

On page 773, between lines 19 and 20, insert the following:

''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 part A have the training, information, and support the parents need to enable the parents to participate effectively 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 part A 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 part A; and

''(3) is located in a community with schools that receive funds under part A, and is accessible to the families of students in those schools.''

SA 470. Mr. ROBERTS (for himself, Mr. FRIST, Mr. GREGG, Mr. CRAPO, Mr. WARNER, Mr. SCHUMER, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 344, line 9, insert ''engineering,'' before ''mathematics''.

On page 344, line 17, strike ''a'' and insert ''an engineering''.

On page 344, line 22, insert ''engineering,'' before ''mathematics''.

On page 345, line 7, insert ''or high-impact public coalition composed of leaders from business, kindergarten through grade 12 education, institutions of higher education, and public policy organizations'' before the period.

On page 347, line 10, insert ''or a consortium of local educational agencies that include a high need local education agency'' before the period.

On page 347, line 18, strike ''an'' and insert ''the results of a comprehensive''.

On page 347, line 22, strike the semicolon and insert: '', 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;

On page 349, line 6, strike the period and insert ''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.

On page 350, line 4, insert ''engineers and'' before ''scientists''.

On page 350, between lines 4 and 5, insert the following:

''(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.''

SA 471. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. MENTAL HEALTH SERVICES DELIVERED VIA TELEHEALTH.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Office for the Advancement of Telehealth of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of mental health services to special populations as delivered remotely by qualified mental health professionals using telehealth and for the provision of education regarding mental illness as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth.

(2) NUMBER OF DEMONSTRATION PROJECTS.—Twenty grants shall be awarded under paragraph (1) to provide services for children and adolescents as described in subsection (d)(1). Not less than 10 such grants shall be for services rendered to individuals in rural areas.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a public or nonprofit private telehealth provider network which has as part of its services mental health services provided by qualified mental health providers.

(2) QUALIFIED MENTAL HEALTH EDUCATION PROFESSIONALS.—The term ''qualified mental health education professionals'' refers to teachers, community mental health professionals, nurses, and other entities as determined by the Secretary who have additional training in the delivery of information on mental illness in children and adolescents.

(3) QUALIFIED MENTAL HEALTH PROFESSIONALS.—The term ''qualified mental health professionals'' refers to providers of mental health services currently reimbursed under medicare who have additional training in the treatment of mental illness in children and adolescents.

(4) SPECIAL POPULATIONS.—The term ''special populations'' refers to children and adolescents located in primary and secondary public schools in mental health underserved rural areas or in mental health underserved urban areas.

(5) TELEHEALTH.—The term ''telehealth'' means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health, and health administration.

(c) AMOUNT.—Each entity that receives a grant under subsection (a) shall receive not more than $1,500,000, with no more than 40 percent of the total budget outlined for equipment.

(d) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity that receives a grant under this section shall use such funds for the special population described in subsection (b)(4)—

(A) to provide mental health services, including diagnosis and treatment of mental illness, in primary and secondary public schools as delivered remotely by qualified mental health professionals using telehealth;

(B) to provide education regarding mental illness (including suicide and violence) in primary and secondary public schools as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth, including early recognition of the signs and symptoms of mental illness, and instruction on coping and dealing with stressful experiences of childhood and adolescence (such as violence, social isolation, and depression); and

(C) to collaborate with local public health entities and the eligible entity to provide the mental health services.

(2) OTHER USES.—An eligible entity receiving a grant under this section may also use funds to—

(A) acquire telehealth equipment to use in primary and secondary public schools for the purposes of this section;

(B) develop curriculum to support activities described in subsections (d)(1)(B);

(C) pay telecommunications costs; and

(D) pay qualified mental health professionals and qualified mental health education professionals on a reasonable cost basis as determined by the Secretary for services rendered.

(3) PROHIBITED USES.—An eligible entity that receives a grant under this section shall not use funds received through such grant to—

(A) purchase or install transmission equipment (other than such equipment used by qualified mental health professionals to deliver mental health services using telehealth under the project); or

(B) build upon or acquire real property (except for minor renovations related to the installation of reimbursable equipment).

(e) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure, to the greatest extent possible, that such grants are equitably distributed among geographical regions of the United States.

(f) APPLICATION.—An entity that desires 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 considers appropriate.

(g) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that shall evaluate activities funded with grants under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal years 2003 through 2007.

(i) SUNSET PROVISION.—This section shall be effective for 6 years from the date of the enactment of this Act.

SA 472. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING TAX INCENTIVES FOR TEACHERS RECEIVING ADVANCED CERTIFICATION.

(a) FINDINGS.—The Senate finds the following:

(1) Studies have shown that the greatest single in-school factor affecting student achievement is teacher quality.

(2) Most accomplished teachers do not get the rewards they deserve.

(3) After adjusting amounts for inflation, the average teacher salary for 1997–1998 of $39,347 is just $2 above what it was in 1993. Such salary is also just $1,924 more than the average salary recorded in 1972, a real increase of only $75 per year.

(4) While K–12 enrollments are steadily increasing, the teacher population is aging. There is a need, now more than ever, to attract competent, capable, and bright college graduates or mid-career professionals to the teaching profession.

(5) The Department of Education projects that 2,000,000 new teachers will have to be hired in the next decade. Shortages, if they occur, will most likely be felt in urban or rural regions of the country where working conditions may be difficult or compensation low.

(6) If students are to receive a high quality education and remain competitive in the global market the United States must attract talented and motivated people to the teaching profession in large numbers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should act expeditiously to pass legislation in the 107th Congress providing—

(1) a $5,000 refundable tax credit to elementary and secondary school teachers who receive advanced certification, and

(2) an exclusion from gross income for any reasonable financial benefits received by such teachers solely because of such certification.

SA 473. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. 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.

SA 474. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 312, strike line 18 and all that follows through page 313, line 4, and insert the following:

''(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

* * * * *

On page 320, strike lines 16 through 26 and insert the following:

''(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 num-''.

SA 475. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of part A of title I, add the following:

SEC. 120D. 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.

SA 476. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs

and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 763, lines 23, insert ''(including statewide nonprofit organizations)'' after ''organizations''.

On page 764, line 4, strike ''(including parents of preschool age children)'' and insert ''(including parents of children from birth through age 5)''.

On page 764, line 17, insert ''(including statewide nonprofit organizations)'' before the comma.

On page 765, line 4, insert ''and Parents as Teachers organizations'' after ''associations''.

On page 765, line 14, insert ''(including a statewide nonprofit organization)'' before ''or nonprofit''.

On page 767, line 23, strike ''part of'' and insert ''at least ½ of''.

On page 769, line 22, insert ''(such as training related to Parents as Teachers activities)'' before the semicolon.

On page 770, line 8, strike ''and''.

On page 770, line 12, strike the period and insert ''; and''.

On page 770, between lines 12 and 13, insert the following:

''(6) to coordinate and integrate early childhood programs with school age programs.

SA 477. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . 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 passed 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.

SA 478. Mr. MCCAIN (for himself, Mr. EDWARDS, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S.1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

DIVISION II—BIPARTISAN PATIENT PROTECTION

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Bipartisan Patient Protection Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Coverage of limited scope plans.
Sec. 155. Regulations.
Sec. 156. Incorporation into plan or coverage documents.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 302. Availability of civil remedies.
Sec. 303. Limitations on actions.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 401. Application of requirements to group health plans under the Internal Revenue Code of 1986.
Sec. 402. Conforming enforcement for women's health and cancer rights.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.
Sec. 502. Coordination in implementation.
Sec. 503. Severability.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program

shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) PROCEDURES OF INITIAL CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claims for such benefits without regard to whether and when a written confirmation of such request is made.

(b) TIMELINE FOR MAKING DETERMINATIONS.—

(1) PRIOR AUTHORIZATION DETERMINATION.—

(A) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, or health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(I) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the average participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term ''claim for benefits'' means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term ''denial'' means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term ''treating health care professional''

means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) TIMELINES FOR MAKING DETERMINATIONS.—

(1) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, or health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—

(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) REVIEW OF MEDICAL DECISIONS BY PHYSICIANS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts, shall be made by a physician (allopathic or osteopathic) with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) who was not involved in the initial determination.

(d) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the average participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, and a health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such an external review without regard to whether and when a written confirmation of such request is made.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) COLLECTION OF FILING FEE.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by an average participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigation nature, or the evaluation of the medical facts of the item, service, or condition shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)) except to the extent that

the application or interpretation of the exclusion or limitation involves a determination described in paragraph (2).

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this subtitle, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by the definition used by the plan or issuer of ''medically necessary and appropriate'', or ''experimental or investigational'', or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made as soon in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such subclause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by an average participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(i) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion in a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a health care professional (other than a physician), a reviewer shall be a practicing physician (allopathic or osteopathic) or, if determined appropriate by the qualified external review entity, a practicing health care professional (other than such a physician), of the same or similar specialty as the health care professional who typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ''practicing'' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term ''related party'' means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term ''qualified external review entity'' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified

in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause.

(vii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'', with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning give in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term ''emergency ambulance services'' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan or health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) REFERRALS.—

(1) AUTHORIZATION.—A group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—A group health plan or health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term ''specialist'' means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRIC AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, or health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan or health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and

services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term ''continuing care patient'' means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term ''contract'' includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' or ''provider'' means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term ''serious and complex condition'' means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) The Food and Drug Administration.

(D) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) SECONDARY CONSULTATIONS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below

certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(b)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(4) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(5) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(6) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(7) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(8) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(9) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(10) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(11) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(12) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(13) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(14) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(15) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(16) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(17) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act of 2001 (excluding those described in paragraphs (1) through (16)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(18) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service,

salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by an average participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) PRIOR AUTHORIZATION.—The term ''prior authorization'' means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term ''terms and conditions'' includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY EQUIVALENT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that is substantially equivalent (within the meaning of subsection (c)) to a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this division (except in the case of other substantially equivalent requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) PATIENT PROTECTION REQUIREMENT DEFINED.—For purposes of this section, the term ''patient protection requirement'' means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(c) DETERMINATIONS OF SUBSTANTIAL EQUIVALENCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially equivalent to one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law provides for at least substantially equivalent and effective patient protections to the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the

Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that are at least substantially equivalent to and as effective as the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial equivalence.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term ''fee-for-service coverage'' means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.

Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act and section 714 of the Employee Retirement Income Security Act of 1974, section 2791(c)(2)(A), and section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974 shall be deemed not to apply.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act of 2001, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act of 2001 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patient Protection Act of 2001 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) Section 111 (relating to consumer choice option).

''(B) Section 112 (relating to choice of health care professional).

''(C) Section 113 (relating to access to emergency care).

''(D) Section 114 (relating to timely access to specialists).

''(E) Section 115 (relating to patient access to obstetrical and gynecological care).

''(F) Section 116 (relating to access to pediatric care).

''(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(H) Section 118 (relating to access to needed prescription drugs).

''(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

''(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

''(K) Section 134 (relating to payment of claims).

''(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Bipartisan Patient Protection Act of 2001, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such

section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Bipartisan Patient Protection Act of 2001, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section 131 (relating to prohibition of interference with certain medical communications).

''(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

''(C) Section 133 (relating to prohibition against improper incentive arrangements).

''(D) Section 135 (relating to protection for patient advocacy).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) TREATMENT OF SUBSTANTIALLY EQUIVALENT STATE LAWS.—For purposes of applying this subsection, any reference in this subsection to a requirement in a section or other provision in the Bipartisan Patient Protection Act of 2001 with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that is substantially equivalent (as determined under section 152(c) of such Act) to the requirement in such section or other provisions.

''(8) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Bipartisan Patient Protection Act of 2001, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Bipartisan Patient Protection Act of 2001 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Bipartisan Patient Protection Act of 2001 with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Bipartisan Patient Protection Act of 2001, and compliance with regulations promulgated by the Secretary, in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Patient protection standards.''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 135(b))'' after ''part 7''.

SEC. 302. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

''(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—In any case in which—

''(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor—

''(i) upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Bipartisan Patient Protection Act of 2001 (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

''(I) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

''(II) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

''(III) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, or

''(ii) otherwise fails to exercise ordinary care in the performance of a duty under the terms and conditions of the plan with respect to a participant or beneficiary, and

''(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such person shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

''(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

''(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in clause (i) or the failure described in clause (ii) does not include a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

''(3) DEFINITIONS.—For purposes of this subsection.—

''(A) ORDINARY CARE.—The term 'ordinary care' means—

''(i) with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claim involved; and

''(ii) with respect to the performance of a duty, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in performing the duty or a duty of like character.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Bipartisan Patient Protection Act of 2001.

''(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act of 2001 or under part 6 or 7.

''(E) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 732(d) and 733 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term 'group health plan' includes a group health plan (as defined in section 607(1)).

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

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—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).

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment)—

''(i) under clause (i) of paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act of 2001 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits, or

''(ii) under clause (ii) of paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the failure described in such clause.

''(C) DIRECT PARTICIPATION.—

''(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in clause (i) of paragraph (1)(A) or a failure described in clause (ii) of such paragraph, the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in clause (i) of paragraph (1)(A) on a particular claim for

benefits of a participant or beneficiary or that is merely collateral or precedent to the conduct constituting a failure described in clause (ii) of paragraph (1)(A) with respect to a particular participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(5) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

''(B) LATE MANIFESTATION OF INJURY.—The requirements under subparagraph (A) for a cause of action in connection with any denial of a claim for benefits shall be deemed satisfied, notwithstanding any failure to timely commence review under section 103 with respect to the denial, if the personal injury is first known (or first reasonably should have been known) to the individual (or the death occurs) after the latest date by which the applicable requirements of subparagraph (A) can be met in connection with such denial.

''(C) OCCURRENCE OF IMMEDIATE AND IRREPARABLE HARM OR DEATH PRIOR TO COMPLETION OF PROCESS.—

''(i) IN GENERAL.—The requirements of subparagraph (A) shall not apply if the action involves an allegation that immediate and irreparable harm or death was, or would be, caused by the denial of a claim for benefits prior to the completion of the administrative processes referred to in subparagraph (A) with respect to such denial.

''(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to preclude—

''(I) continuation of such processes to their conclusion if so moved by any party, and

''(II) consideration in such action of the final decisions issued in such processes.

''(iii) DEFINITION.—In clause (i), the term 'irreparable harm', with respect to an individual, means an injury or condition that, regardless of whether the individual receives the treatment that is the subject of the denial, cannot be repaired in a manner that would restore the individual to the individual's pre-injured condition.

''(D) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

''(6) STATUTORY DAMAGES.—

''(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

''(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

''(7) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

''(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

''(B) the date as of which the requirements of paragraph (5) are first met.

''(8) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(9) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

''(10) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(11) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.''.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) in subparagraph (B), by striking ''plan;'' and inserting ''plan, or''; and

(C) by adding at the end the following new subparagraph:

''(C) for the relief provided for in subsection (n) of this section.''.

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

''(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

''(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any person if such cause of action arises by reason of a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

''(C) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Bipartisan Patient Protection Act of 2001 were satisfied with respect to the participant or beneficiary:

''(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

''(II) Section 103 of such Act (relating to internal appeals of claims denials).

''(III) Section 104 of such Act (relating to independent external appeals procedures).

''(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

''(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

''(2) DEFINITIONS.—For purposes of this subsection and subsection (e)—

''(A) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 732(d) and 733 apply for purposes of this subsection in the same manner as they apply for purposes of part 7, except that the term 'group health plan' includes a group health plan (as defined in section 607(1)).

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFIT; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act of 2001.

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

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

''(i) any 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), or

''(ii) 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) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action described in paragraph (1) maintained by a participant or beneficiary against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment)—

''(i) in the case of any cause of action based on a decision of the plan under section 102 of the Bipartisan Patient Protection Act of 2001 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits, to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision, or

''(ii) in the case of any cause of action based on a failure to otherwise perform a duty under the terms and conditions of the plan with respect to a claim for benefits of a participant or beneficiary, to the extent there was direct participation by the employer or other plan sponsor (or employee) in the failure.

''(C) DIRECT PARTICIPATION.—

''(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B)(i) or a failure described in subparagraph (B)(ii), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B)(i) on a particular claim for benefits of a particular participant or beneficiary or that is merely collateral or precedent to the conduct constituting a failure described in subparagraph (B)(ii) with respect to a particular participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(4) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—Except as provided in this paragraph, paragraph (1) shall not apply with respect to a cause of action described in such paragraph in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

''(B) LATE MANIFESTATION OF INJURY.—The requirements under subparagraph (A) for a cause of action in connection with any denial of a claim for benefits shall be deemed satisfied, notwithstanding any failure to timely commence review under section 103 or 104 with respect to the denial, if the personal injury is first known (or first should have been known) to the individual (or the death occurs) after the latest date by which the applicable requirements of subparagraph (A) can be met in connection with such denial.

''(C) OCCURRENCE OF IMMEDIATE AN IRREPARABLE HARM OR DEATH PRIOR TO COMPLETION OF PROCESS.—

''(i) IN GENERAL.—The requirements of subparagraph (A) shall not apply if the action involves an allegation that immediate and irreparable harm or death was, or would be, caused by the denial of a claim for benefits prior to the completion of the administrative processes referred to in subparagraph (A) with respect to such denial.

''(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to preclude—

''(I) continuation of such processes to their conclusion if so moved by any party, and

''(II) consideration in such action of the final decisions issued in such processes.

''(iii) DEFINITION.—In clause (i), the term 'irreparable harm', with respect to an individual, means an injury or condition that, regardless of whether the individual receives the treatment that is the subject of the denial, cannot be repaired in a manner that would restore the individual to the individual's pre-injured condition.

''(D) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

''(5) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(6) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

''(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001, or

''(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

''(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

''(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

''(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

''(8) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

''(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(1) affecting any State law relating to the practice of medicine or the provision of medical care, or affecting any action based upon such a State law,

''(2) superseding any State law permitted under section 152(b)(1)(A) of the Bipartisan Patient Protection Act of 2001, or

''(3) affecting any applicable State law with respect to limitations on monetary damages.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the date of the enactment of this division.

SEC. 303. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 302(a)) is amended further by adding at the end the following new subsection:

''(o) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Patient Protection Act of 2001 (as incorporated under section 714).

''(2) CERTAIN ACTIONS ALLOWABLE.—An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act of 2001 (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

''(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (n) or section 514(d).

''(4) ENFORCEMENT BY SECRETARY UNAFFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 401. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patients' bill of rights.'';

and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of title I of the Bipartisan Patient Protection Act of 2001 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

SEC. 402. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 401, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Standard relating to women's health and cancer rights.'';

and

(2) by inserting after section 9813 the following:

''SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

''The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.''.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 301, 303, and 401 and 402 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2002 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this division, the amendments made by sections 201(a), 301, 303, and 401 and 402 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this division); or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this division shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this division (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this division shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to a individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 502. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this division (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 503. SEVERABILITY.

If any provision of this division, an amendment made by this division, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this division, the amendments made by this division, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SA 479. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, insert the following:

TITLE ____—EDUCATIONAL CHOICES FOR DISADVANTAGED CHILDREN.

SEC. ____01. PURPOSES.

The purposes of this title are—

(1) to assist States to—

(A) give children from low-income families the same choices among all elementary and secondary schools and other academic programs as children from wealthier families already have;

(B) improve schools and other academic programs by giving parents in low-income families increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage parents in their children's schooling; and

(2) to demonstrate, through a 3-year national grant program, the effects of a voucher program that gives parents in low-income families—

(A) choice among public, private, and religious schools for their children; and

(B) access to the same academic options as parents in wealthy families have for their children.

SEC. ____02. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title (other than section ____10) $1,800,000,000 for each of fiscal years 2002 through 2005.

(b) EVALUATION.—There is authorized to be appropriated to carry out section ____10 $17,000,000 for each of fiscal years 2002 through 2005.

SEC. ____03. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall make grants to States, from allotments made under section ____04 to enable the States to carry out educational choice programs that provide scholarships, in accordance with this title.

(b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDITURES.—The Secretary may reserve not more than $1,000,000 of the amounts appropriated under section ____02(a) for a fiscal year to pay for the costs of administering this title.

SEC. ____04. ALLOTMENTS TO STATES.

(a) ALLOTMENTS.—The Secretary shall make the allotments to States in accordance with a formula specified in regulations issued in accordance with subsection (b). The formula shall provide that the Secretary shall allot to each State an amount that bears the same relationship to the amounts appropriated under section ____02(a) for a fiscal year (other than funds reserved under section ____03(b)) as the number of covered children in the State bears to the number of covered children in all such States.

(b) FORMULA.—Not later than 90 days after the date of enactment of this title, the Secretary shall issue regulations specifying the formula referred to in subsection (a).

(c) LIMIT ON STATE ADMINISTRATIVE EXPENDITURES.—The State may reserve not more than 1 percent of the funds made available through the State allotment to pay for the costs of administering this title.

(d) DEFINITION.—In this section, the term ''covered child'' means a child who is enrolled in a public school (including a charter school) that is an elementary school or secondary school.

SEC. ____05. ELIGIBLE SCHOOLS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Schools identified by a State under paragraph (2) shall be considered to be eligible schools under this title.

(2) DETERMINATION.—Not later than 180 days after the date the Secretary issues regulations under section ____04(b), each State shall identify the public elementary schools and secondary schools in the State that are at or below the 25th percentile for academic performance of schools in the State.

(b) PERFORMANCE.—The State shall determine the academic performance of a school under this section based on such criteria as the State may consider to be appropriate.

SEC. ____06. SCHOLARSHIPS.

(a) IN GENERAL.—

(1) SCHOLARSHIP AWARDS.—With funds awarded under this title, each State awarded a grant under this title shall provide scholarships to the parents of eligible children, in accordance with subsections (b) and (c). The State shall ensure that the scholarships may be redeemed for elementary or secondary education for the eligible children at any of a broad variety of public and private schools, including religious schools, in the State.

(2) SCHOLARSHIP AMOUNT.—The amount of each scholarship shall be $2000 per year.

(3) TAX EXEMPTION.—Scholarships awarded under this title shall not be considered income of the parents for Federal income tax purposes or for determining eligibility for any other Federal program.

(b) ELIGIBLE CHILD.—To be eligible to receive a scholarship under this title, a child shall be—

(1) a child who is enrolled in a public elementary school or secondary school that is an eligible school; and

(2) a member of a family with a family income that is not more than 200 percent of the poverty line.

(c) AWARD RULES.—

(1) PRIORITY.—In providing scholarships under this title, the State shall provide scholarships for eligible children through a lottery system administered for all eligible schools in the State by the State educational agency.

(2) CONTINUING ELIGIBILITY.—Each State receiving a grant under this title to carry out an educational choice program shall provide a scholarship in each year of the program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the area served by an eligible school;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, 200 percent of the poverty line;

(D) the child is expelled; or

(E) the child is convicted of possession of a weapon on school grounds, convicted of a violent act against another student or a member of the school's faculty, or convicted of a felony, including felonious drug possession.

SEC. ____07. USES OF FUNDS.

Any scholarship awarded under this title for a year shall be used—

(1) first, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not the school to which the child would be assigned in the absence of a program under this title;

(2) second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the State determines is capable of providing such services and has an appropriate refund policy; and

(3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

SEC. ____08. STATE REQUIREMENT.

A State that receives a grant under this title shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

SEC. ____09. EFFECT OF PROGRAMS.

(a) TITLE I.—Notwithstanding any other provision of law, if a local educational agency in the State would, in the absence of an educational choice program that is funded under this title, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the State shall ensure the provision of such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this title shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this title shall be considered to aid families, not institutions. For purposes of determining Federal assistance under Federal law, a parent's expenditure of scholarship funds under this title at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this title shall, as a condition of participation under this title, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this title and the nature, variety, and missions of schools and providers that may participate in providing services to children under this title.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to a State or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this title shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this title.

SEC. ____10. EVALUATION.

The Comptroller General of the United States shall conduct an evaluation of the program authorized by this title. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this title and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend

schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. ___11. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this title.

(b) PRIVATE CAUSE.—No provision or requirement of this title shall be enforced through a private cause of action.

SEC. ___12. FUNDING.

The Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives shall identify wasteful spending (including loopholes to revenue raising tax provisions) by the Federal Government as a means of providing funding for this title. Not later than 60 days after the date of enactment of this title, the committees referred to in the preceding sentence shall jointly prepare and submit to the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, a report concerning the spending (and loopholes) identified under such sentence.

SEC. ___13. DEFINITIONS.

In this title:

(1) CHARTER SCHOOL.—The term ''charter school'' has the meaning given the term in section 5120 of the Elementary and Secondary Education Act of 1965.

(2) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; PARENT; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''parent'', ''secondary school'', and ''State educational agency'' have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(3) 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.

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

(5) STATE.—The term ''State'' means each of the 50 States.

SA 480. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, insert the following:

TITLE ___—EDUCATIONAL CHOICES FOR DISADVANTAGED CHILDREN.

SEC. ___01. PURPOSES.

The purposes of this title are—

(1) to assist States to—

(A) give children from low-income families the same choices among all elementary and secondary schools and other academic programs as children from wealthier families already have;

(B) improve schools and other academic programs by giving parents in low-income families increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage parents in their children's schooling; and

(2) to demonstrate, through a 3-year national grant program, the effects of a voucher program that gives parents in low-income families—

(A) choice among public, private, and religious schools for their children; and

(B) access to the same academic options as parents in wealthy families have for their children.

SEC. ___02. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title (other than section ___10) $1,800,000,000 for each of fiscal years 2002 through 2005.

(b) EVALUATION.—There is authorized to be appropriated to carry out section ___10 $17,000,000 for each of fiscal years 2002 through 2005.

SEC. ___03. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall make grants to States, from allotments made under section ___04 to enable the States to carry out educational choice programs that provide scholarships, in accordance with this title.

(b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDITURES.—The Secretary may reserve not more than $1,000,000 of the amounts appropriated under section ___02(a) for a fiscal year to pay for the costs of administering this title.

SEC. ___04. ALLOTMENTS TO STATES.

(a) ALLOTMENTS.—The Secretary shall make the allotments to States in accordance with a formula specified in regulations issued in accordance with subsection (b). The formula shall provide that the Secretary shall allot to each State an amount that bears the same relationship to the amounts appropriated under section ___02(a) for a fiscal year (other than funds reserved under section ___03(b)) as the number of covered children in the State bears to the number of covered children in all such States.

(b) FORMULA.—Not later than 90 days after the date of enactment of this title, the Secretary shall issue regulations specifying the formula referred to in subsection (a).

(c) LIMIT ON STATE ADMINISTRATIVE EXPENDITURES.—The State may reserve not more than 1 percent of the funds made available through the State allotment to pay for the costs of administering this title.

(d) DEFINITION.—In this section, the term ''covered child'' means a child who is enrolled in a public school (including a charter school) that is an elementary school or secondary school.

SEC. ___05. ELIGIBLE SCHOOLS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Schools identified by a State under paragraph (2) shall be considered to be eligible schools under this title.

(2) DETERMINATION.—Not later than 180 days after the date the Secretary issues regulations under section ___04(b), each State shall identify the public elementary schools and secondary schools in the State that are at or below the 25th percentile for academic performance of schools in the State.

(b) PERFORMANCE.—The State shall determine the academic performance of a school under this section based on such criteria as the State may consider to be appropriate.

SEC. ___06. SCHOLARSHIPS.

(a) IN GENERAL.—

(1) SCHOLARSHIP AWARDS.—With funds awarded under this title, each State awarded a grant under this title shall provide scholarships to the parents of eligible children, in accordance with subsections (b) and (c). The State shall ensure that the scholarships may be redeemed for elementary or secondary education for the eligible children at any of a broad variety of public and private schools, including religious schools, in the State.

(2) SCHOLARSHIP AMOUNT.—The amount of each scholarship shall be $2000 per year.

(3) TAX EXEMPTION.—Scholarships awarded under this title shall not be considered income of the parents for Federal income tax purposes or for determining eligibility for any other Federal program.

(b) ELIGIBLE CHILD.—To be eligible to receive a scholarship under this title, a child shall be—

(1) a child who is enrolled in a public elementary school or secondary school that is an eligible school; and

(2) a member of a family with a family income that is not more than 200 percent of the poverty line.

(c) AWARD RULES.—

(1) PRIORITY.—In providing scholarships under this title, the State shall provide scholarships for eligible children through a lottery system administered for all eligible schools in the State by the State educational agency.

(2) CONTINUING ELIGIBILITY.—Each State receiving a grant under this title to carry out an educational choice program shall provide a scholarship in each year of the program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the area served by an eligible school;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, 200 percent of the poverty line;

(D) the child is expelled; or

(E) the child is convicted of possession of a weapon on school grounds, convicted of a violent act against another student or a member of the school's faculty, or convicted of a felony, including felonious drug possession.

SEC. ___07. USES OF FUNDS.

Any scholarship awarded under this title for a year shall be used—

(1) first, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not the school to which the child would be assigned in the absence of a program under this title;

(2) second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the State determines is capable of providing such services and has an appropriate refund policy; and

(3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

SEC. ___08. STATE REQUIREMENT.

A State that receives a grant under this title shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

SEC. ___09. EFFECT OF PROGRAMS.

(a) TITLE I.—Notwithstanding any other provision of law, if a local educational agency in the State would, in the absence of an educational choice program that is funded under this title, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the State shall ensure the provision of such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this title shall be construed to affect the requirements of part B of the Individuals

with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this title shall be considered to aid families, not institutions. For purposes of determining Federal assistance under Federal law, a parent's expenditure of scholarship funds under this title at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this title shall, as a condition of participation under this title, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this title and the nature, variety, and missions of schools and providers that may participate in providing services to children under this title.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to a State or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this title shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this title.

SEC. ___10. EVALUATION.

The Comptroller General of the United States shall conduct an evaluation of the program authorized by this title. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this title and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. ___11. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this title.

(b) PRIVATE CAUSE.—No provision or requirement of this title shall be enforced through a private cause of action.

SEC. ___12. FUNDING.

The Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives shall identify wasteful spending by the Federal Government as a means of providing funding for this title. Not later than 60 days after the date of enactment of this title, the committees referred to in the preceding sentence shall jointly prepare and submit to the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, a report concerning the spending identified under such sentence.

SEC. ___13. DEFINITIONS.

In this title:

(1) CHARTER SCHOOL.—The term ''charter school'' has the meaning given the term in section 5120 of the Elementary and Secondary Education Act of 1965.

SA 481. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 902. SENSE OF THE SENATE REGARDING TAX RELIEF FOR HIGHER EDUCATION EXPENSES.

(a) FINDINGS.—The Senate finds that—

(1) a college education is increasingly becoming vital for the success of an individual in our competitive, high-tech economy;

(2) nearly 60 percent of today's jobs require some college education;

(3) over the last 20 years, the cost of attending college has outpaced increases in median family income and has risen substantially faster than the rate of inflation;

(4) the average cost this year, including tuition, fees, room, and board, for attending a public 4-year college is $8,470, and for a private 4-year college is $22,541;

(5) the cost of attending some of the best private colleges or universities in the Nation represents approximately 40 percent of the annual income of an average family, and the cost of attending some of the best public colleges or universities represents approximately 15 percent of the annual income of an average family;

(6) in 1997, Congress adopted the Hope Scholarship, a tax credit of up to $1,500 for each of the first 2 years of college, to help families send their children to college; and

(7) in 1997, Congress adopted the Lifetime Learning Credit that permits a 20 percent tax credit on up to $5,000 worth of higher education expenses, and the amount of higher education expenses eligible for the 20 percent tax credit will rise to $10,000 in 2003.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should adopt legislation that would expand—

(1) the favorable tax treatment of higher education expenses to provide greater assistance to families with the costs of sending their children to college; and

(2) the number of families eligible for the tax relief described in paragraph (1).

SA 482. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 902. 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—

(1) 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;

(2) the week in 2001 that includes Veterans Day be designated as ''National Veterans Awareness Week'' for the purpose of presenting such materials and activities; and

(3) the President should issue a proclamation calling on the people of the United States to observe that week with appropriate educational activities.

SA 483. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 380, strike line 5 and all that follows through page 383, line 21, and insert the following:

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 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.''.

SA 484. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 16, line 4, insert ''servers and storage devices,'' before ''video''.

On page 16, line 5, insert ''and other digital'' after ''web-based''.

On page 16, line 7, strike ''environments for problem-solving'' and insert ''learning environments,''.

On page 37, line 14, insert ''and technology literacy'' after ''skills''.

On page 52, line 21, insert '', including how it will use technology or assist local educational agencies in the use of technology to meet these requirements'' after ''school''.

On page 56, line 3, strike ''and''.

On page 56, line 6, strike the period and insert ''; and''.

On page 56, between lines 6 and 7, insert the following:

''(13) the State will integrate, as appropriate, the use of technology to meet the purposes of this part, including assistance to local educational agencies in the use of technology to meet these purposes, such as for professional development, curricula and instruction delivery, data collection and assessment, and parental involvement.

On page 71, line 24, strike ''and''.

On page 72, line 3, strike the period and the end quote and insert ''and'' after the semi colon.

On page 72, between lines 3 and 4, insert the following:

''(11) a description of how the local educational agency will integrate, as appropriate, the use of technology to meet the purposes of this part, such as for professional development, curricula and instruction, data collection and assessment, and parental involvement.'';.

On page 88, line 22, strike ''and''.

On page 88, line 24, strike the period and insert ''; and''.

On page 88, after line 24, insert the following:

''(ix) describe how the school will use and integrate technology, as appropriate, to address the elements of this paragraph.

On page 182, line 16, insert '', including education technology such as software and other digital curricula,'' after ''materials''.

On page 316, between lines 20 and 21, insert the following:

''(12) a description of how the State educational agency will—

''(A) ensure that all teachers are technology literate and proficient in their ability to effectively integrate technology into their instruction and curricula; and

''(B) use and encourage the use of technology and distance education to provide professional development and improve the quality of the State's teaching force.

On page 317, line 16, insert '', including through a grant or contract with a for-profit or nonprofit entity'' after ''activities''.

On page 317, line 26, insert '', including technology literacy'' after ''skills''.

On page 319, between lines 19 and 20, insert the following:

''(12) 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.

''(13) 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.

On page 324, line 8, inserting '', including through technology and distance education and by ensuring all teachers and administrators are technology literate and able to effectively integrate technology into curricula and instruction'' before the period.

On page 325, line 18, insert '', including through a grant or contract with a for-profit or nonprofit entity'' after ''activities''.

On page 325, line 25, insert '', including technology literacy,'' after ''skills''.

On page 326, line 2, strike ''and''.

On page 326, line 7, strike the period and insert ''; and''.

On page 326, between lines 7 and 8, insert the following:

''(D) effective integration of technology into curricula and instruction to enhance the learning environment and improve student academic achievement, performance, technology literacy, and related 21st century skills; and

''(E) ability to collect, manage, and analyze data, including through use of technology, to inform teaching, decision making, and school improvement efforts and to increase accountability.

On page 326, line 11, insert '', other for profit or nonprofit entities, and through distance education'' after ''education''.

On page 344, line 5, strike ''and''.

On page 344, line 10, strike the period and insert ''; and''.

On page 344, between lines 10 and 11, insert the following:

''(5) improve and expand training of math and science teachers, including in the effective integration of technology into curricula and instruction.

On page 348, line 8, strike ''and''.

On page 348, line 15, strike the period and insert ''; and''.

On page 348, between lines 15 and 16, insert the following:

''(5) a description of how the activities to be carried out by the eligible partnership will both enable teachers to more effectively integrate technology into the curricula and instruction and, as appropriate, use technology to provide distance training and facilitate peer networks.

On page 349, line 10, insert ''and technology-based teaching methods'' after ''methods''.

On page 349, line 19, strike ''experiment oriented'' and insert ''innovative''.

On page 356, line 21, strike the period and insert '', and to improve the ability of institutions of higher education to carry out such programs''.

On page 358, line 17, insert ''both'' after ''would''.

On page 358, line 24, strike the semi colon and insert ''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;''.

Beginning on page 360, strike line 23 through line 7, page 361, and insert the following:

''(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 ability to be self-directed learners in digital learning environments;

''(E) integrate technology to enhance the degree to which curricula and instruction are engaging, individualized and self-paced, include real-time and real-world content and exploration, promote student collaboration and problem-solving, and enable students to become self-directed and life-long learners; and

''(F) use technology to collect, manage and analyze data to inform their teaching and decision-making;''.

On page 361, strike lines 22 through 24 and insert the following:

''(6) subject to section 2232(c)(2), acquiring technology equipment, networking capabilities, infrastructure and software and digital curriculum to carry out the project.

On page 365, line 10, insert ''and teacher training in technology under section 3122'' before ''prior''.

On page 367, line 24, strike the period and insert ''and have a substantial demonstrated need for assistance in acquiring and integrating technology.''.

On page 369, strike line 3 through line 22, and insert the following:

''(1) outlines the long-term strategies for improving student performance, academic achievement, and technology literacy, and related 21st century skills 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 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;

''(3) provides assurance that financial assistance provided under this part shall supplement, not supplant, State and local funds;

''(4) describes how the State will encourage and support the integration of innovative technology to enhance the degree to which curricula and instruction are engaging, individualized and self-paced, include real-time and real-world content and exploration, promote student collaboration and problem solving, enables students to become self directed life-long learners, and therefore improve student academic achievement, technology literacy, and related 21st century skills; and

''(5) 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.

On page 370, strike line 5 through line 3, page 371, and insert the following:

''(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 and related 21st century skills;

''(2) providing ongoing professional development in the integration of quality educational technologies into school curriculum to enable teachers to enhance the degree to which curricula and instruction are engaging, individualized and self-paced, including real-time and real-world content and exploration, promote student collaboration and problem solving, enable students to become self-directed life-long learners, and therefore improve student academic achievement, technology literacy and 21 century skills, including connectivity linkages, resources, and services, such as hardware, software, and digital curriculum, for use by teachers, students, and school library media personnel in the classroom or in school library media centers;

''(3) 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;

''(4) providing educational services for adults and families;

''(5) repairing and maintaining school technology equipment;

''(6) 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; and

''(7) using technology to promote parent and family involvement and support communications between parents, teachers, and students.

''(b) SPECIAL RULE.—A local educational agency receiving a grant under this part shall use at least 30 percent of allocated funds to provide, either directly or through a grant or contract with a for-profit or non-profit entity, sustained and intensive high-quality professional development to enable teachers and administrators to more effectively integrate technology into curricula and instruction to enhance learning environments, including training in the use of technology to—

''(1) access data and resources to develop curricula and instructional materials and integrate such data and resources into the curricula and instruction;

''(2) enable teachers to use the Internet to communicate with parents, administrators, and other teachers and retrieve Internet-based learning resources;

''(3) lead to improvements in classroom instruction in the core academic subject areas to better prepare students to meet challenging State content and student performance standards;

''(4) enhance the degree to which curricula and instruction are engaging, individualized and self-paced, include real-time and real-world content and exploration, promote student collaboration and problem-solving, enable students to become self-directed life-long learners, and therefore improve student academic achievement, technology literacy and related 21st century skills; and

''(5) collect, manage, and analyze data, including student achievement data, to inform teaching, decision making and school improvement efforts and to increase accountability.

Beginning on page 371, strike line 14 through line 13, page 373, and insert the following:

''(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, technology literacy and related 21st century skills;

''(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, including by enhancing the degree to which curricula and instruction are engaging, individualized and self-paced, include real-time and real-world content and exploration, promote student collaboration and problem solving, and enable students to be self-directed, life-long learners;

''(3) 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;

''(4) 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;

''(5) the projected cost of technologies to be acquired and related expenses needed to implement the plan;

''(6) 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;

''(7) a description of a process for the ongoing evaluation of how technologies acquired under this part will be integrated into the school curriculum; and will affect student academic achievement, performance, technology literacy, and related 21st century skills as related to challenging State content standards and State student performance standards in all subjects; and

''(8) a description of the evaluation plan that the local educational agency will carry out pursuant to section 2308(a).

Beginning on page 374, strike line 19 through line 2, page 375, and insert the following:

''(1) increased professional development and increased effective use of technology in educating students;

''(2) increased student academic achievement, performance, and technology literacy and related 21st century skills;

''(3) increased access to technology in the classroom, especially in low-income schools;

''(4) increased degree to which curricula and instruction are engaging, individualized and self-paced, promote student collaboration and problem solving, and enable students to become self-directed, life-long learners; and

''(5) other indicators reflecting increased student academic achievement or student performance.

On page 375, line 13, strike ''in all of the areas''.

On page 379, strike line 4 through line 19, and insert the following:

''(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.''

SA 485. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 349, line 18, strike the quote and period.

On page 349, between lines 18 and 19, insert the following:

''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) organize activities to identify and disseminate findings regarding the conditions and practices under which educational technology is effective in increasing student academic achievement;

''(2) organize activities to identify and disseminate findings regarding 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;

''(3) conduct, through the Office of Educational Research and Improvement, in consultation with the Office of Educational Technology, an independent, longitudinal study using control groups on the effectiveness of the uses of educational technology;

''(4) award grants or contracts, pursuant to a peer review process, to fund the independent evaluations of programs that are comprehensive, innovative, or research-based and integrate technology into teaching and learning;

''(5) develop tools and provide resources, including technical assistance, to support the activities described in this section; and

''(6) 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.

''(c) PERMISSIVE USE.—

''(1) IN GENERAL.—In carrying out the program established under subsection (a), the Secretary may award grants, pursuant to a peer review process, to local educational agencies or partnerships for research-based or innovative programs that use technology in education.

''(2) PARTNERSHIP.—In this subsection, the term 'partnership' means a local educational agency and a State, institution of higher education, or public or private nonprofit entity or agency.

''(3) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

''(A) develop innovative models using electronic networks or other forms of distance learning to provide challenging courses which are otherwise not readily available to students in a particular school district, particularly in rural areas;

''(B) increase access to technology to those residing in districts served by high-need local educational agencies;

''(C) implement comprehensive models that use innovative, proven, or research-based practices, integrate technology into the curricula and instruction, and enhance the learning environment to improve student academic achievement and technology literacy; and

''(D) are carried out by a partnership.

''(4) APPLICATION.—A local educational agency or partnership desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the project and how it would achieve the purposes of this subsection;

''(B) a detailed plan for the independent evaluation of the project to determine the impact on the academic achievement of students served under such project, including as appropriate those conditions and practices that increase the ability of teachers to effectively integrate technology into the curricula and instruction, that enhance the learning environment and opportunities, and that increase student performance, technology literacy, and related 21st century skills;

''(C) a detailed plan to make widely available, including through dissemination on the Internet and to other local educational agencies in the State, the findings identified through the project; and

''(D) as appropriate, a detailed plan for making widely available, including to other local educational agencies in the State, the opportunity to directly participate in or benefit from the activities carried out by the project.

''(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to States, local educational agencies, and other grantees under this section (directly or through the competitive award of grants or contracts) in order to assist such States, local educational agencies, and other grantees to achieve the purposes of this section.

''(e) NON-FEDERAL SHARE.—

''(1) IN GENERAL.—The Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which may be in the form of cash or in-kind contributions fairly valued.

''(2) INCREASE.—The Secretary may increase the non-Federal share required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

''(3) MAXIMUM.—The non-Federal share required under this subsection may not exceed 50 percent of the cost of the activities assisted under a grant or contract under this section.

''(4) NOTICE.—The Secretary shall publish in the Federal Register the non-Federal share required under this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(2) LIMITATION.—Not more than 5 percent of the funds made available to a recipient under this section for any fiscal year may be used by such recipient for administrative costs.''.

SA 486. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 586, between lines 18 and 19, insert the following:

SEC. 405. SMALLER LEARNING COMMUNITIES.

Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

''PART E—SMALLER LEARNING COMMUNITIES

''SEC. 4501. 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.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal year 2002 and for each of the next 6 succeeding fiscal years.''.

SA 487. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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.

SA 488. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. 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.

SA 489. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING AFFORDABLE HOUSING.

(a) FINDINGS.—The Senate finds that—

(1) according to the National Low-Income Housing Coalition, there is no county, metro area or state in the country where a full-time minimum wage worker can afford the fair market rent for a 1-, 2- or 3-bedroom home;

(2) the national median housing wage is $12.47 an hour, more than twice the Federal minimum wage of $5.15 per hour;

(3) 4,900,000 unassisted renter households in 1999 had worst-case housing needs, paying more than half of their income for housing, or living in severely substandard housing;

(4) an additional 5,000,000 assisted renter households may also live in substandard housing;

(5) as many as 1,000,000 people are homeless in the United States;

(6) of the 34,000,000 renter households in the United States, 7,700,000 have extremely low incomes (defined as 30 percent of the area median income or less);

(7) besides low-wage workers, the population of extremely low-income rental households includes elderly and disabled people whose only income is from Supplemental Security Income or other fixed income sources;

(8) in the aggregate, there are only 4,900,000 units of rental housing that are affordable to these households, thus an absolute shortage of 2,800,000 units;

(9) only 2,300,000 of the available 4,900,000 affordable rental units are actually occupied by extremely low-income households;

(10) overall, there is a shortage of 5,300,000 units, affordable for the poorest renter households; and

(11) the lack of stable housing affects the ability of children to succeed in school, and children who are homeless struggle in school, as evidenced by the facts that—

(A) 45 percent of children who are homeless do not attend school on a regular basis while they are homeless; and

(B) compared with other children, children who are homeless are 4 times as likely to have development delays, twice as likely to have learning disabilities, and twice as likely to repeat a grade, most often due to frequent absences and moves to new schools.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) many communities across the United States, urban and rural, large and small, are experiencing a severe affordable housing crisis;

(2) safe, stable, affordable housing is critical to the well-being of families and children;

(3) safe, stable, affordable housing is critical to the ability of children to succeed in school; and

(4) this Congress should consider legislation that would begin to address the current affordable housing crisis, including legislation to promote the production of new affordable housing units and legislation to preserve existing affordable housing units.

SA 490. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. REDUCTION OF CHILD POVERTY.

(a) REPORT TO CONGRESS REGARDING EXTENT AND SEVERITY OF CHILD POVERTY.—

(1) IN GENERAL.—Not later than January 1, 2002, and prior to any reauthorization of the temporary assistance to needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) for any fiscal year after fiscal year 2002, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary''), subject to paragraph (3), shall report to Congress on the extent and severity of child poverty in the United States. Such report shall, at a minimum—

(A) determine for the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105)—

(i) whether the rate of child poverty in the United States has increased;

(ii) whether the children who live in poverty in the United States have gotten poorer; and

(iii) how changes in the availability of cash and non-cash benefits to poor families have affected child poverty in the United States;

(B) identify alternative methods for defining child poverty that are based on consideration of factors other than family income and resources, including consideration of a family's work-related expenses; and

(C) contain multiple measures of child poverty in the United States that may include the child poverty gap and the extreme poverty rate.

(2) LEGISLATIVE PROPOSAL.—If the Secretary determines that during the period since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) the extent or severity of child poverty in the United States has increased to any extent, the Secretary, subject to paragraph (3), shall include with the report to Congress required under paragraph (1) a legislative proposal addressing the factors that led to such increase.

(3) CONSULTATION REQUIRED.—The Secretary shall consult with appropriate experts in the field of child poverty in preparing the report and, if applicable, the legislative proposal, required under this subsection.

(b) ADDITION OF POVERTY REDUCTION BONUS TO TANF.—Section 403(a) of the Social Security Act (42 U.S.C. 603(a)), is amended by adding at the end the following:

''(6) BONUS TO REWARD STATES THAT REDUCE POVERTY.—

''(A) IN GENERAL.—The Secretary shall make a grant pursuant to this paragraph to each State for each fiscal year beginning with fiscal year 2003 for which the State is a qualified poverty reduction State, as determined under subparagraph (C).

''(B) AMOUNT OF GRANT.—With respect to a fiscal year, each State that the Secretary determines is a qualified poverty reduction State for that fiscal year shall receive a grant in an amount equal to the ratio of the amount appropriated under subparagraph (D) for that fiscal year to the total number of all such States for that fiscal year.

''(C) DETERMINATION OF QUALIFIED POVERTY REDUCTION STATES.—

''(i) DEMONSTRATION OF IMPROVED OUTCOMES FOR CURRENT AND FORMER RECIPIENTS OF ASSISTANCE.—For purposes of subparagraph (A), a State shall be considered a qualified poverty reduction State for a fiscal year if, with respect to the fiscal year, the State is one of the 10 States with the greatest year-to-year decline (or least year-to-year increase) in the child poverty rate adjusted by the severity of poverty. For purposes of this subclause, the child poverty rate adjusted by the severity of poverty shall be determined with respect to a State for a fiscal year by multiplying—

''(I) the State's percentage of children with family income below the poverty line for that fiscal year; by

''(II) the average difference per poor child in the State between the child's family income and the poverty line.

''(ii) DETERMINATION OF INCOME.—For purposes of clause (i), the Secretary shall, to the extent feasible, consider the following in calculating a family's income:

''(I) Cash income, such as earnings, child support received by the family, and government cash payments.

''(II) Benefits received under the Food Stamp Act of 1977.

''(III) Federal, State, or local income taxes paid by the family for the preceding taxable year and the refundable portion of any tax credits received for that year.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2002 and each fiscal year thereafter, $200,000,000 to make the grants required under this paragraph.''.

SA 491. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. . 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.

SA 492. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

SEC. . STUDY OF GAMBLING ON COLLEGE AND UNIVERSITY CAMPUSES.

At the appropriate place insert the following:

(a) ESTABLISHMENT OF PANEL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish a panel, which shall be composed of Federal, State, and local government law enforcement officials, to conduct a study of illegal college sports gambling.

(b) CONTENTS OF STUDY.—The study conducted by the panel established under subsection (a) shall include an analysis of—

(1) the scope and prevalence of illegal college sports gambling, including unlawful sports gambling (as defined in section 3702 of title 28, United States Code);

(2) the role of organized crime in illegal gambling on college sports;

(3) the role of State regulators and the legal sports books in Nevada in assisting law enforcement to uncover illegal sports gambling and related illegal activities;

(4) the enforcement and implementation of the Professional and Amateur Sports Protection Act of 1992, including whether it has been adequately enforced;

(5) the effectiveness of steps taken by institutions of higher education to date, whether individually or through national organizations, to reduce the problem of illegal gambling on college sports;

(6) the factors that influence the attitudes or levels of awareness of administrators, professors, and students, including student athletes, about illegal gambling on college sports;

(7) the effectiveness of new countermeasures to reduce illegal gambling on college sports, including related requirements for institutions of higher education and persons receiving Federal education funds;

(8) potential actions that could be taken by the National Collegiate Athletic Association to address illegal gambling on college and university campuses; and

(9) other matters relevant to the issue of illegal gambling on college sports as determined by the Attorney General.

(c) REPORT TO CONGRESS.—Not later than 12 months after the establishment of the panel under this section, the Attorney General shall submit to Congress a report on the study conducted under this section, which shall include—

(1) recommendations for actions colleges, universities, and the National Collegiate Athletic Association should implement to address the issue of illegal gambling on college sports;

(2) recommendations for intensive educational campaigns which the National Collegiate Athletic Association could implement to assist in the effort to prevent illegal gambling on college sports;

(3) recommendations for any Federal and State legislative actions to address the issue of illegal gambling on college sports; and

(4) recommendations for any administrative or private sector actions to address the issue of illegal gambling on college sports.

SA 493. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . INCREASED PENALTIES FOR ILLEGAL GAMBLING.

(a) INTERSTATE TRANSMISSION OF BETS OR INFORMATION ASSISTING IN PLACING BETS ON SPORTING EVENTS.—Section 1084(a) of title 18, United States Code, is amended by striking ''two'' and inserting ''5''.

(b) INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA.—Section 1953(a) of title 18, United States Code, is amended by adding at the end the following: ''If the matter carried or sent in interstate or foreign commerce was intended by the defendant to be used to assist in the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''

(c) ILLEGAL GAMBLING BUSINESS.—Section 1955(a) of title 18, United States Code, is amended by adding at the end the following: ''If the gambling business included the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''

(d) INTERSTATE TRAVEL TO PROMOTE AND CONDUCT AN ILLEGAL GAMBLING BUSINESS.—Section 1952 of title 18, United States Code, is amended by adding at the end the following: ''(d) If the offense violated paragraph (1) or (3) of subsection (a) and the illegal activity included the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''

(e) SPORTS BRIBERY.—Section 224(a) of title 18, United States Code, is amended by adding at the end the following: ''If the purpose of the bribery is to affect the outcome of a bet or wager placed on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''

SA 494. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . NATIONAL MINIMUM GAMBLING AGE.

Notwithstanding any other provision of law it shall be unlawful for a governmental entity to authorize by law or compact that a person under the age of 21 years may place a wager or otherwise engage in organized gambling activity. A civil action to enjoin a violation of this subsection may be commenced in an appropriate district court of the United States by Attorney General of the United States.

SA 495. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . INCREASED PENALTIES FOR ILLEGAL GAMBLING.

(a) INTERSTATE TRANSMISSION OF BETS OR INFORMATION ASSISTING IN PLACING BETS ON SPORTING EVENTS.—Section 1084(a) of title 18, United States Code, is amended by striking ''two'' and inserting ''5''.

(b) INTERSTATE TRANSPORTING OF WAGERING PARAPHERNALIA.—Section 1953(a) of title 18, United States Code, is amended by adding at the end the following: ''If the matter carried or sent in interstate or foreign commerce was intended by the defendant to be used to assist in the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''

(c) ILLEGAL GAMBLING BUSINESS.—Section 1955(a) of title 18, United States Code, is amended by adding at the end the following: ''If the gambling business included the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(d) INTERSTATE TRAVEL TO PROMOTE AND CONDUCT AN ILLEGAL GAMBLING BUSINESS.—Section 1952 of title 18, United States Code, is amended by adding at the end the following: ''(d) If the offense violated paragraph (1) or (3) of subsection (a) and the illegal activity included the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(e) SPORTS BRIBERY.—Section 224(a) of title 18, United States Code, is amended by adding at the end the following: ''If the purpose of the bribery is to affect the outcome of a bet or wager placed on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''

SA 496. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . INCREASED PENALTIES FOR ILLEGAL GAMBLING.

(a) INTERSTATE TRANSMISSION OF BETS OR INFORMATION ASSISTING IN PLACING BETS ON SPORTING EVENTS.—Section 1084(a) of title 18, United States Code, is amended by striking ''two'' and inserting ''5''.

(b) INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA.—Section 1953(a) of title 18, United States Code, is amended by adding at the end the following: ''If the matter carried or sent in interstate or foreign commerce was intended by the defendant to be used to assist in the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''

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SA 497. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . STUDY OF GAMBLING ON COLLEGE AND UNIVERSITY CAMPUSES.

(a) ESTABLISHMENT OF PANEL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish a panel, which shall be composed of Federal, State, and local government law enforcement officials, to conduct a study of illegal college sports gambling

(b) CONTENTS OF STUDY.—The study conducted by the panel established under subsection (a) shall include an analysis of—

(1) the scope and prevalence of illegal college sports gambling, including unlawful sports gambling (as defined in section 3702 of title 28, United States Code);

(2) the role of organized crime in illegal gambling on college sports;

(3) the role of State regulators and the legal sport books in Nevada in assisting law enforcement to uncover illegal sports gambling and related illegal activities;

(4) the enforcement and implementation of the Professional and Amateur Sports Protection Act of 1992, including whether it has been adequately enforced;

(5) the effectiveness of steps taken by institutions of higher education to date, whether individually or through national organizations, to reduce the problem of illegal gambling on college sports;

(6) the factors that influence the attitudes or levels of awareness of administrators, professors, and students, including student athletes, about illegal gambling on college sports;

(7) the effectiveness of new countermeasures to reduce illegal gambling on college sports, including related requirements for institutions of higher education and persons receiving Federal education funds;

(8) potential actions that could be taken by the National Collegiate Athletic Association to address illegal gambling on college and university campuses; and

(9) other matters relevant to the issue of illegal gambling on college sports as determined by the Attorney General.

(c) REPORT TO CONGRESS.—Not later than 12 months after the establishment of the panel under this section, the Attorney General shall submit to Congress a report on the study conducted under this section, which shall include—

(1) recommendations for actions colleges, universities, and the National Collegiate Athletic Association should implement to address the issue of illegal gambling on college sports;

(2) recommendations for intensive educational campaigns which the National Collegiate Athletic Association could implement to assist in the effort to prevent illegal gambling on college sports;

(3) recommendations for any Federal and State legislative actions to address the issue of illegal gambling on college sports; and

(4) recommendations for any administrative or private sector actions to address the issue of illegal gambling on college sports.

SA 498. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . STUDY OF GAMBLING ON COLLEGE AND UNIVERSITY CAMPUSES.

(a) ESTABLISHMENT OF PANEL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish a panel, which shall be composed of Federal, State, and local government law enforcement officials, to conduct a study of illegal college sports gambling

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(2) the role of organized crime in illegal gambling on college sports;

(3) the role of State regulators and the legal sports books in Nevada in assisting law enforcement to uncover illegal sports gambling and related illegal activities;

(4) the enforcement and implementation of the Professional and Amateur Sports Protection Act of 1992, including whether it has been adequately enforced;

(5) the effectiveness of steps taken by institutions of higher education to date, whether individually or through national organizations, to reduce the problem of illegal gambling on college sports;

(6) the factors that influence the attitudes or levels of awareness of administrators, professors, and students, including student athletes, about illegal gambling on college sports;

(7) the effectiveness of new countermeasures to reduce illegal gambling on college sports, including related requirements for institutions of higher education and persons receiving Federal education funds;

(8) potential actions that could be taken by the National Collegiate Athletic Association to address illegal gambling on college and university campuses; and

(9) other matters relevant to the issue of illegal gambling on college sports as determined by the Attorney General.

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(1) recommendations for actions colleges, universities, and the National Collegiate Athletic Association should implement to address the issue of illegal gambling on college sports;

(2) recommendations for intensive educational campaigns which the National Collegiate Athletic Association could implement to assist in the effort to prevent illegal gambling on college sports;

(3) recommendations for any Federal and State legislative actions to address the issue of illegal gambling on college sports; and

(4) recommendations for any administrative or private sector actions to address the issue of illegal gambling on college sports.

SA 499. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . NATIONAL MINIMUM GAMBLING AGE.

Notwithstanding any other provision of law it shall be unlawful for a governmental entity to authorize by law or compact that a person under the age of 21 years may place a wager or otherwise engage in organized gambling activity. A civil action to enjoin a violation of this subsection may be commenced in an appropriate district court of the United States by the Attorney General of the United States.

SA 500. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . NATIONAL MINIMUM GAMBLING AGE.

Notwithstanding any other provision of law it shall be unlawful for a governmental entity to authorize by law or compact that a person under the age of 21 years may place a wager or otherwise engage in organized gambling activity. A civil action to enjoin a violation of this subsection may be commenced in an appropriate district court of the United States by Attorney General of the United States.

SA 501. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. BLOCK GRANT OPTIONS.

(a) STATE OPTIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each State shall notify the Secretary regarding the State's election to receive the State's portion of the applicable funding described in paragraph (2) according to one of the following options:

(A) STATE BLOCK GRANT OPTION.—The State may receive the funding pursuant to a State allotment described in subsection (b)(1)(A).

(B) LOCAL BLOCK GRANT OPTION.—The State may direct the Secretary to send the funding directly to local educational agencies in the State pursuant to a local allotment described in subsection (b)(1)(B).

(C) FEDERAL STATUTE OPTION.—The State may receive the funding according to the provisions of law described in paragraph (2).

(2) APPLICABLE FUNDING.—In this subsection, the term ''applicable funding'' means all funds that are appropriated for the Department of Education for fiscal year 2002 or any succeeding fiscal year to carry out programs or activities under the following provisions of law:

(A) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (as amended by this Act), other than titles VII and VIII of that Act.

(B) The School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(C) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(b) BLOCK GRANTS.—

(1) ALLOTMENTS.—

(A) STATES.—From the total applicable funding available for a fiscal year, the Secretary may make allotments to each State selecting the option described in subsection (a)(1)(A) in an amount that bears the same relation to such total applicable funding as the number of individuals in the State who are aged 5 through 17 bears to the total number of such individuals in all States.

(B) LOCAL EDUCATIONAL AGENCIES.—From the total applicable funding available for a fiscal year, the Secretary may make allotments to each local educational agency in a State selecting the option described in subsection (a)(1)(B) in an amount that bears the same relation to such total applicable funding as the number of individuals in the school district served by the local educational agency who are aged 5 through 17 bears to the total number of such individuals in all school districts served by all local educational agencies in all States.

(C) ENROLLMENT DETERMINATION.—The Secretary shall determine the number of children described in subparagraphs (A) and (B)—

(i) for the academic year for which the determination is made, after the beginning of the academic year; and

(ii) on the basis of the most recent data available to the Secretary.

(2) DISTRIBUTION OF ALLOTTED FUNDS.—

(A) RESERVATIONS.—

(i) STATES.—Each State that receives funds allotted under paragraph (1) may reserve not more than 1 percent of the funds for the cost of administration, evaluation, reporting, and other activities related to activities assisted under this section.

(ii) LOCAL EDUCATIONAL AGENCIES.—Each local educational agency that receives funds allotted under paragraph (1) may reserve not more than 2 percent of the funds for the costs of administration, overhead costs, or indirect costs.

(B) AWARDS.—In States selecting the State block grant option described in subsection (a)(1)(A), all funds allotted under paragraph (1)(A) that are not reserved under subparagraph (A)(i) shall be made available, in accordance with subparagraph (C), on behalf of each student who resides in the State and is enrolled in a public elementary school or secondary school, or in a private or home elementary school or secondary school, located in the State. In States selecting the local block grant option described in subsection (a)(1)(B), all funds allotted under paragraph (1)(B) that are not reserved under subparagraph (A)(ii) shall be made available, in accordance with subparagraph (C), on behalf of each student who resides in the school district served by a local educational agency and is enrolled in a public elementary school or secondary school, or in a private elementary school or secondary school, in the school district. In States selecting the State block grant option or the local block grant option, the amount allotted on behalf of each student shall be adjusted in accordance with subparagraph (E).

(C) RECIPIENTS.—Funds awarded under subparagraph (B)—

(i) in the case of a public school student, including a charter school student, shall be made available to the public school or charter school, respectively; and

(ii) in the case of a private school student, shall be made available to the parent or legal guardian of the student.

(D) USES.—

(i) PUBLIC SCHOOL STUDENTS.—Each public school that receives assistance under this section shall use the assistance for any qualified elementary and secondary education expenses.

(ii) PRIVATE SCHOOL STUDENTS.—Each parent or guardian of a private school student that receives assistance under this Act shall use the assistance to pay the costs of attendance at the private school.

(E) ADJUSTMENTS.—A State or local educational agency shall adjust the amount awarded for students under subparagraph (B) to account for—

(i) high need students, such as students from poor families and students with limited English proficiency; or

(ii) different costs of living in urban and rural areas.

(c) FEDERAL STATUTE OPTIONS.—

(1) IN GENERAL.—From the applicable funding that remains after making the allotments under subparagraphs (A) and (B) of subsection (b)(1) for a fiscal year, the Secretary may make awards according to the provisions of law described in subsection (a)(2), to State and local recipients, in States selecting the option described in subsection (a)(1)(C).

(2) PERCENTAGE REDUCTIONS.—The Secretary, after making the allotments under subparagraphs (A) and (B) of subsection (b)(1) for a fiscal year, shall reduce the total amount of applicable funding available to carry out the provisions of law described in subsection (a)(2) for the fiscal year, for any State selecting the option described in subsection (a)(1)(C), by an equal percentage for each such provision.

(d) ACCOUNTABILITY.—

(1) IN GENERAL.—Each entity receiving assistance under this section shall—

(A) use the funds to supplement and not supplant State and local funds; and

(B) involve parents and members of the public in planning for the use of funds provided under this section, such as through a representative advisory committee.

(2) REPORTS.—

(A) IN GENERAL.—Each local educational agency receiving an allotment under this section shall prepare and submit to the State, and each State receiving an allotment under this section shall prepare and submit to Congress, a report regarding the distribution and use of the allotted funds, and how the use of the funds effects student achievement.

(B) AVAILABILITY.—Each State and local educational agency submitting a report under subparagraph (A) shall make copies of the report available to parents and other members of the public.

(C) SPECIAL RULE.—Each State or local educational agency receiving an allotment

under this section that has developed or established challenging content or student performance standards shall include in the report submitted under subparagraph (A) information regarding student achievement with respect to the standards.

(e) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 3(18) of the Elementary and Secondary Education Act of 1965 (as amended by this Act).

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term ''qualified elementary and secondary education expenses'' means—

(A) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of a student at a school; or

(B) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a school in connection with such enrollment or attendance.

(3) SCHOOL.—The term ''school'' means any school that provides kindergarten education, elementary education or secondary education, as determined under State law.

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

(5) 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 Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SA 502. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1. THE EDUCATION OPPORTUNITY TAX RELIEF; SHORT TITLE.

This Act may be cited as the ''Education Opportunity Tax Credit Act''.

SEC. 2. REFUNDABLE CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualifying students (as defined in subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the qualified elementary and secondary education expenses with respect to such students which are paid or incurred by the individual during such taxable year.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed the greater of—

''(1) $1000 per qualifying student, or

''(2) $2000.

''(c) QUALIFYING STUDENT.—For purposes of this section, the term ''qualifying student'' means a dependent of the taxpayer (within the meaning of section 152) who is enrolled in school on a full-time basis.

''(d) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tutoring and computer technology or equipment expenses.

''(2) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' has the meaning given such term by section 170(e)(6)(E)(i) and includes Internet access and related services.

''(e) SCHOOL.—For purposes of this section, the term 'school' means any public, charter, private, religious, or home school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any contribution for which credit is allowed under this section.

''(g) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.''.

(b) CONFORMING AMENDMENTS.

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or'' before ''enacted'' and by inserting before the period at the end '', or from section 35 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 35 and inserting the following new items:

''Sec. 35. Credit for elementary and secondary school expenses.

''Sec. 36. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SA 503. Mr. BENNETT (for himself, Ms. COLLINS, and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 649, line 4, strike ''(1)'' and insert ''(1)(A)''.

On page 649, line 6, strike ''and'' and insert ''or''.

On page 649, between lines 6 and 7, insert the following:

''(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''.

On page 651, line 3, strike ''(1)'' and insert ''(1)(A)''.

On page 651, line 5, strike ''and'' and insert ''or''.

On page 651, between lines 5 and 6, insert the following:

''(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''.

SA 504. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 145, line 6, strike ''32'' and insert ''36''.

SA 505. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

TITLE ____—NATIVE AMERICAN EDUCATION IMPROVEMENT

SEC. ____001. 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. ____101. 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 school board of the school, in consultation with the Administrator of the school, provided that in the case where the School Board and the Administrator fail to agree on the type of accreditation to apply, the decision of the school board with the approval of the tribal governing body shall be final.

''(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 non-accreditation; 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. ___201. 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. ___202. 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. ___203. 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.''.

SA 506. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 319, between lines 19 and 20, insert the following:

''(12) Funding projects and carrying out programs to encourage men to become elementary school teachers.''

SA 507. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 350, between lines 4 and 5, insert the following:

''(9) 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.

''(10) Training teachers to ensure that the teachers meet the educational needs of historically underserved students, including girls and young women, especially with respect to mathematics and science.''

SA 508. Ms. COLLINS (for herself and Mr. CONRAD) submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 648, line 18, strike ''or 4116'' and insert ''4116, or 5331(b)''.

On page 650, line 25, strike ''or 4116'' and insert ''4116, or 5331(b)''.

SA 509. Ms. COLLINS (for herself and Mr. CONRAD) submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 778, strike lines 4 through 10 and insert the following:

''SEC. 6202A. 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 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.

''(b) REPORT.—

''(1) IN GENERAL.—The Comptroller General of the United States shall, not later than January 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. 6203. AUTHORIZATION OF APPROPRIATIONS.

''(a) STATE ASSESSMENT GRANTS.—

''(1) IN GENERAL.—For the purpose of developing and implementing the standards and assessments required under section 1111, there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(2) SUPPLEMENTAL STATE ASSESSMENT GRANTS.—

''(A) ADDITIONAL AUTHORIZATION.—In addition to the funds authorized to be appropriated under paragraph (1), for the purpose of developing and implementing the standards and assessments required under section

1111, there is authorized to be appropriated $400,000,000 for fiscal year 2002.

''(B) APPLICATION.—No funds may be appropriated under subparagraph (A) until the Comptroller General of the United States meets the requirements of section 6202A.

SA 510. Ms. COLLINS (for herself, Mr. HATCH, Mr. COCHRAN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING TAX INCENTIVES SUPPORTING TEACHERS.

It is the sense of the Senate that the Senate should pass legislation during the First Session of the 107th Congress that—

(1) provides an above-the-line deduction for the expenses of teachers and teacher aides for qualified professional development that—

(A) should directly relate to the curriculum and academic subjects in which a teacher provides instruction or be designed to help a teacher understand and use State standards;

(B) should also be tied to challenging State or local content standards and student performance standards as well as to strategies and programs that demonstrate effectiveness in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of an eligible teacher; and

(C) generally should be of sufficient intensity and duration to have a positive and lasting impact on the performance of an eligible teacher in the classroom and should be part of a program of professional development that has been approved and certified by the appropriate local educational agency as furthering the goals specified in subparagraphs (A) and (B); and

(2) provides a credit against income tax (limited to $100 per individual) for the qualified classroom expenses paid or incurred by an elementary or secondary school teacher, instructor, counselor, aide, or principal, including expenses for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by a teacher in the classroom.

SA 511. Ms. COLLINS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—TEACHER SUPPORT

SEC. ___01. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

''SEC. 222. QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an eligible teacher, there shall be allowed as a deduction an amount equal to the qualified professional development expenses paid or incurred by the taxpayer during the taxable year.

''(b) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of this section—

''(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

''(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction.

''(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

''(i) is—

''(I) directly related to the curriculum and academic subjects in which an eligible teacher provides instruction, or

''(II) designed to enhance the ability of an eligible teacher to understand and use State standards for the academic subjects in which such teacher provides instruction,

''(ii) may—

''(I) provide instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented), or

''(II) provide instruction in how best to discipline children in the classroom and identify early and appropriate interventions to help children described in subclause (I) to learn,

''(iii) is tied to challenging State or local content standards and student performance standards,

''(iv) is tied to strategies and programs that demonstrate effectiveness in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of an eligible teacher,

''(v) is of sufficient intensity and duration to have a positive and lasting impact on the performance of an eligible teacher in the classroom (which shall not include 1-day or short-term workshops and conferences), except that this clause shall not apply to an activity if such activity is 1 component described in a long-term comprehensive professional development plan established by an eligible teacher and the teacher's supervisor based upon an assessment of the needs of the teacher, the students of the teacher, and the local educational agency involved, and

''(vi) is part of a program of professional development which is approved and certified by the appropriate local educational agency as furthering the goals of the preceding clauses.

''(C) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as in effect on the date of the enactment of this section.

''(2) ELIGIBLE TEACHER.—

''(A) IN GENERAL.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher or aide in an elementary or secondary school for at least 720 hours during a school year.

''(B) ELEMENTARY OR SECONDARY SCHOOL.—The terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as so in effect.

''(c) DENIAL OF DOUBLE BENEFIT.—

''(1) IN GENERAL.—No other deduction or credit shall be allowed under this chapter for any amount taken into account for which a deduction is allowed under this section.

''(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified professional development expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following new paragraph:

''(18) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—The deduction allowed by section 222.''.

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 222 and inserting the following new items:

''Sec. 222. Qualified professional development expenses.

''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. ___02. CREDIT TO ELEMENTARY AND SECONDARY SCHOOL TEACHERS WHO PROVIDE CLASSROOM MATERIALS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30B. CREDIT TO ELEMENTARY AND SECONDARY SCHOOL TEACHERS WHO PROVIDE CLASSROOM MATERIALS.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible teacher, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified elementary and secondary education expenses which are paid or incurred by the taxpayer during such taxable year.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed $100.

''(c) DEFINITIONS.—

''(1) ELIGIBLE TEACHER.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school on a full-time basis for an academic year ending during a taxable year.

''(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term 'qualified elementary and secondary education expenses' means expenses for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by an eligible teacher in the classroom.

''(3) ELEMENTARY OR SECONDARY SCHOOL.—The term 'elementary or secondary school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(d) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any expense for which credit is allowed under this section.

''(2) APPLICATION WITH OTHER CREDITS.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year, reduced by the sum of the credits allowable

under subpart A and the preceding sections of this subpart, over

''(B) the tentative minimum tax for the taxable year.

''(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 30B. Credit to elementary and secondary school teachers who provide classroom materials.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SA 512. Mr. COCHRAN (for himself, Mr. WARNER, Mr. CHAFEE, Mr. GRASSLEY, Mr. ENSIGN, Mr. DOMENICI, Mr. HATCH, Mr. STEVENS, Mr. SPECTOR, Mrs. HUTCHISON, and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

TITLE ___—EDUCATION PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. ___01. 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 X—EDUCATION PROGRAMS OF NATIONAL SIGNIFICANCE

''PART A—READING IS FUNDAMENTAL—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

''SEC. 10101. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

''(a) 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 students, that motivate children to read.

''(b) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (a) 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 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.

''(c) 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.

''(d) 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.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $23,000,000 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. 10151. 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. 10152. 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. 10201. 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. 10202. READY TO LEARN.

''(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities described in section 10203(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. 10203. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants under section 10202 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. 10204. DUTIES OF SECRETARY.

''The Secretary is authorized—

''(1) to award grants to eligible entities described in section 10203(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 after-school 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. 10205. APPLICATIONS.

''Each entity desiring a grant under section 10202 or 10204 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. 10206. REPORTS AND EVALUATION.

''(a) ANNUAL REPORT TO SECRETARY.—An eligible entity receiving funds under section 10202 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 10202, 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 10203(a); and

''(2) a description of the training materials made available under section 10204(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. 10207. ADMINISTRATIVE COSTS.

''With respect to the implementation of section 10203, 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. 10208. 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. 10209. 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 10203.

''Subpart 2—Ready to Teach

''SEC. 10251. 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. 10252. 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 10254(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. 10253. APPLICATION REQUIRED.

''(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under section 10252(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 10252(a), the Secretary shall ensure that the program authorized by section 10252(a) is conducted at elementary school and secondary school sites across the Nation.

''(c) APPLICATION.—Each eligible entity desiring a grant under section 10252(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. 10254. REPORTS AND EVALUATION.

''An eligible entity receiving funds under section 10252(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 10252(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. 10255. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants under section 10252(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 10252(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 10252(b) shall be awarded on a competitive basis as determined by the Secretary.

''(d) DURATION.—Each grant under section 10252(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. 10256. MATCHING REQUIREMENT.

''Each eligible entity desiring a grant under section 10252(b) shall contribute to the activities assisted under section 10252(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. 10257. ADMINISTRATIVE COSTS.

''With respect to the implementation of section 10252(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. 10258. 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 10252 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 10252(b).

''PART D—EDUCATION FOR DEMOCRACY

''SEC. 10301. SHORT TITLE.

''This part may be cited as the 'Education for Democracy Act'.

''SEC. 10302. 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. 10303. 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. 10304. 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 10305 and 10306; and

''(B) the National Council on Economic Education to carry out economic education activities under section 10306.

''(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 10307(b) for each fiscal year to carry out economic education activities under section 10306.

''SEC. 10305. WE THE PEOPLE PROGRAM.

''(a) THE CITIZEN AND THE CONSTITUTION.—

''(1) IN GENERAL.—The Center for Civic Education shall use funds awarded under section 10304(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 10304(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. 10306. 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 10304(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. 10307. AUTHORIZATION OF APPROPRIATIONS.

''(a) SECTION 10304.—There are authorized to be appropriated to carry out section 10304, $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 10305.—There are authorized to be appropriated to carry out section 10305, $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. 10401. SHORT TITLE.

''This part may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 2001'.

''SEC. 10402. 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. 10403. 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. 10411. 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. 10412. GRANTS TO MEET EDUCATIONAL NEEDS OF GIFTED AND TALENTED STUDENTS.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Subject to section 10403, 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. 10413. 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 10412(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. 10414. 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 10412.

''(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. 10415. GENERAL PROVISIONS FOR SUBPART.

''(a) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary—

''(1) shall use a peer review process in reviewing applications under sections 10415(d) and 10412;

''(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 10422(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 10424(b), with respect to the implementing activities.

"Subpart 2—Formula Grant Program

"SEC. 10421. 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. 10422. ESTABLISHMENT OF PROGRAM; USE OF FUNDS.

''(a) IN GENERAL.—In the case of each State that in accordance with section 10424 submits to the Secretary an application for a fiscal year, subject to section 10403, 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 10423.

''(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 in-service 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. 10423. 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. 10424. 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. 10425. 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. 10426. 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. 10427. 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 10424(b).

''Subpart 3—General Provisions

''SEC. 10431. 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. 10432. 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. 10433. 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. 10434. 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. 10501. FUND FOR THE IMPROVEMENT OF EDUCATION.

''(a) FUNDS AUTHORIZED.—From funds appropriated under subsection (d), 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 10801 for the cost of such peer review.

''SEC. 10502. 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. 10551. SHORT TITLE.

''This subpart may be cited as the 'Star Schools Act'.

''SEC. 10552. 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. 10553. 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. 10554. 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. 10555. ELIGIBLE ENTITIES.

''(a) ELIGIBLE ENTITIES.—

''(1) REQUIRED PARTICIPATION.—The Secretary may make a grant under section 10554

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. 10556. APPLICATIONS.

''(a) APPLICATIONS REQUIRED.—Each eligible entity which desires to receive a grant under section 10554 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 10554, 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 10554, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this subpart.

''SEC. 10557. 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. 10558. 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. 10559. ADMINISTRATIVE PROVISIONS.

''(a) CONTINUING ELIGIBILITY.—

''(1) IN GENERAL.—In order to be eligible to receive a grant under section 10554 for a second 3-year grant period an eligible entity shall demonstrate in the application submitted pursuant to section 10556 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 10554 in acquiring satellite time, where appropriate, as economically as possible.

''SEC. 10560. 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. 10571. 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) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

''(6) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

''(7) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

''(8) 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. 10601. 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, decision-making, 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. 10602. 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. 10651. SHORT TITLE.

''This subpart may be cited as the 'Strong Character for Strong Schools Act'.

"SEC. 10652. 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. 10701. 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. 10702. 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. 10703. 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. 10704. 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 10703(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 10703(b)(1), demonstrate how parental involvement in the project will be encouraged; and

''(5) for applications for assistance under section 10703(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. 10705. 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 10703(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. 10706. 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. 10707. 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. 10708. 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 10703(b)(1).

''Subpart 7—Physical Education for Progress

''SEC. 10751. SHORT TITLE.

''This subpart may be cited as the 'Physical Education for Progress Act'.

''SEC. 10752. PURPOSE.

''The purpose of this subpart is to award grants and contracts to local educational agencies to enable the local educational agencies to initiate, expand and improve physical education programs for all kindergarten through 12th grade students.

''SEC. 10753. 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. 10754. PROGRAM AUTHORIZED.

''The Secretary is authorized to award grants to, and enter into contracts with, local educational agencies to pay the Federal share of the costs of initiating, expanding, and improving physical education 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. 10755. APPLICATIONS; PROGRAM ELEMENTS.

''(a) APPLICATIONS.—Each local educational agency 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 the schools served by the agency 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. 10756. PROPORTIONALITY.

''The Secretary shall ensure that grants awarded and contracts entered into under this subpart shall be equitably distributed between local educational agencies serving urban and rural areas, and between local educational agencies serving large and small numbers of students.

''SEC. 10757. 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. 10758. 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 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. 10759. 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. 10760. ADMINISTRATIVE COSTS.

''Not more than 5 percent of the grant or contract funds made available to a local educational agency under this subpart for any fiscal year may be used for administrative costs.

''SEC. 10761. 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. 10762. AVAILABILITY OF AMOUNTS.

''Amounts made available to the Secretary to carry out this subpart shall remain available until expended.

''Subpart 8—Authorization of Appropriations

''SEC. 10801. 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.''.

SA 513. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page ___, strike lines ___ through ___, and insert the following:

''(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 or local education agency deems appropriate, academic counselors, mental health counselors, pupil services personnel, and other staff.

On page ___, between lines ___ and ___, insert the following:

''(11) Providing professional development for teachers, academic counselors, mental health counselors, pupil services personnel, and other school staff, to help young women, minorities, students with limited English proficiency, disabled individuals, and economically disadvantaged students achieve challenging State content standards and State student performance standards in core academic subjects, such as by providing training to teachers or counselors to encourage young women and minorities to enroll in advanced mathematics or science courses.

On page ___, strike lines ___ through ___ and insert the following:

''(3) Providing teachers, principals, and, in cases in which a State or local education agency deems appropriate, academic counselors, mental health counselors, pupil services personnel, and other staff, with opportunities for professional development through institutions of higher education.

On page ___, between lines ___ and ___, insert the following:

''(7) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals, and, in cases in which a State or local education agency deems appropriate, academic counselors, mental health counselors, pupil services personnel, and other staff.

On page ___, strike lines ___ through ___ and insert the following:

''(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;''

SA 514. Mr. DODD (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

''PART B—PARTNERSHIPS IN CHARACTER EDUCATION

''SEC. 9201. SHORT TITLE.

''This part may be cited as the 'Strong Character for Strong Schools Act'.

''SEC. 9202. 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.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.''.

SA 515. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. HOTLINE.

(a) FINDINGS.—The Senate finds that—

(1) many middle school and secondary school students attend schools with large or increasing student populations, where the students may feel disconnected from or have no connection with adults in their lives;

(2) students need support or services when the students are suffering emotional distress, have suicidal thoughts and behaviors, use violence, or use drugs or alcohol, that may cause danger to the students or others;

(3) numerous studies have documented that student achievement is higher when the families of the students are healthy;

(4) families need information on support and services to address such issues as domestic violence, and availability of adequate and stable housing, health care, food, after-school programs, and job training and assistance;

(5) a public need exists for an easy-to-use, easy-to-remember hotline to efficiently bring community information and referral services to persons who need the services, providing a national safety net for those persons to get ready access to assistance;

(6) switching from a 10 digit number to a 2–1–1 hotline has resulted in a 40 percent increase in call volume in Atlanta, Georgia and statewide in Connecticut; and

(7) the Federal Communications Commission has designated 2–1–1 as the national number for human services information and referral hotlines and will review its implementation in 5 years and 2–1–1 hotline providers need funding to plan, develop, and implement 2–1–1 hotlines.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that $10,000,000 should be appropriated for fiscal year 2002 for the development and implementation of 2–1–1 hotlines under title XX of the Social Security Act (42 U.S.C. 1397 et seq.), only if the $10,000,000 is above the fiscal year 2001 funding level for Title XX of the Social Security Act.

SA 516. Mrs. CLINTON (for herself, Mr. TORRICELLI, and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 586, between lines 18 and 19, insert the following:

SEC. ____. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF SICK AND DILAPIDATED PUBLIC SCHOOL BUILDINGS ON AMERICA'S CHILDREN.

Title IV, as amended by this title, is further amended by adding at the end the following:

"PART E—MISCELLANEOUS PROVISIONS

"SEC. 4501. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF SICK AND DILAPIDATED 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, shall conduct a study on the health and learning impacts of sick and dilapidated 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 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 an inappropriate use of pesticides, insecticides, chemicals, or cleaners, lead-based paint, or asbestos or have radon or such other characteristics as determined by the Director of the Centers for Disease Control and Prevention to indicate an unhealthy school environment.

''(2) The health and leaning impacts of sick and dilapidated 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 the development and implementation of public health and environmental standards for constructing new public elementary and secondary school buildings, remediating existing public school buildings, and the overall monitoring of public school building health, including cost estimates for the development and implementation of such standards 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 unhealthy public schools, including recommendations for obtaining such information.

''(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) 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).''.

SA 517. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 309, lines 17 and 18, strike ''subsection (f)'' and insert ''subsections (b) and (f)''.

On page 339, line 6, strike ''(b)'' and insert ''(c)''.

On page 339, strike lines 7 through 16 and insert the following:

''(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.''

SA 518. Mr. CARPER (for himself, Mr. GREGG, Mr. FRIST, Mr. LIEBERMAN, Mr. BIDEN, Mr. BINGAMAN, Mr. KERRY, Mr. HUTCHINSON, Mr. CRAPO, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 45, between lines 20 and 21, insert the following:

''(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.

On page 763, between lines 10 and 11, insert the following:

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 districtwide 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.''.

(5) INCOME EXCLUSION FOR INTEREST PAID ON LOANS BY CHARTER SCHOOLS.—

(A) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 and section 140 and by inserting after section 138 the following new section:

"SEC. 139. INTEREST ON CHARTER SCHOOL LOANS.

''(a) EXCLUSION.—Gross income does not include interest on any charter school loan.

''(b) CHARTER SCHOOL LOAN.—For purposes of this section:

''(1) IN GENERAL.—The term 'charter school loan' means any indebtedness incurred by a charter school.

''(2) CHARTER SCHOOL.—The term 'charter school' has the meaning given such term in section 5120 of the Elementary and Secondary Education Act of 1965.''.

(B) CONFORMING AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 139 and inserting the following:

''Sec. 139. Interest on charter school loans.

''Sec. 140. Cross references to other Acts.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 2000, with respect to indebtedness incurred after the date of the enactment of this Act.

SA 519. Mr. BINGAMAN (for himself, Mr. HUTCHINSON, Mr. HOLLINGS, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 577, line 2, strike the double quote and period.

On page 577, between lines 2 and 3, insert the following:

"SEC. 4304. 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, $2,750,000 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. 4305. 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. 4306. 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.''

SA 520. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

SEC. 902. 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, 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 the following minimum payments for each fiscal year to each local educational agency described in paragraph (2):

''(A) For the first fiscal year following the loss of eligibility (as described in paragraph (2)), an amount equal to 90 percent of the amount received in the final fiscal year of eligibility.

''(B) For the second fiscal year following the loss of eligibility (as described in paragraph (2)), an amount equal to 75 percent of the amount received in the final fiscal year of eligibility.

''(C) For the third fiscal year following the loss of eligibility (as described in paragraph (2)), an amount equal to 50 percent of the amount received in the final fiscal year of eligibility.

''(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.''.

SA 521. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 308, strike line 9 and insert the following:

''(10) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the entity or agency designated under the laws of a State as responsible for teacher certification or licensing in the State.

''(11) TEACHER MENTORING.—The term

On page 316, after line 25, add the following:

''(d) SUBMISSION.—Portions of the application that relate to activities carried out under subpart 3 shall be jointly prepared and submitted by the State educational agency and the State agency for higher education.

SA 522. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 308, strike line 9 and insert the following:

''(10) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the entity or agency designated under the laws of a State as responsible for teacher certification or licensing in the State.

''(11) TEACHER MENTORING.—The term''.

SA 523. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING STREAMLINING OF EDUCATION PROGRAMS.

(a) FINDINGS.—The Senate finds the following:

(1)(A) In 1965, Congress enacted and President Johnson signed into law the Elementary and Secondary Education Act of 1965, taking bold new action with the primary goal of ensuring that low-income children have the same opportunity for a quality public education as their more affluent peers.

(B) Today the Federal role embodied in the original Elementary and Secondary Education Act of 1965 is still critical, but the global economy and increasing demands for a more highly skilled workforce require more from the public education system. Although the number of titles and programs in the Elementary and Secondary Education Act of 1965 have multiplied from efforts to try and address changing times, the underlying philosophy of the Act and methods used in the Act have not been rethought. As a result, the Elementary and Secondary Education Act of 1965 has grown into a confusing, unfocused mix of programs.

(2) Currently the Federal government's funding for and focus on education programs are dispersed in dozens of directions. More importantly, by dispersing the funding, the Federal government has diluted the impact of Federal investments and diminished the government's ability to cause bold changes in the public education system.

(3) The Federal government has a far better chance of spurring far-reaching reforms and improving the quality of schools if the government concentrates on a few, clear national priorities, gives the States and localities room and reason to innovate, and then hold the State and localities responsible for producing results.

(4) This Act streamlines numerous titles, with nearly 50 different funding channels for education programs, into 7 performance-based titles, all of which are geared toward the Nation's top priority of raising academic achievement.

(5) Congress must uphold a commitment to a new streamlined and focused Federal role in education.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should uphold the streamlining of education programs achieved in S. 1, 107th Congress, as placed on the calendar of the Senate; and

(2) Congress should oppose efforts to create new programs or set asides for elementary school or secondary school education that contradict the goal of concentrating the Federal focus and funding for education programs on a limited, but critical, number of national priorities that are most directly linked to raising student achievement.

SA 524. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. EXCELLENCE IN ECONOMIC EDUCATION.

Title IX, as amended by section 901, is further amended by adding at the end the following:

''PART B—EXCELLENCE IN ECONOMIC EDUCATION

''SEC. 9201. 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. 9202. 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. 9203. 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 9202(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.''.

SA 525. Mr. HARKIN (for himself, Mr. KERRY, Mr. LEVIN, Mr. REID, Mr. BIDEN, Mr. CORZINE, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ____. PUBLIC SCHOOL REPAIR AND RENOVATION.

(a) SHORT TITLE.—This section may be cited as the ''Public School Repair and Renovation Act of 2001''.

(b) GRANTS FOR SCHOOL RENOVATION.—Title IX, as added by section 901, is amended by adding at the end the following:

''PART B—SCHOOL RENOVATION

''SEC. 9201. GRANTS FOR SCHOOL RENOVATION.

''(a) IN GENERAL.—

''(1) ALLOCATION OF FUNDS.—Of the amount appropriated for each fiscal year under subsection (k), the Secretary of Education shall allocate—

''(A) 6.0 percent of such amount for grants to impacted local educational agencies (as defined in paragraph (3)) for school repair, renovation, and construction;

''(B) 0.25 percent of such amount for grants to outlying areas for school repair and renovation in high-need schools and communities, allocated on such basis, and subject to such terms and conditions, as the Secretary determines appropriate;

''(C) 2 percent of such amount for grants to public entities, private nonprofit entities, and consortia of such entities, for use in accordance with subpart 2 of part C of this title X; and

''(D) the remainder to State educational agencies in proportion to the amount each State received under part A of title I for fiscal year 2001, except that no State shall receive less than 0.5 percent of the amount allocated under this subparagraph.

''(2) DETERMINATION OF GRANT AMOUNT.—

''(A) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the grant amounts under paragraph (1)(A) for fiscal year 2001, the Secretary shall determine the results obtained by the computation made under section 8003 with respect to children described in subsection (a)(1)(C) of such section and computed under subsection (a)(2)(B) of such section for such year—

''(i) for each impacted local educational agency that receives funds under this section; and

''(ii) for all such agencies together.

''(B) COMPUTATION OF PAYMENT.—For fiscal year 2002, the Secretary shall calculate the amount of a grant to an impacted local educational agency by—

''(i) dividing the amount described in paragraph (1)(A) by the results of the computation described in subparagraph (A)(ii); and

''(ii) multiplying the number derived under clause (i) by the results of the computation described in subparagraph (A)(i) for such agency.

''(3) DEFINITION.—For purposes of this section, the term 'impacted local educational agency' means, for fiscal year 2001—

''(A) a local educational agency that receives a basic support payment under section 8003(b) for such fiscal year; and

''(B) with respect to which the number of children determined under section 8003(a)(1)(C) for the preceding school year constitutes at least 50 percent of the total student enrollment in the schools of the agency during such school year.

''(b) WITHIN-STATE ALLOCATIONS.—

''(1) ADMINISTRATIVE COSTS.—

''(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (B), each State educational agency

may reserve not more than 1 percent of its allocation under subsection (a)(1)(D) for the purpose of administering the distribution of grants under this subsection.

''(B) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the agency shall transfer to such entity 0.75 of the amount reserved under this paragraph for the purpose of administering the distribution of grants under this subsection.

''(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 75 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the 'State entity') for distribution by such entity to local educational agencies in accordance with this paragraph, to be used, consistent with subsection (c), for school repair and renovation.

''(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(i) IN GENERAL.—The State educational agency or State entity shall carry out a program of competitive grants to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to such agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the competition—

''(I) award to high poverty local educational agencies described in clause (ii), in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such local educational agencies received under part A of title I for fiscal year 2002 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State;

''(II) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under part A of title I for fiscal year 2001 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

''(III) award the remaining funds to local educational agencies not receiving an award under subclause (I) or (II), including high poverty and rural local educational agencies that did not receive such an award.

''(ii) HIGH POVERTY LOCAL EDUCATIONAL AGENCIES.—A local educational agency is described in this clause if—

''(I) the percentage described in subparagraph (C)(i) with respect to the agency is 30 percent or greater; or

''(II) the number of children described in such subparagraph with respect to the agency is at least 10,000.

''(C) CRITERIA FOR AWARDING GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

''(i) The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

''(ii) The need of a local educational agency for school repair and renovation, as demonstrated by the condition of its public school facilities.

''(iii) The fiscal capacity of a local educational agency to meet its needs for repair and renovation of public school facilities without assistance under this section, including its ability to raise funds through the use of local bonding capacity and otherwise.

''(iv) In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school or schools, the extent to which the school or schools have access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

''(v) The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

''(D) POSSIBLE MATCHING REQUIREMENT.—

''(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

''(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

''(3) RESERVATION FOR COMPETITIVE IDEA OR TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 25 percent of such funds to local educational agencies through competitive grant processes, to be used for the following:

''(i) To carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(ii) For technology activities that are carried out in connection with school repair and renovation, including—

''(I) wiring;

''(II) acquiring hardware and software;

''(III) acquiring connectivity linkages and resources; and

''(IV) acquiring microwave, fiber optics, cable, and satellite transmission equipment.

''(B) CRITERIA FOR AWARDING IDEA GRANTS.—In awarding competitive grants under subparagraph (A) to be used to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), a State educational agency shall take into account the following criteria:

''(i) The need of a local educational agency for additional funds for a student whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State's average per-pupil expenditure (as defined in section 3).

''(ii) The need of a local educational agency for additional funds for special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(iii) The need of a local educational agency for additional funds for assistive technology devices (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) or assistive technology services (as so defined) for children being served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(iv) The need of a local educational agency for additional funds for activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in order for children with disabilities to make progress toward meeting the performance goals and indicators established by the State under section 612(a)(16) of such Act (20 U.S.C. 1412).

''(C) CRITERIA FOR AWARDING TECHNOLOGY GRANTS.—In awarding competitive grants under subparagraph (A) to be used for technology activities that are carried out in connection with school repair and renovation, a State educational agency shall take into account the need of a local educational agency for additional funds for such activities, including the need for the activities described in subclauses (I) through (IV) of subparagraph (A)(ii).

''(c) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

''(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to one or more of the following:

''(A) Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

''(i) repairing, replacing, or installing roofs, electrical wiring, plumbing systems, sewage systems, windows, or doors;

''(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

''(iii) bringing public schools into compliance with fire and safety codes.

''(B) School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

''(C) School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

''(D) Asbestos abatement or removal from public school facilities.

''(E) Implementing measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of each.

''(F) Renovation, repair, and acquisition needs related to the building infrastructure of a charter school.

''(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

''(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

''(B) the construction of new facilities, except for facilities for an impacted local educational agency (as defined in subsection (a)(3)); or

''(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

''(3) CHARTER SCHOOLS.—A public charter school that constitutes a local educational agency under State law shall be eligible for assistance under the same terms and conditions as any other local educational agency (as defined in section 3).

''(4) SUPPLEMENT, NOT SUPPLANT.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to 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 school repair and renovation.

''(d) SPECIAL RULE.—Each local educational agency that receives funds under this section shall ensure that, if it carries out repair or renovation through a contract,

any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

''(e) PUBLIC COMMENT.—Each local educational agency receiving funds under paragraph (2) or (3) of subsection (b)—

''(1) shall provide parents, educators, and all other interested members of the community the opportunity to consult on the use of funds received under such paragraph;

''(2) shall provide the public with adequate and efficient notice of the opportunity described in paragraph (1) in a widely read and distributed medium; and

''(3) shall provide the opportunity described in paragraph (1) in accordance with any applicable State and local law specifying how the comments may be received and how the comments may be reviewed by any member of the public.

''(f) REPORTING.—

''(1) LOCAL REPORTING.—Each local educational agency receiving funds under subsection (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for—

''(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

''(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

''(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

''(2) STATE REPORTING.—Each State educational agency shall submit to the Secretary of Education, not later than December 31, 2003, a report on the use of funds received under subsection (a)(1)(D) by local educational agencies for—

''(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

''(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

''(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

''(3) ADDITIONAL REPORTS.—Each entity receiving funds allocated under subsection (a)(1) (A) or (B) shall submit to the Secretary, not later than December 31, 2003, a report on its uses of funds under this section, in such form and containing such information as the Secretary may require.

''(g) APPLICABILITY OF PART B OF IDEA.—If a local educational agency uses funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), such part (including provisions respecting the participation of private school children), and any other provision of law that applies to such part, shall apply to such use.

''(h) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(1)(D) for fiscal year 2002, or does not use its entire allocation for such fiscal year, the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(1)(D).

''(i) PARTICIPATION OF PRIVATE SCHOOLS.—

''(1) IN GENERAL.—Section 5342 shall apply to subsection (b)(2) in the same manner as it applies to activities under title VI, except that—

''(A) such section shall not apply with respect to the title to any real property renovated or repaired with assistance provided under this section;

''(B) the term 'services' as used in section 5342 with respect to funds under this section shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include for purposes of subsection (b)(2) only—

''(i) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(ii) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

''(iii) asbestos abatement or removal from school facilities; and

''(C) notwithstanding the requirements of section 5342(b), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of such section if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools that have child poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

''(2) REMAINING FUNDS.—If the expenditure for services described in paragraph (1)(B) is less than the amount calculated under paragraph (1)(C) because of insufficient need for such services, the remainder shall be available to the local educational agency for renovation and repair of public school facilities.

''(3) APPLICATION.—If any provision of this section, or the application thereof, to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

''(j) DEFINITIONS.—For purposes of this section:

''(1) CHARTER SCHOOL.—The term 'charter school' has the meaning given such term in section 5120(1).

''(2) POOR CHILDREN AND CHILD POVERTY.—The terms 'poor children' and 'child poverty' refer to children 5 to 17 years of age, inclusive, 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 (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

''(3) RURAL LOCAL EDUCATIONAL AGENCY.—The term 'rural local educational agency' means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term 'rural'.

''(4) STATE.—The term 'State' means each of the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,600,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

SA 526. Mr. HARKIN (for himself, Mr. LEVIN, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ___. COUNSELING IMPROVEMENT.

(a) FINDINGS.—Congress finds that—

(1) elementary and secondary school children are being subjected to unprecedented social stresses, including fragmentation of the family, drug and alcohol abuse, violence, child abuse, and poverty;

(2) an increasing number of elementary and secondary school children are exhibiting symptoms of distress, such as substance abuse, emotional disorders, violent outbursts, disruptive behavior, juvenile delinquency, and suicide;

(3) between 1984 and 1994, the homicide rate for adolescents doubled, while the rate of nonfatal violent crimes committed by adolescents increased by almost 20 percent;

(4) according to the National Institute of Mental Health, up to one in five children and youth have psychological problems severe enough to require some form of professional help, yet only 20 percent of youth with mental disorders or their families receive help;

(5) the Institute of Medicine has identified psychological counseling as the most serious school health need for the normal development of our Nation's children and youth;

(6) school counselors, school psychologists, and school social workers can contribute to the personal growth, educational development, and emotional well-being of elementary and secondary school children by providing professional counseling, intervention, and referral services;

(7) the implementation of well designed school counseling programs has been shown to increase students' academic success;

(8) the national average student-to-counselor ratio in elementary and secondary schools is 531 to 1, and the average student-to-psychologist ratio is 2300 to 1;

(9) it is recommended that to effectively address students' mental health and development needs, schools have 1 full-time counselor for every 250 students, 1 psychologist for every 1,000 students, and 1 school social worker for every 800 students;

(10) the population of elementary and secondary school students in the United States is expected to increase dramatically during the 5 to 10 years beginning with 1999;

(11) the Federal Government can help reduce the risk of academic, social, and emotional problems among elementary and secondary school children by stimulating the development of model school counseling programs; and

(12) the Federal Government can help reduce the risk of future unemployment and assist the school-to-work transition by stimulating the development of model school counseling programs that include comprehensive career development.

(b) PURPOSE.—It is the purpose of this section to enhance the availability and quality of counseling services for elementary and secondary school children by providing grants to local educational agencies to enable such agencies to establish or expand effective and innovative counseling programs that can serve as models for the Nation.

(c) SCHOOL COUNSELING.—Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.), as amended by this Act, is amended—

(1) in section 4004 (20 U.S.C. 7104)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(5) $100,000,000 for fiscal year 2002, and such sums as may be necessary for each of

the 4 succeeding fiscal years, for grants under section 4126.''; and

(2) by adding at the end of subpart 2 of part A the following:

''SEC. 4126. 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 part 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 under section 4004(5) 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, decision-making, 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 subsection at the end of each grant period in accordance with section 14701.

''(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, possess 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.''.

SA 527. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 264, strike line 14 and insert the following:

STUDENTS.—

''(A) IN GENERAL.—In providing a free public education to

On page 264, strike lines 19 and 20 and insert the following:

youth's status as homeless, except as provided in section 723(a)(2)(B)(ii) and subparagraph (B).

''(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 that was established not later than the fiscal year preceding the date of enactment of the Better Education for Students and Teachers Act shall remain eligible to receive funds under this subtitle for programs carried out in such school.

SA 528. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 266, after line 23, add the following:

"PART H—SUMMER SCHOOL

"SEC. 1751. SUMMER SCHOOL.

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make allotments to State educational agencies to enable the State educational agencies to award grants to local educational agencies to support summer school programs for students who have not achieved academic standards set by the States.

''(b) STATE ALLOTMENTS, LOCAL GRANTS AND ALLOCATIONS.—

''(1) STATE ALLOTMENTS.—From funds appropriated under subsection (g) and not reserved under subsection (e) for a fiscal year, the Secretary shall make an allotment to each State educational agency in a State in an amount that bears the same relation to the funds as the amount the State received under part A for the fiscal year bears to the amount received by all States under such part for the fiscal year.

''(2) LOCAL GRANTS AND ALLOCATIONS.—Each State educational agency receiving an allotment under paragraph (1) for a fiscal year shall use the allotted funds to award grants to eligible local educational agencies.

''(c) ELIGIBILITY.—To be eligible to receive a grant under this section a local educational agency shall—

''(1) adopt a plan for the use of the grant funds that gives priority to providing services to students who do not meet State academic standards applicable to students in grade 3 through grade 8;

''(2) conduct an assessment of the local educational agency's needs for teachers who have the knowledge and skills necessary to ensure that all students have the opportunity to meet challenging academic standards;

''(3) adopt a plan that is approved by the State educational agency to ensure, to the maximum extent possible, that all teachers employed by the local educational agency meet the State's teacher certification or licensure requirements for the subjects in which the teachers teach;

''(4) adopt a plan that is approved by the State educational agency to ensure that each student served by the local educational agency meets academic standards, based on guidelines established by the State educational agency, which plan shall include a description of—

''(A) the procedures used to identify students not meeting State academic standards;

''(B) the supplemental educational and related services provided to students not meeting State academic standards; and

''(C) the additional or alternative programs provided to students who continue to fail to meet State academic standards; and

''(5) establish procedures to evaluate the results of the summer school programs funded under this section.

''(d) PRIORITY.—In awarding grants under this section, the State educational agency shall give priority to local educational agencies—

''(1) serving schools identified for school improvement under section 1116(c); and

''(2) that develop an individualized learning plan for each student who fails to meet State academic standards detailing what steps will be taken by the local educational agency to bring that student within State standards.

''(e) RESERVATION FOR INNOVATIVE PROGRAMS.—The Secretary shall reserve 5 percent of the amount appropriated under subsection (g) for a fiscal year to award grants for innovative summer school programs and to evaluate existing summer school programs.

''(f) GENERAL PROVISIONS.—

''(1) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant other Federal, State, local, and private funds available for summer school programs.

''(2) ADMINISTRATIVE EXPENSES.—Each State educational agency that receives grant funds under this section may use not more than 5 percent of the grant funds for a fiscal year for the administrative costs of carrying out this section.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section the following amounts:

''(1) $200,000,000 for fiscal year 2002.

''(2) Such sums as may be necessary for each of the fiscal years 2003 through 2008.''.

SA 529. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 266, after line 23, insert the following:

"SEC. 1708. SUMMER SCHOOL.

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make allotments to State educational agencies to enable the State educational agencies to award grants to local educational agencies to support summer school programs for students who have not achieved academic standards set by the States.

''(b) STATE ALLOTMENTS, LOCAL GRANTS AND ALLOCATIONS.—

''(1) STATE ALLOTMENTS.—From funds appropriated under subsection (g) and not reserved under subsection (e) for a fiscal year, the Secretary shall make an allotment to each State educational agency in a State in an amount that bears the same relation to the funds as the amount the State received under part A for the fiscal year bears to the amount received by all States under such part for the fiscal year.

''(2) LOCAL GRANTS AND ALLOCATIONS.—Each State educational agency receiving an allotment under paragraph (1) for a fiscal year shall use the allotted funds to award grants to eligible local educational agencies.

''(c) ELIGIBILITY.—To be eligible to receive a grant under this section a local educational agency shall—

''(1) adopt a plan for the use of the grant funds that gives priority to providing services to students who do not meet State academic standards applicable to students in grade 3 through grade 8;

''(2) conduct an assessment of the local educational agency's needs for teachers who have the knowledge and skills necessary to ensure that all students have the opportunity to meet challenging academic standards;

''(3) adopt a plan that is approved by the State educational agency to ensure, to the maximum extent possible, that all teachers employed by the local educational agency meet the State's teacher certification or licensure requirements for the subjects in which the teachers teach;

''(4) adopt a plan that is approved by the State educational agency to ensure that each student served by the local educational agency meets academic standards, based on guidelines established by the State educational agency, which plan shall include a description of—

''(A) the procedures used to identify students not meeting State academic standards;

''(B) the supplemental educational and related services provided to students not meeting State academic standards; and

''(C) the additional or alternative programs provided to students who continue to fail to meet State academic standards; and

''(5) establish procedures to evaluate the results of the summer school programs funded under this section.

''(d) PRIORITY.—In awarding grants under this section, the State educational agency shall give priority to local educational agencies—

''(1) serving schools identified for school improvement under section 1116(c); and

''(2) that develop an individualized learning plan for each student who fails to meet State academic standards detailing what steps will be taken by the local educational agency to bring that student within State standards.

''(e) RESERVATION FOR INNOVATIVE PROGRAMS.—The Secretary shall reserve 5 percent of the amount appropriated under subsection (g) for a fiscal year to award grants for innovative summer school programs and to evaluate existing summer school programs.

''(f) GENERAL PROVISIONS.—

''(1) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant other Federal, State, local, and private funds available for summer school programs.

''(2) ADMINISTRATIVE EXPENSES.—Each State educational agency that receives grant funds under this section may use not more than 5 percent of the grant funds for a fiscal year for the administrative costs of carrying out this section.

''(3) APPLICABILITY.—Notwithstanding any other provision of this part, this part (other than this section) shall not apply to this section.

''(g) 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.''.

SA 530. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 347, strike lines 8 through 10 and insert the following:

''(d) PRIORITY.—

''(1) HIGH NEED LOCAL EDUCATIONAL AGENCIES.—In awarding grants under this subpart, the Secretary shall give first priority to an eligible partnership that includes a high need local educational agency.

''(2) BUSINESSES.—In awarding the grants among eligible partnerships that do not include such agencies, the Secretary shall give priority to an eligible partnership that—

''(A) includes a business (such as a corporation); and

''(B) demonstrates that the business will—

''(i) provide a non-Federal share of the cost of the activities carried out under section 2213; and

''(ii) provide a greater non-Federal share of the cost of the activities than the business provided prior to the date the partnership received that priority.

''(3) NON-FEDERAL SHARE.—The non-Federal share provided by a business under paragraph (2) may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

On page 350, after line 4 add the following:

(9) Designing and implementing year-round small inquiry groups for teachers for the purpose of improving math and science teachers' subject knowledge and teaching skills.

On page 362, line 14, strike ''$500,000,000'' and insert ''$900,000,000''.

SA 531. Mr. DURBIN (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 347, strike lines 8 through 10 and insert the following:

''(d) PRIORITY.—

''(1) HIGH NEED LOCAL EDUCATIONAL AGENCIES.—In awarding grants under this subpart, the Secretary shall give first priority to an eligible partnership that includes a high need local educational agency.

''(2) BUSINESSES.—In awarding the grants among eligible partnerships that do not include such agencies, the Secretary shall give priority to an eligible partnership that—

''(A) includes a business (such as a corporation); and

''(B) demonstrates that the business will—

''(i) provide a non-Federal share of the cost of the activities carried out under section 2213; and

''(ii) provide a greater non-Federal share of the cost of the activities than the business provided prior to the date the partnership received that priority.

''(3) NON-FEDERAL SHARE.—The non-Federal share provided by a business under paragraph (2) may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

SA 532. Mr. DURBIN (for himself, Mr. SCHUMER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 362, line 14, strike ''$500,000,000'' and insert ''$900,000,000''.

SA 533. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 586, between lines 18 and 19, insert the following:

SEC. 405. MENTORING PROGRAMS.

Title IV of Elementary and Secondary Education Act of 1965 is further amended by adding at the end the following:

''PART E—MENTORING PROGRAMS

''SEC. 4501. 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. 4502. 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. 4503. 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 long-standing relationships with the children they mentor;

''(iv) the degree to which the applicant will serve children with greatest need in the 4th, 5th, 6th, 7th, and 8th grades; and

''(v) the degree to which the program will continue to serve children from the 4th grade through graduation from secondary school; and

''(C) the capability of each applicant to effectively implement 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. 4504. 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. 4505. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out section 4503 $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

SA 534. Mrs. HUTCHISON (for herself, Mr. WELLSTONE, Mr. DEWINE, Mrs. CLINTON, Mr. SCHUMER, Mr. BIDEN, Mr. CRAPO, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S.1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie onthe table; as follows:

On page 309, lines 17 and 18, strike ''subsection (f)'' and insert ''subsections (e) and (f)''.

On page 339, line 6, strike ''(e)'' and insert ''(d)''.

Beginning on page 340, strike line 9 and all that follows through page 341, line 8.

On page 341, line 9, strike ''(e)'' and insert ''(d)''.

On page 341, between lines 21 and 22, insert the following:

''(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)(I) 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.

On page 383, after line 21, add the following:

SEC. ___. 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.''.

SA 535. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PARENTS' RIGHT-TO-KNOW.

Title VI (20 U.S.C. 7301 et seq.), as amended, is further amended by adding at the end the following:

''PART B—PARENTS' RIGHT-TO-KNOW

''SEC. 6401. SHORT TITLE.

''This part may be cited as the ''Parents' Right-to-Know Act of 2001'.

''SEC. 6402. FINDINGS.

''Congress makes the following findings:

''(1) Parents, educators, community leaders, school board members, and business leaders need to be able to come to a common understanding of how well each school is educating students.

''(2) Fair and accurate school information requires the use of longitudinal student data that links student records over time and takes student mobility and prior academic performance into account.

''(3) Fair and accurate school information requires the ability to create school comparisons that match schools with other schools that face equal or greater challenges.

''(4) Fair and accurate school information empowers educators to investigate and learn from the promising practices at high-performing schools.

''(5) Fair and accurate school information is therefore a critical part of the school improvement process.

''SEC. 6403. STATE REPORTING OF STUDENT PERFORMANCES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, a State shall be deemed to be in compliance with the requirements of title I relating to the reporting of information on student performance if the State develops a longitudinal data system that links individual student test scores, enrollment, and graduation records over time and provides to the Secretary a report that contains—

''(1) test data with respect to students in public schools in such State; and

''(2) other information related to the performance of continuously enrolled students in schools in the State and to the quality of such schools.

''(b) REPORT CARDS.—

''(1) IN GENERAL.—The information to be included in a report under subsection (a) shall be compiled in a report card format that is easily understandable and shall be made available in multiple languages.

''(2) CONTENTS.—Each report card under this section shall include—

''(A) information from longitudinal data systems linking individual student test scores, length of enrollment, and graduation records over time, the information from which shall be provided to the Secretary and to the public in disaggregated form in order to enable parents and others to compare—

''(i) students and schools in similar income, geographic, racial, English proficiency, and disability categories;

''(ii) students in similar categories of academic achievement prior to enrolling in the school to which the reported test data apply; and

''(iii) students in similar categories of academic achievement prior to enrolling in the school to which the reported test data apply, and who have been continuously enrolled in that school for 2 or 3 years;

''(B) State-specific normalization of data in order to enable parents, students, and others to be able to compare student performance between specific schools and, where available, trends in school, district, and State performance;

''(C) information regarding the State or local education agency's own quantitative and qualitative assessments of each school and whether the school has been identified by the State or local education agency as failing, underperforming or otherwise in need of improvement;

''(D) information on the number of untested students in each grade and subject and descriptions of why those students were not tested;

''(E) information on the performance of students who have been continuously enrolled in the same school for 3 years or more, for grades where the school's grade configuration permits such reports;

''(F) information on the performance of students who have been continuously enrolled in the same school for 2 years or more, for grades where the school's grade configuration permits such reports;

''(G) the percentage of students in each school who are enrolled in special education programs, are from families whose incomes are below the Federal poverty line, and who have limited or no English proficiency;

''(H) information regarding the professional qualifications of the student's classroom teachers, including, at a minimum—

''(i) whether each teacher is fully qualified for the grade levels and subject areas in which the teacher provides instruction;

''(ii) whether each teacher is teaching under emergency or other provisional status through which State certification or licensing criteria are waived;

''(iii) the baccalaureate degree major of each teacher, any other graduate certification or degree held by the teacher, and the field of discipline of each such certification or degree; and

''(iv) whether the student is provided services by paraprofessionals, and the qualifications of any such paraprofessional.

''(c) NATIONAL DISTRIBUTION OF REPORT CARDS.—

''(1) IN GENERAL.—The Secretary shall compile information collected under this section and make such information available in electronic form on the Internet and through other means that ensure broad distribution to the public, other government agencies, and to any other individuals who may request such information.

''(2) ADDITIONAL INFORMATION.—Additional information that may be of use to parents, students, and others in evaluating schools, school districts, teachers, and the educational options available to students shall also be included with student performance data, as the Secretary determines to be appropriate. Such information may include information compiled by other public and private entities, including the National Institute for Education Research, the National Center for Education Statistics, the National Assessment of Educational Progress, and the National Assessment Governing Board.

''(d) PRIVACY.—The Secretary shall ensure that all personally identifiable information about students, their educational performance, and their families, and information with respect to individual schools, submitted under this section remain confidential, in accordance with section 552a of title 5, United States Code.

''(e) GRANTS.—

''(1) IN GENERAL.—The Secretary may award grants, on a competitive basis, to States for the purpose of enabling such State to carry out this section.

''(2) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.''.

SA 536. Mr. GREGG (for himself and Mr. HUTCHINSON) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 628, between lines 9 and 10, insert the following:

''Subpart 4—Low-Income School Choice Demonstration

''SEC. 5161. LOW-INCOME SCHOOL CHOICE DEMONSTRATION.

''(a) SHORT TITLE.—This section may be cited as the 'Low-Income School Choice Demonstration Act of 2001'.

''(b) PURPOSE.—The purpose of this section is to determine the effectiveness of school choice in improving the academic achievement of disadvantaged students and the overall quality of public schools and local educational agencies.

''(c) DEFINITIONS.—In this section:

''(1) CHOICE SCHOOL.—The term 'choice school' means any public school, including a public charter school, that is not identified under section 1116, or any private school, including a private sectarian school, that is involved in a demonstration project assisted under this section.

''(2) ELIGIBLE CHILD.—The term 'eligible child' means a child in grades kindergarten through 12—

''(A) who is eligible for free or reduced price meals under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1964;

''(B) who attended a public elementary or secondary school, or who was not yet of school age, in the year preceding the year in which the child intends to participate in the project under this section; and

''(C) who attends, or is to attend, a public school that has been identified as failing for 3 consecutive years under section 1116 or by the State's accountability system.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a public agency, institution, or organization, such as a State, a State or local educational agency, a county or municipal agency, a consortium of public agencies, or a consortium of public agencies and private nonprofit organizations, that can demonstrate, to the satisfaction of the Secretary, its ability to—

''(A) receive, disburse, and account for Federal funds; and

''(B) carry out the activities described in its application under this section.

''(4) EVALUATING ENTITY.—The term 'evaluating entity' means an independent third party entity, including any academic institution, or private or nonprofit organization, with demonstrated expertise in conducting evaluations, that is not an agency or instrumentality of the Federal Government.

''(5) PARENT.—The term 'parent' includes a legal guardian or other individual acting in loco parentis.

''(6) SCHOOL.—The term 'school' means a school that provides elementary education or secondary education (through grade 12), as determined under State law.

''(d) AUTHORIZATION OF APPROPRIATIONS.—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, to carry out this section.

''(e) PROGRAM AUTHORIZED.—

''(1) RESERVATION.—From the amount appropriated pursuant to the authority of subsection (d) in any fiscal year, the Secretary shall reserve and make available to the evaluating agency 5 percent for the evaluation of programs assisted under this section in accordance with subsection (k).

''(2) GRANTS.—

''(A) IN GENERAL.—From the amount appropriated pursuant to the authority of subsection (d) and not reserved under paragraph (1) for any fiscal year, the Secretary shall award grants to eligible entities to enable such entities to carry out not more than 13 demonstration projects (which may include projects in 10 cities and an additional 3 States) under which low-income parents receive education certificates for the costs of enrolling their eligible children in a choice school.

''(B) CONTINUING ELIGIBILITY.—The Secretary shall continue a demonstration project under this section by awarding a grant under subparagraph (A) to an eligible entity that received such a grant for a fiscal year preceding the fiscal year for which the

determination is made, if the Secretary determines that such eligible entity was in compliance with this section for such preceding fiscal year.

''(3) USE OF GRANTS.—Grants awarded under paragraph (2) shall be used to pay the costs of—

''(A) providing education certificates to low-income parents to enable such parents to pay the tuition, the fees, the allowable costs of transportation, if any, and the costs of complying with subsection (i)(1)(A), if any, for their eligible children to attend a choice school; and

''(B) administration of the demonstration project, which shall not exceed 15 percent of the amount received in the first fiscal year for which the eligible entity provides education certificates under this section or 10 percent in any subsequent year, including—

''(i) seeking the involvement of choice schools in the demonstration project;

''(ii) providing information about the demonstration project, and the schools involved in the demonstration project, to parents of eligible children;

''(iii) making determinations of eligibility for participation in the demonstration project for eligible children;

''(iv) selecting students to participate in the demonstration project;

''(v) determining the amount of, and issuing, education certificates;

''(vi) compiling and maintaining such financial and programmatic records as the Secretary may prescribe; and

''(vii) collecting such information about the effects of the demonstration project as the evaluating agency may need to conduct the evaluation described in subsection (k).

''(4) CIVIL RIGHTS.—

''(A) IN GENERAL.—A choice school participating in the project under this section shall comply with title VI of the Civil Rights Act of 1964 and shall not discriminate on the basis of race, color, national origin, or sex in carrying out the provisions of this section.

''(B) APPLICABILITY AND CONSTRUCTION WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

''(i) APPLICABILITY.—With respect to discrimination on the basis of sex, subparagraph (A) shall not apply to a choice school that is controlled by a religious organization if the application of such subparagraph is inconsistent with the religious tenets of the choice school.

''(ii) CONSTRUCTION.—With respect to discrimination on the basis of sex, nothing in subparagraph (A) shall be construed to require any person, or public or private entity to provide or pay, or to prohibit any such person or entity from providing or paying, for any benefit or service, including the use of facilities, related to an abortion. Nothing in the preceding sentence shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

''(iii) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—With respect to discrimination on the basis of sex, nothing in subparagraph (A) shall be construed to prevent a parent from choosing, or a choice school from offering, a single-sex school, class, or activity.

''(C) REVOCATION.—If the eligible entity determines that a choice school participating in the project under this section is in violation of subparagraph (A), then the eligible entity shall terminate the involvement of such schools in the project.

''(f) AUTHORIZED PROJECTS; PRIORITY.—

''(1) AUTHORIZED PROJECTS.—The Secretary may award a grant under this section only for a demonstration project that—

''(A) involves at least one local educational agency that receives funds under section 1124A; and

''(B) includes the involvement of a sufficient number of choice schools, in the judgment of the Secretary, to allow for a valid demonstration project.

''(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to demonstration projects—

''(A) involve at least one local educational agency that is among the 20 percent of local educational agencies receiving funds under section 1124A in the State and having the highest number of children described in section 1124(c);

''(B) that involve diverse types of choice schools; and

''(C) that will contribute to the geographic diversity of demonstration projects assisted under this section.

''(g) APPLICATIONS.—

''(1) IN GENERAL.—Any eligible entity that wishes 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 prescribe.

''(2) CONTENTS.—Each application described in paragraph (1) shall contain—

''(A) information demonstrating the eligibility for participation in the demonstration program of the eligible entity;

''(B) with respect to choice schools—

''(i) a description of the standards used by the eligible entity to determine which schools are within a reasonable commuting distance of eligible children and present a reasonable commuting cost for such eligible children;

''(ii) a description of the types of potential choice schools that will be involved in the demonstration project;

''(iii)(I) a description of the procedures used to encourage public and private schools to be involved in the demonstration project; and

''(II) a description of how the eligible entity will annually determine the number of spaces available for eligible children in each choice school;

''(iv) an assurance that each choice school will not impose higher standards for admission or participation in its programs and activities for eligible children provided education certificates under this section than the choice school does for other children;

''(v) an assurance that each choice school operated, for at least 1 year prior to accepting education certificates under this section, an educational program similar to the educational program for which such choice school will accept such education certificates;

''(vi) an assurance that the eligible entity will terminate the involvement of any choice school that fails to comply with the conditions of its involvement in the demonstration project; and

''(vii) a description of the extent to which choice schools will accept education certificates under this section as full or partial payment for tuition and fees;

''(C) with respect to the participation in the demonstration project of eligible children—

''(i) a description of the procedures to be used to make a determination of eligibility for participation in the demonstration project for an eligible child, which shall include—

''(I) the procedures for obtaining, using and safeguarding information from applications for free or reduced price meals under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1964; or

''(II) any other procedure, subject to the Secretary's approval, that accurately establishes the eligibility for such participation for an eligible child;

''(ii) a description of the procedures to be used to ensure that, in selecting eligible children to participate in the demonstration project, the eligible entity will give priority to eligible children from the lowest income families;

''(iii) a description of the procedures to be used to ensure maximum choice of schools for participating eligible children, including procedures to be used when—

''(I) the number of parents provided education certificates under this section who desire to enroll their eligible children in a particular choice school exceeds the number of eligible children that the choice school will accept; and

''(II) grant funds and funds from local sources are insufficient to support the total cost of choices made by parents with education certificates under this section; and

''(iv) a description of the procedures to be used to ensure compliance with subsection (i)(1)(A), which may include—

''(I) the direct provision of services by a local educational agency; and

''(II) arrangements made by a local educational agency with other service providers;

''(D) with respect to the operation of the demonstration project—

''(i) a description of the geographic area to be served;

''(ii) a timetable for carrying out the demonstration project;

''(iii) a description of the procedures to be used for the issuance and redemption of education certificates under this section;

''(iv) a description of the procedures by which a choice school will make a pro rata refund of the education certificate under this section for any participating eligible child who withdraws from the school for any reason, before completing 75 percent of the school attendance period for which the education certificate was issued;

''(v) a description of the procedures to be used to provide the parental notification described in subsection (j);

''(vi) an assurance that the eligible entity will place all funds received under this section into a separate account, and that no other funds will be placed in such account;

''(vii) an assurance that the eligible entity will provide the Secretary periodic reports on the status of such funds;

''(viii) an assurance that the eligible entity will cooperate with the evaluating entity in carrying out the evaluations described in subsection (k);

''(ix) an assurance that the eligible entity will—

''(I) maintain such records as the Secretary may require; and

''(II) comply with reasonable requests from the Secretary for information;

''(x) a description of the method by which the eligible entity will use to assess the progress of participants in math and reading and how such assessment is comparable to assessments used by the local educational agency involved;

''(xi) an assurance that if the number of students applying to participate in the project is greater than the number of students that the project can serve, participating students will be selected by a lottery; and

''(x) an assurance that no private school will be required to participate in the project without the private school's consent; and

''(E) such other assurances and information as the Secretary may require.

''(h) EDUCATION CERTIFICATES.—

''(1) IN GENERAL.—

''(A) AMOUNT.—The amount of an eligible child's education certificate under this section shall be determined by the eligible entity, but shall be an amount that provides to the recipient of the education certificate the maximum degree of choice in selecting the choice school the eligible child will attend.

''(B) CONSIDERATIONS.—

''(i) IN GENERAL.—Subject to such regulations as the Secretary shall prescribe, in determining the amount of an education certificate under this section an eligible entity shall consider—

''(I) the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project; and

''(II) the cost of complying with subsection (i)(1)(A).

''(ii) SCHOOLS CHARGING TUITION.—If an eligible child participating in a demonstration project under this section was attending a public school that charged tuition for the year preceding the first year of such participation, then in determining the amount of an education certificate for such eligible child under this section the eligible entity shall consider the tuition charged by such school for such eligible child in such preceding year.

''(C) SPECIAL RULE.—An eligible entity may provide an education certificate under this section to the parent of an eligible child who chooses to attend a school that does not charge tuition or fees, to pay the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project or the cost of complying with subsection (i)(1)(A).

''(2) ADJUSTMENT.—The amount of the education certificate for a fiscal year may be adjusted in the second and third years of an eligible child's participation in a demonstration project under this section to reflect any increase or decrease in the tuition, fees, or transportation costs directly attributable to that eligible child's continued attendance at a choice school, but shall not be increased for this purpose by more than 10 percent of the amount of the education certificate for the fiscal year preceding the fiscal year for which the determination is made. The amount of the education certificate may also be adjusted in any fiscal year to comply with subsection (i)(1)(A).

''(3) MAXIMUM AMOUNT.—Notwithstanding any other provision of this subsection, the amount of an eligible child's education certificate shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency in which the public school to which the eligible child would normally be assigned is located for the fiscal year preceding the fiscal year for which the determination is made.

''(4) INCOME.—An education certificate under this section, and funds provided under the education certificate, shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

''(i) EFFECT ON OTHER PROGRAMS; USE OF SCHOOL LUNCH DATA.—

''(1) EFFECT ON OTHER PROGRAMS.—

''(A) IN GENERAL.—An eligible child participating in a demonstration project under this section, who, in the absence of such a demonstration project, would have received services under part A of title I shall be provided such services.

''(B) 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.

''(2) COUNTING OF ELIGIBLE CHILDREN.—Notwithstanding any other provision of law, any local educational agency participating in a demonstration project under this section may count eligible children who, in the absence of such a demonstration project, would attend the schools of such agency, for purposes of receiving funds under any program administered by the Secretary.

''(3) SPECIAL RULE.—

''(A) IN GENERAL.—Notwithstanding the provisions of section 9(b)(2)(C)(iii) and (iv) of the Richard B. Russell National School Lunch Act, information obtained from an application for free or reduced price meals under such Act or the Child Nutrition Act of 1964 shall, upon request, be disclosed to an eligible entity receiving a grant under this section and may be used by the eligible entity to determine the eligibility of a child to participate in a demonstration project under this section and, if needed, to rank families by income in accordance with subsection (g)(2)(C)(ii).

''(B) LIMITATIONS.—

''(i) IN GENERAL.—Information provided under this paragraph shall be limited to the information needed to determine eligibility or to rank families in a demonstration project under this section and may be used only by persons who need the information to determine eligibility or rank families in a demonstration project under this section.

''(ii) LIMITATIONS.—A person having access to information provided under this paragraph shall be subject to the limitations and penalties imposed under section 9(b)(2)(C)(v) of the Richard B. Russell National School Lunch Act.

''(4) CONSTRUCTION.—

''(A) SECTARIAN INSTITUTIONS.—Nothing in this section shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this section.

''(B) DESEGREGATION PLANS.—Nothing in this section shall be construed to interfere with any desegregation plans that involve school attendance areas affected by this section.

''(j) PARENTAL NOTIFICATION.—Each eligible entity receiving a grant under this section shall provide timely notice of the demonstration project to parents of eligible children residing in the area to be served by the demonstration project. At a minimum, such notice shall—

''(1) describe the demonstration project;

''(2) describe the eligibility requirements for participation in the demonstration project;

''(3) describe the information needed to make a determination of eligibility for participation in the demonstration project for an eligible child;

''(4) describe the selection procedures to be used if the number of eligible children seeking to participate in the demonstration project exceeds the number that can be accommodated in the demonstration project;

''(5) provide information about each choice school, including information about any admission requirements or criteria for each choice school participating in the demonstration project; and

''(6) include the schedule for parents to apply for their eligible children to participate in the demonstration project.

''(k) EVALUATION.—

''(1) ANNUAL EVALUATION.—

''(A) CONTRACT.—The Secretary shall enter into a contract with an evaluating agency for the conduct of an ongoing rigorous evaluation of the demonstration program under this section.

''(B) ANNUAL EVALUATION REQUIREMENT.—The contract described in subparagraph (A) shall require the evaluating agency to annually evaluate each demonstration project under this section in accordance with the criteria described in paragraph (2).

''(2) EVALUATION CRITERIA.—The Secretary shall establish such criteria for evaluating the demonstration program under this section. Such criteria shall include—

''(A) a description of the implementation of each demonstration project under this section;

''(B) a comparison of the educational achievement between students receiving education certificates under this section and students otherwise eligible for, but not receiving education certificates under this section;

''(C) a comparison of the level of parental satisfaction and involvement between parents whose children receive education certificates and parents from comparable backgrounds whose children did not receive an education certificate; and

''(D) a description of changes in the overall performance and quality of public elementary and secondary schools in the demonstration project area that can be directly or reasonably attributable to the program under this section.

''(3) REPORTS.—

''(A) REPORT BY GRANT RECIPIENT.—Each eligible entity receiving a grant under this section shall submit, to the Secretary and the evaluating agency, an annual report regarding the demonstration project under this section. Each such report shall be submitted at such time, in such manner, and accompanied by such information, as such evaluating agency may require.

''(B) REPORTS BY EVALUATING AGENCY.—

''(i) IN GENERAL.—The evaluating agency shall transmit to the Secretary and the Congress 2 interim reports on the findings of the annual evaluation under this subsection.

''(ii) FIRST INTERIM REPORT.—The first interim report under clause (i) shall be submitted not later than September 20, 2003, and shall, at a minimum, describe the implementation of the demonstration projects under this section and shall include such demographic information as is reasonably available about—

''(I) the participating schools (both the choice schools and the schools that have been identified as failing;

''(II) the participating and requesting students and background of their families; and

''(III) the number of certificates requested versus the number of certificates received.

''(iii) SECOND INTERIM AND FINAL REPORT.—The second interim and final report under this subparagraph shall be submitted to the Secretary and the appropriate committees in Congress not later than September 30, 2006, and June 1, 2008, respectfully, and shall, at a minimum, include the information described in clause (ii), as well as any additional information deemed necessary by the Secretary.

SA 537. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 731, line 5, strike ''(C) and (D)'' and insert ''(C), (D), and (E)''.

On page 738, between lines 8 and 9, insert the following:

''(E) TOTAL STUDENT POPULATION.—In selecting the State educational agencies and local educational agencies described in subparagraph (A) to enter into performance agreements under this part, the Secretary

may not select State educational agencies and local educational agencies that serve a combined student population that is greater than 10 percent of the total national student population, based on the most recent appropriate data available.

SA 538. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 22, lines 22–23, strike ''participation of private school'' and insert ''parents and'' after ''for''.

On page 23, line 3, insert ''this Act, including but not limited to'' after ''of'' and insert a comma '','' after ''6''.

On page 23, line 8, strike ''a reasonable period of time'' and insert ''90 days of receipt of the complaint'' after ''within''.

On page 23, lines 12–13, strike ''fails to resolve the complaint within a reasonable period of time'' and insert '', if there is no resolution, any time after the expiration of the State educational agency's 90-day period for resolving such complaints'' after ''or''.

On page 23, lines 16–17, strike ''resolve'' and insert ''make an initial determination of'' after ''and''.

On page 23, line 19, strike ''by-pass determination'' and insert ''complaint appeals'' before ''process''.

On page 23, line 21, after ''In General.'', insert a new section (A) to read as follows:

''(A) If the Secretary determines that the State educational agency, local educational agency, educational service agency, or consortium of such agencies is not meeting its responsibilities under the Act, the Secretary shall notify the State educational agency of such determination and the reasons for such determination, offer the State educational agency the opportunity to address the complaint, and provide technical assistance to the State educational agency. If the State educational agency fails to take corrective action within a reasonable time, the Secretary may, after notice and consultation, withhold funds for State administration and activities under section 1117.''.

On page 23, line 21, strike ''(A)'' and renumber the paragraph as ''(B)''.

On page 23, line 22, strike ''7'' and insert ''this'' before ''section''.

On page 24, line 2, strike ''thereof'' and insert ''of the Secretary's initial determination'' after ''notice''.

On page 24, line 4, insert ''In the absence of such objection, the initial determination shall be the final action.'' after the period ''.''.

On page 24, line 5, strike ''(B)'' and renumber the paragraph as ''(C)'', and strike ''resolution of'' and insert ''action on'' before ''any''.

On page 24, lines 10–11, strike ''those services'' and insert ''any services not being provided'' after ''of''.

On page 24, lines 12–13, strike ''such'' and insert ''an'' after ''If''.

On page 25, line 25, strike ''private''.

On page 26, line 4, strike ''section 6 or any other provision of''.

On page 26, line 9, strike ''public and private''.

SA 539. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table, as follows:

On page 684, strike lines 1 through 5, and insert the following:

''(L) programs to provide same gender schools and classrooms, if the local educational agency makes available to students of the same gender schools and classrooms policies and criteria for admission, courses, services, and facilities that are comparable to the policies and criteria, courses, services, and facilities offered in or through the local educational agency's coeducational schools and classrooms;''.

SA 540. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 684, strike lines 1 through 5, and insert the following:

''(L) education reform programs that provide same gender schools and classrooms, if comparable educational opportunities are offered for students of both sexes;''.

SA 541. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 684, line 2, strike ''equal'' and insert ''comparable''.

SA 542. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 684, strike lines 1 through 5.

SA 543. Mr. KYL (for himself and Mr. HUTCHINSON) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING TAX CREDITS FOR CONTRIBUTIONS TO TUITION SCHOLARSHIP ORGANIZATIONS.

(a) FINDINGS.—The Senate finds the following:

(1) Over the last decade, many education reform advocates in the private sector have formed organizations that provide partial tuition scholarships to students whose families lack the means to pay full tuition at the school of their choice.

(2) Studies have shown that parents with children receiving such scholarship assistance outperform comparable students not awarded such scholarships on standardized tests and that the parents of such students express high levels of satisfaction with the quality of their children's education.

(3) In 1999, approximately 1,250,000 applications were made for 40,000 partial tuition scholarships being offered to low-income students nationwide;comparable results from other such lotteries demonstrate that demand for such scholarship assistance far outstrips the available supply.

(4) Recognizing the compelling public interest in meeting that demand, Arizona and other States have enacted, or are considering enacting, legislation to provide tax incentives to taxpayers who donate to tuition scholarship organizations.

(5) Since Arizona enacted a tax credit for donations to tuition scholarship organizations, the number of organizations offering scholarships in the State has increased from 2 to 33, and more than 11,000 students have received scholarship assistance that has made it possible for them to enroll in a school of their choice.

(6) State and Federal courts have consistently found tuition scholarship donation tax credits to be constitutional under State constitutions and the Constitution of the United States.

(7) Congress should encourage promising private initiatives to improve education at the elementary and secondary level.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should act expeditiously to pass legislation in the 107th Congress providing a tax credit to partially offset the cost of donations to organizations that provide tuition scholarships to students whose families lack the means to pay full tuition at the school of their choice.

SA 544. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PILOT TRAINING PROGRAM.

(1) IN GENERAL.—The Secretary of Education is authorized to award grants to land-grant colleges and universities in states with aircraft pilot shortage and to Alaska Native-serving institutions to enable the institutions to educate thousand aircraft pilots and to provide the equipment necessary to train pilots, including air traffic control and pilot training simulators.

(2) DEFINITIONS.—In this subsection:

(A) ALASKA NATIVE-SERVING INSTITUTION.—The term ''Alaska Native-serving institution'' has the meaning given the term in section 317(b) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)).

(B) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term ''land-grant colleges and universities'' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

SA 545. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 365, strike lines 7 through 11, and insert the following:

''(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 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 1 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 BIA-funded schools, taking into consideration student enrollment, the number of children with special needs, the number of bilingual children, the number of students in residential programs, and the number of students in gifted and talented programs. The Secretary shall also consider whether a minimum amount is needed to ensure small schools can utilize funding effectively. In accordance with such rules, the Secretary of the Interior shall distribute such funds.

SA 524. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, insert the following:

TITLE ____—BUILDING AND RENOVATION

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Building, Renovating, Improving, and Constructing Kids' Schools Act''.

SEC. ____02. FINDINGS.

Congress makes the following findings:

(1) According to a 1999 issue brief prepared by the National Center for Education Statistics, the average public school in America is 42 years old, and school buildings begin rapid deterioration after 40 years. In addition, 29 percent of all public schools are in the oldest condition, meaning that the schools were built before 1970 and have either never been renovated or were renovated prior to 1980.

(2) According to reports issued by the General Accounting Office (GAO) in 1995 and 1996, it would cost $112,000,000,000 to bring the Nation's schools into good overall condition, and one-third of all public schools need extensive repair or replacement.

(3) Many schools do not have the appropriate infrastructure to support computers and other technologies that are necessary to prepare students for the jobs of the 21st century.

(4) Without impeding on local control, the Federal Government appropriately can assist State, regional, and local entities in addressing school construction, renovation, and repair needs by providing low-interest loans for purposes of paying interest on related bonds and by supporting other State-administered school construction programs.

SEC. ____03. DEFINITIONS.

In this title:

(1) BOND.—The term ''bond'' includes any obligation.

(2) GOVERNOR.—The term ''Governor'' includes the chief executive officer of a State.

(3) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given to such term by section 3 of the Elementary and Secondary Education Act of 1965.

(4) PUBLIC SCHOOL FACILITY.—The term ''public school facility'' shall not include—

(A) any stadium or other facility primarily used for athletic contests or exhibitions, or other events for which admission is charged to the general public; or

(B) any facility that is not owned by a State or local government or any agency or instrumentality of a State or local government.

(5) QUALIFIED SCHOOL CONSTRUCTION BOND.—The term ''qualified school construction bond'' means any bond (or portion of a bond) issued as part of an issue if—

(A) 95 percent or more of the proceeds attributable to such bond (or portion) are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds;

(B) the bond is issued by a State, regional, or local entity, with bonding authority; and

(C) the issuer designates such bond (or portion) for purposes of this section.

(6) STABILIZATION FUND.—The term ''stabilization fund'' means the stabilization fund established under section 5302 of title 31, United States Code.

(7) 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, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. ____04. LOANS FOR SCHOOL CONSTRUCTION BOND INTEREST PAYMENTS AND OTHER SUPPORT.

(a) LOAN AUTHORITY AND OTHER SUPPORT.—

(1) LOANS AND STATE-ADMINISTERED PROGRAMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from funds made available to a State under section ____05(b) the State, in consultation with the State educational agency—

(i) shall use not less than 50 percent of the funds to make loans to State, regional, or local entities within the State to enable the entities to make annual interest payments on qualified school construction bonds that are issued by the entities not later than December 31, 2004; and

(ii) may use not more than 50 percent of the funds to support State revolving fund programs or other State-administered programs that assist State, regional, and local entities within the State in paying for the cost of construction, rehabilitation, repair, or acquisition described in section ____03(5)(A).

(B) STATES WITH RESTRICTIONS.—If, on the date of enactment of this Act, a State has in effect a law that prohibits the State from making the loans described in subparagraph (A)(i), the State, in consultation with the State educational agency, may use the funds described in subparagraph (A) to support the programs described in subparagraph (A)(ii).

(2) REQUESTS.—The Governor of each State desiring assistance under this title shall submit a request to the Secretary of the Treasury at such time and in such manner as the Secretary of the Treasury may require.

(3) PRIORITY.—In selecting entities to receive funds under paragraph (1) for projects involving construction, rehabilitation, repair, or acquisition of land for schools, the State shall give priority to entities with projects for schools with greatest need, as determined by the State. In determining the schools with greatest need, the State shall take into consideration whether a school—

(A) is among the schools that have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(i) children living in areas with high concentrations of low-income families;

(ii) children from low-income families; and

(iii) children living in sparsely populated areas;

(B) has inadequate school facilities and a low level of resources to meet the need for school facilities; or

(C) meets such criteria as the State may determine to be appropriate.

(b) REPAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), a State that uses funds made available under section ____05(b) to make a loan or support a State-administered program under subsection (a)(1) shall repay to the stabilization fund the amount of the loan or support, plus interest, at an annual rate of 4.5 percent. A State shall not be required to begin making such repayment until the year immediately following the 15th year for which the State is eligible to receive annual distributions from the fund (which shall be the final year for which the State shall be eligible for such a distribution under this Act). The amount of such loan or support shall be fully repaid during the 10-year period beginning on the expiration of the eligibility of the State under this title.

(2) EXCEPTIONS.—

(A) IN GENERAL.—The interest on the amount made available to a State under section ____05(b) shall not accrue, prior to January 1, 2007, unless the amount appropriated to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) for any fiscal year prior to fiscal year 2007 is sufficient to fully fund such part for the fiscal year at the originally promised level, which promised level would provide to each State 40 percent of the average per-pupil expenditure for providing special education and related services for each child with a disability in the State.

(B) APPLICABLE INTEREST RATE.—Effective January 1, 2007, the applicable interest rate that will apply to an amount made available to a State under section ____05(b) shall be—

(i) 0 percent with respect to years in which the amount appropriated to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) is not sufficient to provide to each State at least 20 percent of the average per-pupil expenditure for providing special education and related services for each child with a disability in the State;

(ii) 2.5 percent with respect to years in which the amount described in clause (i) is not sufficient to provide to each State at least 30 percent of such average per-pupil expenditure;

(iii) 3.5 percent with respect to years in which the amount described in clause (i) is not sufficient to provide to each State at least 40 percent of such average per-pupil expenditure; and

(iv) 4.5 percent with respect to years in which the amount described in clause (i) is sufficient to provide to each State at least 40 percent of such average per-pupil expenditure.

(c) FEDERAL RESPONSIBILITIES.—The Secretary of the Treasury and the Secretary of Education—

(1) jointly shall be responsible for ensuring that funds provided under this title are properly distributed;

(2) shall ensure that funds provided under this title are used only to pay for—

(A) the interest on qualified school construction bonds; or

(B) a cost described in subsection (a)(1)(A)(ii); and

(3) shall not have authority to approve or disapprove school construction plans assisted pursuant to this title, except to ensure that funds made available under this title are used only to supplement, and not supplant, the amount of school construction, rehabilitation, and repair, and acquisition of land for school facilities, in the State that would have occurred in the absence of such funds.

SEC. ____05. AMOUNTS AVAILABLE TO EACH STATE.

(a) RESERVATION FOR INDIANS.—

(1) IN GENERAL.—From $20,000,000,000 of the funds in the stabilization fund, the Secretary of the Treasury shall make available $400,000,000 to provide assistance to Indian tribes.

(2) USE OF FUNDS.—An Indian tribe that receives assistance under paragraph (1)—

(A) shall use not less than 50 percent of the assistance for a loan to enable the Indian tribe to make annual interest payments on qualified school construction bonds, in accordance with the requirements of this Act that the Secretary of the Treasury determines to be appropriate; and

(B) may use not more than 50 percent of the assistance to support tribal revolving fund programs or other tribal-administered programs that assist tribal governments in paying for the cost of construction, rehabilitation, repair, or acquisition described in section ___03(5)(A), in accordance with the requirements of this Act that the Secretary of the Treasury determines to be appropriate.

(b) AMOUNTS AVAILABLE.—

(1) IN GENERAL.—Subject to paragraph (3) and from $20,000,000,000 of the funds in the stabilization fund that are not reserved under subsection (a), the Secretary of the Treasury shall make available to each State submitting a request under section ___04(a)(2) an amount that bears the same relation to such remainder as the amount the State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for fiscal year 2001 bears to the amount received by all States under such part for such year.

(2) DISBURSAL.—The Secretary of the Treasury shall disburse the amount made available to a State under paragraph (1) or (3), on an annual basis, during the period beginning on October 1, 2001, and ending September 30, 2018.

(3) SMALL STATE MINIMUM.—

(A) MINIMUM.—No State shall receive an amount under paragraph (1) that is less than $100,000,000.

(B) STATES.—In this paragraph, the term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) NOTIFICATION.—The Secretary of the Treasury and the Secretary of Education jointly shall notify each State of the amount of funds the State may receive for loans and other support under this Act.

SA 547. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

''SEC. . Nothing in this Act shall prohibit school administrator, or faculty or staff member, from using a firearm to prevent a school massacre.''.

SA 548. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

''SEC. . (a) Whereas the Bible is the best selling, most widely read, and most influential book in history;

(b) Whereas familiarity with the nature of religious beliefs is necessary to understanding history and contemporary events;

(c) Whereas the Bible is worthy of study for its literary and historic qualities;

(d) Whereas many public schools throughout America are currently teaching the Bible as literature and/or history;

SEC. . 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.''.

SA 549. Mr. HAGEL (for himself, Mr. BAUCUS, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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) 6 percent of such amount for grants to local educational agencies described in paragraph (2)(A);

''(ii) 47 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) 47 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 peer group and 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 paragraph 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 this paragraph.

''(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 paragraph for any fiscal year, the peer review group and the Secretary shall give priority to local educational agencies based on the severity of the emergency, as determined by 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 paragraph 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.''.

SA 550. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

TITLE X—LIBERALIZATION OF TAX-EXEMPT FINANCING RULES FOR PUBLIC SCHOOL CONSTRUCTION

SEC. 1001. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATIONAL FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking ''$5,000,000'' the second place it appears and inserting ''$10,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after December 31, 2001.

SEC. 1002. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', or'', and by adding at the end the following new paragraph:

''(13) qualified public educational facilities.''.

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following new subsection:

''(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—

''(1) IN GENERAL.—For purposes of subsection (a)(13), the term 'qualified public educational facility' means any school facility which is—

''(A) part of a public elementary school or a public secondary school, and

''(B) owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

''(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DESCRIBED.—A public-private partnership agreement is described in this paragraph if it is an agreement—

''(A) under which the corporation agrees—

''(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

''(ii) at the end of the term of the agreement, to transfer the school facility to such agency for no additional consideration, and

''(B) the term of which does not exceed the term of the issue to be used to provide the school facility.

''(3) SCHOOL FACILITY.—For purposes of this subsection, the term 'school facility' means—

''(A) any school building,

''(B) any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events, and

''(C) any property, to which section 168 applies (or would apply but for section 179), for use in a facility described in subparagraph (A) or (B).

''(4) PUBLIC SCHOOLS.—For purposes of this subsection, the terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as in effect on the date of the enactment of this subsection.

''(5) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of—

''(i) $10 multiplied by the State population, or

''(ii) $5,000,000.

''(B) ALLOCATION RULES.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the State may allocate the amount described in subparagraph (A) for any calendar year in such manner as the State determines appropriate.

''(ii) RULES FOR CARRYFORWARD OF UNUSED LIMITATION.—A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ''or (12)'' and inserting ''(12), or (13)'', and

(2) by striking ''and environmental enhancements of hydroelectric generating facilities'' and inserting ''environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities''.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(h) (relating to certain rules not to apply to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds) is amended by adding at the end the following new paragraph:

''(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public educational facilities).''.

(e) CONFORMING AMENDMENT.—The heading for section 147(h) is amended by striking ''MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS'' and inserting ''CERTAIN BONDS''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2001.

SA 551. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

TITLE X—LIBERALIZATION OF TAX-EXEMPT FINANCING RULES FOR PUBLIC SCHOOL CONSTRUCTION

SEC. 1001. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATIONAL FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking ''$5,000,000'' the second place it appears and inserting ''$10,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after December 31, 2001.

SEC. 1002. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', or'', and by adding at the end the following new paragraph:

''(13) qualified public educational facilities.''.

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following new subsection:

''(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—

''(1) IN GENERAL.—For purposes of subsection (a)(13), the term 'qualified public educational facility' means any school facility which is—

''(A) part of a public elementary school or a public secondary school, and

''(B) owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

''(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DESCRIBED.—A public-private partnership agreement is described in this paragraph if it is an agreement—

''(A) under which the corporation agrees—

''(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

''(ii) at the end of the term of the agreement, to transfer the school facility to such agency for no additional consideration, and

''(B) the term of which does not exceed the term of the issue to be used to provide the school facility.

''(3) SCHOOL FACILITY.—For purposes of this subsection, the term 'school facility' means—

''(A) any school building,

''(B) any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events, and

''(C) any property, to which section 168 applies (or would apply but for section 179), for use in a facility described in subparagraph (A) or (B).

''(4) PUBLIC SCHOOLS.—For purposes of this subsection, the terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as in effect on the date of the enactment of this subsection.

''(5) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of—

''(i) $10 multiplied by the State population, or

''(ii) $5,000,000.

''(B) ALLOCATION RULES.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the State may allocate the amount described in subparagraph (A) for any calendar year in such manner as the State determines appropriate.

''(ii) RULES FOR CARRYFORWARD OF UNUSED LIMITATION.—A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking ''or (12)'' and inserting ''(12), or (13)'', and

(2) by striking ''and environmental enhancements of hydroelectric generating facilities'' and inserting ''environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities''.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(h) (relating to certain rules not to apply to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds) is amended by adding at the end the following new paragraph:

''(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public educational facilities).''.

(e) CONFORMING AMENDMENT.—The heading for section 147(h) is amended by striking ''MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS'' and inserting ''CERTAIN BONDS''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2001.

SA 552. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

SEC. 902. EDUCATIONAL USE COPYRIGHT EXEMPTION.

(a) SHORT TITLE.—This section may be cited as the ''Technology, Education and Copyright Harmonization Act of 2001''.

(b) EXEMPTION OF CERTAIN PERFORMANCES AND DISPLAYS FOR EDUCATIONAL USES.—Section 110 of title 17, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting government body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

''(A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution; and

''(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

''(C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—

''(i) students officially enrolled in the course for which the transmission is made; or

''(ii) officers or employees of governmental bodies as a part of their official duties or employment; and

''(D) the transmitting body or institution—

''(i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and

''(ii) in the case of digital transmissions—

''(I) applies technological measures that, in the ordinary course of their operations, prevent—

''(aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and

''(bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and

''(II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;''; and

(2) by adding at the end the following:

''In paragraph (2), the term 'mediated instructional activities' with respect to the performance or display of a work by digital transmission under this section refers to activities that use such work as an integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to activities that use, in 1 or more class sessions of a single course, such works as textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use and retention or are typically purchased or acquired for elementary and secondary students for their possession and independent use.

''For purposes of paragraph (2), accreditation—

''(A) with respect to an institution providing post-secondary education, shall be as determined by a regional or national accrediting agency recognized by the Council on Higher Education Accreditation or the United States Department of Education; and

''(B) with respect to an institution providing elementary or secondary education, shall be as recognized by the applicable state certification or licensing procedures.

''For purposes of paragraph (2), no governmental body or accredited nonprofit educational institution and no recipient identified under paragraph (2)(C) shall be liable for infringement by reason of the transient or temporary storage of material carried out through the automatic technical process of a digital transmission of the performance or display of that material as authorized under paragraph (2). No such material stored on the system or network controlled or operated by the transmitting body or institution under this paragraph shall be maintained on such system or network in a manner ordinarily accessible to anyone other than anticipated recipients. No such copy shall be maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions for which it was made.''.

(c) EPHEMERAL RECORDINGS.—

(1) IN GENERAL.—Section 112 of title 17, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

''(f)(1) Notwithstanding the provisions of section 106, and without limiting the application of subsection (b), it is not an infringement of copyright for a governmental body or other nonprofit educational institution entitled under section 110(2) to transmit a performance or display to make copies or phonorecords of a work that is in digital form and, solely to the extent permitted in paragraph (2), of a work that is in analog form, embodying the performance or display to be used for making transmissions authorized under section 110(2), if—

''(A) such copies or phonorecords are retained and used solely by the body or institution that made them, and no further copies or phonorecords are reproduced from them, except as authorized under section 110(2); and

''(B) such copies or phonorecords are used solely for transmissions authorized under section 110(2).

''(2) This subsection does not authorize the conversion of print or other analog versions of works into digital formats, except that such conversion is permitted hereunder, only with respect to the amount of such works authorized to be performed or displayed under section 110(2), if—

''(A) no digital version of the work is available to the institution; or

''(B) the digital version of the work that is available to the institution is subject to technological protection measures that prevent its use for section 110(2).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 802(c) of title 17, United States Code, is amended in the third sentence by striking ''section 112(f)'' and inserting ''section 112(g)''.

SEC. 4. REPORT.

(A) COPYRIGHT OFFICE REPORT.—Not later than 3 years after the date of enactment of this Act, the Register of Copyrights shall conduct a study and, after consultation with representatives of accredited for-profit educational institutions, accredited non-profit educational institutions, and copyright owners, submit a report to Congress on the status of distance education programs run by accredited for-profit educational institutions, including—

(1) the extent to which accredited for-profit educational institutions are engaging in such programs;

(2) the extent to which an extension of the provisions of this Act to accredited for-profit educational institutions would enhance the number, scope, and quality of such programs;

(3) the policy considerations involved in extending the provisions of this Act to accredited for-profit educational institutions;

(4) the effect such an extension would be likely to have on the market for copyrighted works and the incentive to create such works;

(5) whether such an extension would be consistent with United States treaty obligations; and

(6) such other issues relating to relating to distance education through interactive digital networks by accredited for-profit educational institutions that the Register of Copyrights considers appropriate.

''(b) PTO REPORT.—Not later than 180 days after the date of enactment of this Act and after a period for public comment, the Undersecretary of Commerce for Intellectual Property, after consultations and in conjunction with the Director of National Institute of Standards and Technology and the Register of Copyrights, shall identify and submit to the Committees on the Judiciary of the Senate and the House of Representatives a list of identified technological protection systems or standards that would be the most effective in protecting digitized copyrighted works and preventing infringement of copyright for use by educational institutions.

SA 553. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 696, between lines 18 and 19, insert the following:

''SEC. 5351. SHORT TITLE.

''This subpart may be cited as the 'State and Local Transferability Act'.

''SEC. 5352. PURPOSE.

''The purpose of this subpart is to allow States and local educational agencies the flexibility—

''(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

''(2) to transfer Federal funds allocated to other activities to allocations for activities authorized under title I programs.

''SEC. 5353. TRANSFERABILITY OF FUNDS.

''(a) TRANSFERS BY STATES.—

''(1) IN GENERAL.—In accordance with this subpart, a State may transfer up 75 percent of the nonadministrative State funds allocated to the State for use for State-level activities under each of the following provisions to 1 or more of the State's allocations under any other of such provisions:

''(A) Part A of title II, relating to teachers.

''(B) Supart 4 of part B of this title, relating to innovative education.

''(C) Part C of title II, relating to technology.

''(D) Part A of title IV, relating to safe and drug-free schools and communities.

''(E) Part F of title I, relating to 21st Century Community Learning Centers.

''(F) Part A of title III, relating to bilingual education.

''(2) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this subpart, a State may transfer any funds allocated to the State under a provision listed in paragraph (1) to its allocation under title I.

''(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES.—

''(1) AUTHORITY TO TRANSFER FUNDS.—

''(A) IN GENERAL.—In accordance with this subpart, a local educational agency (except a local educational agency identified for improvement under section 1116(d)(3) or subject to corrective action under section 1116(d)(6)) may transfer not more than 50 percent of the funds allocated to it under each of the provisions listed in paragraph (2) for a fiscal year to 1 or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

''(B) AGENCIES IDENTIFIED FOR IMPROVEMENT.—A local educational agency identified for improvement under section 1116(d)(3) may transfer in accordance with this subpart not more than 30 percent of the funds allocated to it under each of the provisions listed in paragraph (2)—

''(i) to its allocation for school improvement under section 1003;

''(ii) to any other allocation if such transferred funds are used only for local educational agency improvement activities consistent with section 1116(d).

''(C) SUPPLEMENTAL FUNDS FOR TITLE I.—In accordance with this subpart, a local educational agency may transfer funds allocated to such agency under a provision listed in paragraph (2) to its allocation under title I.

''(2) APPLICABLE PROVISIONS.—A local educational agency may transfer funds under subparagraph (A) or (B) from allocations made under each of the following provisions:

''(A) Part A of title II.

''(B) Subpart 4 of part B of title V, relating to innovative education.

''(C) Part A of title IV, relating to safe and drug-free schools and communities.

''(D) Part A of title III, relating to bilingual education.

''(c) NO TRANSFER OF TITLE I FUNDS.—A State or a local educational agency may not transfer under this subpart to any other program any funds allocated to it under title I.

''(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION.—

''(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

''(A) modify to account for such transfer each State plan, or application submitted by the State, to which such funds relate;

''(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

''(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

''(2) LOCAL TRANSFERS.—Each local educational agency that makes a transfer under this section shall—

''(A) modify to account for such transfer each local plan, or application submitted by the agency, to which such funds relate;

''(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

''(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

''(f) APPLICABLE RULES.—

''(1) IN GENERAL.—Except as otherwise provided in this subpart, funds transferred under this section are subject to each of the rules and requirements applicable to the funds allocated by the Secretary under the provision to which the transferred funds are transferred.

''(2) CONSULTATION.—Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 6(c), if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.

SA 554. Mr. HUTCHINSON (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING EDUCATIONAL TAX RELIEF FOR FAMILIES.

(A) FINDINGS.—The Senate finds the following:

(1) Education Savings Accounts (ESAs) are one of the first serious federal efforts to encourage parents to save for their children's education.

(2) ESAs would benefit all students directly, whether they attend public or private schools.

(3) The new opportunities offered by ESAs will help children excel in school and encourage parents, other interested adults as well as third party contributors to participate directly in each child's education.

(4) ESAs will help families pay for essential educational expenses, such as home computers, tutoring, transportation, after-school programs and tuition.

(5) According to the U.S. Bureau of Labor Statistics' 1997 Consumer Expenditure Survey (CES), over 11 million families with children could benefit from these accounts.

(6) In addition, according to the CES, the 11 million families who stand to benefit from ESAs live in every region of the country, with over 87% of those families living in urban and suburban areas.

(7) President George W. Bush has made the expansion of ESAs a top priority of his Administration.

(8) ESAs have passed the United States Congress in both the 105th and 106th Congress under the leadership of the late Senator Paul Coverdell of Georgia.

(9) The Senate Finance Committee reported favorably the Affordable Education Act of 2001, S. 763, on April 24, 2001, which included the Coverdell Education Savings Accounts.

(B) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should—

(1) expeditiously pass the Coverdell Education Savings Accounts, as contained in S. 763.

SA 555. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

"SEC. 902. SENSE OF THE SENATE REGARDING DEPARTMENT OF EDUCATION PROGRAM 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 have denied recruiters access to students or to student directory information.

''(7) In 1999, the Army was denied access on 4,515 occasions, the Navy was denied access on 4,364 occasions, the Marine Corps was denied access on 4,884 occasions, and the Air Force was denied access 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 by making 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 defense.

''(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) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Education, in consultation with the Secretary of Defense, should, not later than July 2, 2001, establish a year-long campaign 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.

SA 556. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 29, between lines 14 and 15, insert the following:

"SEC. 16. ADDITIONAL LIMITATIONS AND PROTECTIONS REGARDING PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

''(a) APPLICABILITY OF ACT TO PRIVATE AND HOME SCHOOLS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act shall be construed to effect a private school or home school, whether or not a home school is treated as a home school under State law.

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

''(b) PARTICIPATION OF PRIVATE AND HOME SCHOOL STUDENTS IN STUDENT ASSESSMENTS.—No student of a private school or home school shall be required to participate in any State assessment if the State or local educational agency concerned receives funds under 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. Private, religious, and home schools may not be barred from participation in programs and services under this Act or any other Act administered by the Secretary.

''(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 LEA MANDATES REGARDING PRIVATE AND HOME SCHOOL CURRICULA.—No State or local educational agency that receives funds under this Act may mandate, direct, or control 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.''.

SA 557. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 29, between lines 14 and 15, insert the following:

"SEC. 16. ADDITIONAL LIMITATIONS.

''(a) NATIONAL TESTING.—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 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.

''(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 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.''.

SA 558. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—EDUCATION SAVINGS INCENTIVES

SEC. ___00. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title 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 Internal Revenue Code of 1986.

SEC. ___01. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking ''$500'' and inserting ''$2,000''.

(2) CONFORMING AMENDMENT.—Section 4973(e)(1)(A) is amended by striking ''$500'' and inserting ''$2,000''.

(b) MODIFICATION OF AGI LIMITS TO REMOVE MARRIAGE PENALTY.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended—

(1) by striking ''$150,000'' in subparagraph (A)(ii) and inserting ''$190,000'', and

(2) by striking ''$10,000'' in subparagraph (B) and inserting ''$30,000''.

(c) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) (defining qualified higher education expenses) is amended to read as follows:

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3)), and

''(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)).

''(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include any contribution to a qualified State tuition program (as defined

in section 529(b)) on behalf of the designated beneficiary (as defined in section 529(e)(1)); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of subsection (d)(2).''.

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

''(i) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public, private, or religious school, and

''(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance.

''(B) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.''.

(3) CONFORMING AMENDMENTS.—Section 530 is amended—

(A) by striking ''higher'' each place it appears in subsections (b)(1) and (d)(2), and

(B) by striking ''HIGHER'' in the heading for subsection (d)(2).

(d) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

''The age limitations in subparagraphs (A)(ii) and (E), and paragraphs (5) and (6) of subsection (d), shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''.

(e) ENTITIES PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking ''The maximum amount which a contributor'' and inserting ''In the case of a contributor who is an individual, the maximum amount the contributor''.

(f) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

(1) IN GENERAL.—Section 530(b) (relating to definitions and special rules), as amended by subsection (c)(2), is amended by adding at the end the following new paragraph:

''(5) TIME WHEN CONTRIBUTIONS DEEMED MADE.—An individual shall be deemed to have made a contribution to an education individual retirement account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).''.

(2) EXTENSION OF TIME TO RETURN EXCESS CONTRIBUTIONS.—Subparagraph (C) of section 530(d)(4) (relating to additional tax for distributions not used for educational expenses) is amended—

(A) by striking clause (i) and inserting the following new clause:

''(i) such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and'', and

(B) by striking ''DUE DATE OF RETURN'' in the heading and inserting ''CERTAIN DATE''.

(g) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS.—

(1) IN GENERAL.—Section 530(d)(2)(C) is amended to read as follows:

''(C) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS.—For purposes of subparagraph (A)—

''(i) CREDIT COORDINATION.—The total amount of qualified higher education expenses with respect to an individual for the taxable year shall be reduced—

''(I) as provided in section 25A(g)(2), and

''(II) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A.

''(ii) COORDINATION WITH QUALIFIED TUITION PROGRAMS.—If, with respect to an individual for any taxable year—

''(I) the aggregate distributions during such year to which subparagraph (A) and section 529(c)(3)(B) apply, exceed

''(II) the total amount of qualified education expenses (after the application of clause (i)) for such year,

the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under subparagraph (A) and section 529(c)(3)(B).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 25A is amended to read as follows:

''(e) ELECTION NOT TO HAVE SECTION APPLY.—A taxpayer may elect not to have this section apply with respect to the qualified tuition and related expenses of an individual for any taxable year.''.

(B) Section 135(d)(2)(A) is amended by striking ''allowable'' and inserting ''allowed''.

(C) Section 530(d)(2)(D) is amended—

(i) by striking ''or credit'', and

(ii) by striking ''CREDIT OR'' in the heading.

(D) Section 4973(e)(1) is amended by adding ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(h) RENAMING EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS AS COVERDELL EDUCATION SAVINGS ACCOUNTS.—

(1) IN GENERAL.—

(A) Section 530 (as amended by the preceding provisions of this section) is amended by striking ''an education individual retirement account'' each place it appears and inserting ''a Coverdell education savings account''.

(B) Section 530(a) is amended—

(i) by striking ''An education individual retirement account'' and inserting ''A Coverdell education savings account'', and

(ii) by striking ''the education individual retirement account'' and inserting ''the Coverdell education savings account''.

(C) Section 530(b)(1) is amended—

(i) by striking ''education individual retirement account'' in the text and inserting ''Coverdell education savings account'', and

(ii) by striking ''EDUCATION INDIVIDUAL RETIREMENT ACCOUNT'' in the heading and inserting ''COVERDELL EDUCATION SAVINGS ACCOUNT''.

(D) Sections 530(d)(5) and 530(e) are amended by striking ''any education individual retirement account'' each place it appears and inserting ''any Coverdell education savings account''.

(E) The heading for section 530 is amended to read as follows:

''SEC. 530. COVERDELL EDUCATION SAVINGS ACCOUNTS.''.

(F) The item in the table of contents for part VII of subchapter F of chapter 1 relating to section 530 is amended to read as follows:

''Sec. 530. Coverdell education savings accounts.''.

(2) CONFORMING AMENDMENTS.—

(A) The following provisions are amended by striking ''an education individual retirement'' each place it appears and inserting ''a Coverdell education savings'':

(i) Section 72(e)(9).

(ii) Section 135(c)(2)(C).

(iii) Section 4973(a).

(iv) Subsections (c) and (e) of section 4975.

(B) The following provisions are amended by striking ''education individual retirement'' each place it appears in the text and inserting ''Coverdell education savings'':

(i) Section 26(b)(2)(E).

(ii) Section 4973(e).

(iii) Section 6693(a)(2)(D).

(C) The headings for the following provisions are amended by striking ''EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS'' each place it appears and inserting ''COVERDELL EDUCATION SAVINGS ACCOUNTS''.

(i) Section 72(e)(9).

(ii) Section 135(c)(2)(C).

(iii) Section 4973(e).

(iv) Section 4975(c)(5).

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(2) SUBSECTION (h).—The amendments made by subsection (h) shall take effect on the date of the enactment of this Act.

SEC. ___02. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS CONTRIBUTED TO COVERDELL EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 127 (relating to education assistance programs) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

''(d) QUALIFIED COVERDELL EDUCATION SAVINGS ACCOUNT CONTRIBUTIONS.—

''(1) IN GENERAL.—Gross income of an employee shall not include amounts paid or incurred by the employer for a qualified Coverdell education savings account contribution on behalf of the employee.

''(2) QUALIFIED COVERDELL EDUCATION SAVINGS ACCOUNT CONTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified Coverdell education savings account contribution' means an amount contributed pursuant to an educational assistance program described in subsection (b) by an employer to a Coverdell education savings account established and maintained for the benefit of an employee or the employee's spouse, or any lineal descendent of either.

''(B) DOLLAR LIMIT.—A contribution by an employer to a Coverdell education savings account shall not be treated as a qualified Coverdell education savings account contribution to the extent that the contribution, when added to prior contributions by the employer during the calendar year to Coverdell education savings accounts established and maintained for the same beneficiary, exceeds $500.

''(3) SPECIAL RULES.—

''(A) CONTRIBUTIONS NOT TREATED AS EDUCATIONAL ASSISTANCE IN DETERMINING MAXIMUM EXCLUSION.—For purposes of subsection (a)(2), qualified Coverdell education savings account contributions shall not be treated as educational assistance.

''(B) SELF-EMPLOYED NOT TREATED AS EMPLOYEE.—For purposes of this subsection, subsection (c)(2) shall not apply.

''(C) ADJUSTED GROSS INCOME PHASEOUT OF ACCOUNT CONTRIBUTION NOT APPLICABLE TO INDIVIDUAL EMPLOYERS.—The limitation under

section 530(c) shall not apply to a qualified Coverdell education savings account contribution made by an employer who is an individual.

''(D) CONTRIBUTIONS NOT TREATED AS AN INVESTMENT IN THE CONTRACT.—For purposes of section 530(d), a qualified Coverdell education savings account contribution shall not be treated as an investment in the contract.''.

(b) REPORTING REQUIREMENT.—Section 6051(a) (relating to receipts for employees) is amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding at the end the following new paragraph:

''(12) the amount of any qualified Coverdell education savings account contribution under section 127(d) with respect to such employee.''.

(c) CONFORMING AMENDMENT.—Section 221(e)(2)(A) is amended by inserting ''(other than under subsection (d) thereof)'' after ''section 127''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2001.

SA 559. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, insert the following:

TITLE ____—EDUCATIONAL CHOICES FOR DISADVANTAGED CHILDREN.

SEC. ____01. PURPOSES.

The purposes of this title are—

(1) to assist the District of Columbia to—

(A) give children from low-income families in the District of Columbia the same choices among all elementary schools and secondary schools and other academic programs as children from wealthier families already have;

(B) improve schools and other academic programs in the District of Columbia by giving parents in low-income families increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage parents in the District of Columbia in their children's schooling; and

(2) to demonstrate, through a 3-year grant program, the effects of a voucher program in the District of Columbia that gives parents in low-income families—

(A) choice among public, private, and religious schools for their children; and

(B) access to the same academic options as parents in wealthy families have for their children.

SEC. ____02. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title (other than section ____09) $25,000,000 for each of fiscal years 2002 through 2005.

(b) EVALUATION.—There is authorized to be appropriated to carry out section ____09 $1,000,000 for each of fiscal years 2002 through 2005.

SEC. ____03. PROGRAM AUTHORITY.

(a) IN GENERAL.—From amounts made available to carry out this title, the Secretary of Education shall award grants to the District of Columbia to enable the District of Columbia to carry out educational choice programs that provide scholarships, in accordance with this title.

(b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDITURES.—The Secretary of Education may reserve not more than 2 percent of the amounts appropriated under section ____02(a) for a fiscal year to the District of Columbia Board of Education or other entity that exercises administrative jurisdiction over the District of Columbia public schools, the Superintendent of the District of Columbia public schools, and other school scholarship programs in the District of Columbia, to pay for the costs of administering this title.

SEC. ____04. ELIGIBLE SCHOOLS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Schools identified under paragraph (2) shall be considered to be eligible schools under this title. The identification under paragraph (2) shall be carried out by the District of Columbia Board of Education or other entity that exercises administrative jurisdiction over the District of Columbia public schools, the Superintendent of the District of Columbia public schools, and other school scholarship programs in the District of Columbia.

(2) DETERMINATION.—Not later than 180 days after the date of enactment of this title, the District of Columbia shall identify the public elementary schools and secondary schools that are at or below the 25th percentile for academic performance of schools in the District of Columbia.

(b) PERFORMANCE.—The District of Columbia shall determine the academic performance of a school under this section based on such criteria as the District of Columbia may consider to be appropriate.

SEC. ____05. SCHOLARSHIPS.

(a) IN GENERAL.—

(1) SCHOLARSHIP AWARDS.—With funds awarded under this title, District of Columbia Board of Education shall provide scholarships to the parents of eligible children, in accordance with subsections (b) and (c). The District of Columbia shall ensure that the scholarships may be redeemed for elementary or secondary education for the eligible children at any of a broad variety of public and private schools, including religious schools, in the District of Columbia.

(2) SCHOLARSHIP AMOUNT.—The amount of each scholarship shall be $2000 per year.

(3) TAX EXEMPTION.—Scholarships awarded under this title shall not be considered income of the parents for Federal income tax purposes or for determining eligibility for any other Federal program.

(b) ELIGIBLE CHILD.—To be eligible to receive a scholarship under this title, a child shall be—

(1) a child who is enrolled in a public elementary school or secondary school that is an eligible school; and

(2) a member of a family with a family income that is not more than 200 percent of the poverty line.

(c) AWARD RULES.—

(1) PRIORITY.—In providing scholarships under this title, the District of Columbia shall provide scholarships for eligible children through a lottery system administered for all eligible schools in the District of Columbia.

(2) CONTINUING ELIGIBILITY.—The District of Columbia shall provide a scholarship in each year of the program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the area served by an eligible school;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, 200 percent of the poverty line;

(D) the child is expelled; or

(E) the child is convicted of possession of a weapon on school grounds, convicted of a violent act against another student or a member of the school's faculty, or convicted of a felony, including felonious drug possession.

SEC. ____06. USES OF FUNDS.

Any scholarship awarded under this title for a year shall be used—

(1) first, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not the school to which the child would be assigned in the absence of a program under this title;

(2) second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the District of Columbia determines is capable of providing such services and has an appropriate refund policy; and

(3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

SEC. ____07. REQUIREMENT.

The District of Columbia shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

SEC. ____08. EFFECT OF PROGRAMS.

(a) TITLE I.—Notwithstanding any other provision of law, if the District of Columbia would, in the absence of an educational choice program that is funded under this title, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the District of Columbia shall ensure the provision of such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this title shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this title shall be considered to aid families, not institutions. For purposes of determining Federal assistance under Federal law, a parent's expenditure of scholarship funds under this title at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this title shall, as a condition of participation under this title, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary of Education shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this title and the nature, variety, and missions of schools and providers that may participate in providing services to children under this title.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to the District of Columbia or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining

the amount of such assistance, to the District of Columbia or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this title shall be construed to authorize the Secretary of Education to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this title.

SEC. ___09. EVALUATION.

The Comptroller General of the United States shall conduct an evaluation of the program authorized by this title. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this title and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. ___10. ENFORCEMENT.

(a) REGULATIONS.—The Secretary of Education shall promulgate regulations to enforce the provisions of this title.

(b) PRIVATE CAUSE.—No provision or requirement of this title shall be enforced through a private cause of action.

SEC. ___11. WASTEFUL SPENDING AND FUNDING.

(a) IN GENERAL.—The Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives shall identify wasteful spending by the Federal Government as a means of providing funding for this title.

(b) REPORT.—Not later than 60 days after the date of enactment of this title, the committees referred to in subsection (a) shall jointly prepare and submit to the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, a report concerning the spending identified under such subsection.

SA 560. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of part E of title I, add the following:

SEC. ___. EARLY EDUCATION.

(a) SHORT TITLE.—This section may be cited as the ''Early Education Act of 2001''.

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

(1) In 1989 the Nation's governors established a goal that all children would have access to high quality early education programs by the year 2000. As of January 1, 2001, this goal has still not been achieved.

(2) Research suggests that a child's early years are critical to the development of the brain. Early brain development is an important component of educational and intellectual achievement.

(3) The National Research Council reported that early education opportunities are necessary if children are going to develop the language and literacy skills necessary to learn to read.

(4) Evaluations of early education programs demonstrate that compared to children with similar backgrounds who have not participated in early education programs, children who participate in such programs—

(A) perform better on reading and mathematics achievement tests;

(B) are more likely to stay academically near their grade level and make normal academic progress throughout elementary school;

(C) are less likely to be held back a grade or require special education services in elementary school;

(D) show greater learning retention, initiative, creativity, and social competency; and

(E) are more enthusiastic about school and are more likely to have good attendance records.

(5) Studies have estimated that for every dollar invested in quality early education, about 7 dollars are saved in later costs.

(c) EARLY EDUCATION.—Title I (20 U.S.C. 6301 et seq.), as amended in section 151, is further amended by adding at the end the following:

"PART I—EARLY EDUCATION

"SEC. 1841. EARLY EDUCATION.

''(a) PURPOSE.—The purpose of this section is to establish a program to develop the foundation of early literacy and numerical training among young children by helping State educational agencies expand the existing education system to include early education for all children.

''(b) DEFINITION OF EARLY EDUCATION.—In this part, the term 'early education' means not less than a half-day of schooling each week day during the academic year preceding the academic year a child enters kindergarten.

''(c) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary is authorized to award grants to not fewer than 10 State educational agencies to enable the State educational agencies to expand the existing education system with programs that provide early education.

''(2) MATCHING REQUIREMENT.—The amount provided to a State educational agency under paragraph (1) shall not exceed 50 percent of the cost of the program described in the application submitted pursuant to subsection (d).

''(3) REQUIREMENTS.—Each program assisted under this section—

''(A) shall be carried out by 1 or more local educational agencies, as selected by the State educational agency;

''(B) shall be carried out—

''(i) in a public school building; or

''(ii) in another facility by, or through a contract or agreement with, a local educational agency;

''(C) shall be available to all children served by a local educational agency carrying out the program; and

''(D) shall only involve instructors who are licensed or certified in accordance with applicable State law.

''(d) APPLICATION.—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. Each application shall—

''(1) include a description of—

''(A) the program to be assisted under this section; and

''(B) how the program will meet the purpose of this section; and

''(2) contain a statement of the total cost of the program and the source of the matching funds for the program.

''(e) SECRETARIAL AUTHORITY.—In order to carry out the purpose of this section, the Secretary—

''(1) shall establish a system for the monitoring and evaluation of, and shall annually report to Congress regarding, the programs funded under this section; and

''(2) may establish any other policies, procedures, or requirements, with respect to the programs.

''(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, other Federal, State, or local funds, including funds provided under Federal programs such as the Head Start programs carried out under the Head Start Act and the Even Start Family Literacy Program carried out under part B.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $300,000,000 for each of the fiscal years 2002 through 2006.''.

SA 561. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 256, line 21, strike ''; and'' and insert a semicolon.

On page 256, line 24, strike the period and insert ''; and''.

On page 256, after line 24, add the following:

''(I) an assurance that the eligible organization will, to the extent practicable, carry out the proposed program with community-based organizations, such as the Police Athletic and Activities Leagues, that have a history of providing academically-based after school programs.

SA 562. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

SEC. 902. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate makes the following findings:

(1) The aftershool programs provided through 21st Century Community Learning Centers grants are proven strategies that should be encouraged.

(2) The demand for afterschool education is very high, with over 7,000,000 children without afterschool opportunities.

(3) Afterschool programs improve education achievement and have widespread support, with over 80 percent of the American people supporting such programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should continue toward the goal of providing the necessary funding for afterschool program by appropriating the authorized level of $1,500,000,000 for fiscal year 2002 to carry out part F title I of the Elementary and Secondary Education Act of 1965; and

(2) such 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.

SA 563. Mrs. BOXER submitted an amendment intended to be proposed by

here to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

SEC. 902. SENSE OF THE SENATE; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF THE SENATE.—Congress finds that—

(1) Congress should continue toward the goal of providing the necessary funding for afterschool programs by appropriating the authorized level of $1,500,000 for FY 2002 to carry out part F 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;
(6) $4,500,000,000 for fiscal year 2008;

SA 564. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 548, between lines 11 and 12, insert the following:

"SEC. 4119. COMMUNITY SERVICE DURING PERIODS OF EXPULSION OR SUSPENSION.

''(a) REQUIREMENT FOR STATE LAW.—Each State receiving Federal funds under this subpart shall have in effect a State law that—

''(1) requires each student expelled or suspended from school for a period to participate in a community service activity for the same number of hours as the student would have been in school during that period if the student had not been expelled or suspended;

''(2) provides for the community service activity in which the student participates to be—

''(A) a community service activity that involves drug and violence prevention, if such an activity is available for the student's participation; or

''(B) any similar community service activity, to the extent that an activity described in subparagraph (A) is not available for the student's participation; and

''(3) to the extent that the State law authorizes a local educational agency to administer the requirement for community service under the law, requires that the local educational agency designate a single official of that agency to coordinate the administration of the requirement for community service with the schools of that agency and with community organizations concerned with the community service.

''(b) FUNDING.—Funds allocated to a State under this subpart shall be available for the administration of a law described in subsection (a) that is in effect in that State.

SA 565. Mrs. FEINSTEIN submitted an amendment intended to be proposed by hER to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, strike line 14 and insert the following:

remain available until expended.

"PART B—POVERTY DATA

"SEC. 9201. POVERTY DATA ADJUSTMENTS.

''Whenever the Secretary uses any data that relates to the incidence of poverty and is produced or published by or for the Secretary of Commerce for subnational, State or substate areas, the Secretary shall adjust the data to account for differences in the cost of living in the areas.''.

SA 566. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 145, strike lines 3 through 8 and insert the following:

''(B) 40 percent of the average per pupil expenditure in the State, except that—

''(i) if the average per pupil expenditure in the State is less than 95 percent of the average per pupil expenditure in the United States, the amount shall be 95 percent of the average per pupil expenditure in the United States; or

''(ii) if the average per pupil expenditure in the State is more than 105 percent of the average per pupil expenditure in the United States, the amount shall be 105 percent of the average per pupil expenditure in the United States.

SA 567. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 90 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 85 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 80 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

SA 568. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 85 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 80 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 75 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

SA 569. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 80 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 75 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

SA 570. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 75 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 65 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

SA 571. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged

5 to 17 years, inclusive, served by the local educational agency;

''(B) 65 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

SA 572. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary an Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . RIGHT-TO-KNOW ON ARSENIC IN SCHOOL DRINKING WATER.

Part F of the Safe Drinking Water Act (42 U.S.C. 300j–21 et seq.) is amended by adding at the end the following:

''SEC. 1466. NOTICE CONCERNING ARSENIC IN SCHOOL DRINKING WATER.

''Any entity that discharges or releases arsenic into the environment that contributes to the presence of arsenic in the drinking water supply of any public school in a concentration greater than 0.0050 milligrams per liter, as determined by the Administrator, shall submit the parents or guardians of each child enrolled at that school a notice that—

''(1) describes the concentration of arsenic in the drinking water of the school; and

''(2) includes a summary of the health effects of arsenic, in accordance with guidance issued by the Administrator.''.

SA 573. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary an Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE SCHOOLCHILDREN'S HEALTH PROTECTION

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Schoolchildren's Health Protection Act''.

SEC. ___2. SCHOOLCHILDREN'S HEALTH PROTECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the specific provisions described in subsection (b)), no funds made available through the Department of Education or the Department of Health and Human Services shall be used for the distribution or provision of postcoital emergency contraception, or the distribution or provision of a prescription for postcoital emergency contraception, to an unemancipated minor, on the premises or in the facilities of any elementary school or secondary school, without the written consent of such minor's parent for, and prior to, each such distribution or provision.

(b) SPECIFIC PROVISIONS.—The specific provisions referred to in subsection (a) are section 330 and title X of the Public Health Service Act (42 U.S.C. 254b, 300 et seq.) and title V and XIX of the Social Security Act (42 U.S.C. 701 et seq., 1396 et seq.).

(c) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms ''elementary school'' and ''secondary school'' have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(2) POSTCOITAL EMERGENCY CONTRACEPTION.—The term ''postcoital emergency contraception'' means any of the regimens described in the notice entitled ''Prescription Drug Products; Certain Combined Oral Contraceptives for Use as Postcoital Emergency Contraception'', published in the Federal Register on February 25, 1997, 62 Fed. Reg. 8610 (or any corresponding similar notice).

(3) UNEMANCIPATED MINOR.—The term ''unemancipated minor'' means an unmarried individual who is 17 years of age or younger and is a dependent, as defined in section 152(a) of the Internal Revenue Code of 1986.

(4) WRITTEN CONSENT.—The term ''written consent'', used with respect to the parental consent described in subsection (a), means written consent by a parent that the postcoital emergency contraception may be distributed or provided to the unemancipated minor of the parent, or a prescription for the contraception may be distributed or provided to such minor.

SA 574. Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Boy Scouts of America Equal Access Act''.

SEC. ___2. 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 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.

(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.

SA 575. Mr. HARKIN (for himself, Mr. KERRY, Mr. LEVIN, Mr. BIDEN, Mr. REID, Mr. JOHNSON, Mr. CORZINE, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. ____. PUBLIC SCHOOL REPAIR AND RENOVATION; CHARTER SCHOOL FACILITY ACQUISITION.

(a) SHORT TITLE.—This section may be cited as the ''Public School Repair and Renovation Act of 2001''.

(b) GRANTS FOR SCHOOL RENOVATION.—Title IX, as added by section 901, is amended by adding at the end the following:

''PART B—SCHOOL RENOVATION

''SEC. 9201. GRANTS FOR SCHOOL RENOVATION.

''(a) IN GENERAL.—

''(1) ALLOCATION OF FUNDS.—Of the amount appropriated for each fiscal year under subsection (k), the Secretary of Education shall allocate—

''(A) 6.0 percent of such amount for grants to impacted local educational agencies (as defined in paragraph (3)) for school repair, renovation, and construction;

''(B) 0.25 percent of such amount for grants to outlying areas for school repair and renovation in high-need schools and communities, allocated on such basis, and subject to such terms and conditions, as the Secretary determines appropriate;

''(C) 2 percent of such amount for grants to public entities, private nonprofit entities, and consortia of such entities, for use in accordance with subpart 2 of part C of this title X; and

''(D) the remainder to State educational agencies in proportion to the amount each State received under part A of title I for fiscal year 2001, except that no State shall receive less than 0.5 percent of the amount allocated under this subparagraph.

''(2) DETERMINATION OF GRANT AMOUNT.—

''(A) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the grant amounts under paragraph (1)(A) for fiscal year 2001, the Secretary shall determine the results obtained by the computation made under section 8003 with respect to children described in subsection (a)(1)(C) of such section and computed under subsection (a)(2)(B) of such section for such year—

''(i) for each impacted local educational agency that receives funds under this section; and

''(ii) for all such agencies together.

''(B) COMPUTATION OF PAYMENT.—For fiscal year 2002, the Secretary shall calculate the amount of a grant to an impacted local educational agency by—

''(i) dividing the amount described in paragraph (1)(A) by the results of the computation described in subparagraph (A)(ii); and

''(ii) multiplying the number derived under clause (i) by the results of the computation described in subparagraph (A)(i) for such agency.

''(3) DEFINITION.—For purposes of this section, the term 'impacted local educational agency' means, for fiscal year 2001—

''(A) a local educational agency that receives a basic support payment under section 8003(b) for such fiscal year; and

''(B) with respect to which the number of children determined under section 8003(a)(1)(C) for the preceding school year constitutes at least 50 percent of the total student enrollment in the schools of the agency during such school year.

''(b) WITHIN-STATE ALLOCATIONS.—

''(1) ADMINISTRATIVE COSTS.—

''(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (B), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(1)(D) for the purpose of administering the distribution of grants under this subsection.

''(B) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the agency shall transfer to such entity 0.75 of the amount reserved under this paragraph for the purpose of administering the distribution of grants under this subsection.

''(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 75 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the 'State entity') for distribution by such entity to local educational agencies in accordance with this paragraph, to be used, consistent with subsection (c), for school repair and renovation.

''(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(i) IN GENERAL.—The State educational agency or State entity shall carry out a program of competitive grants to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to such agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the competition—

''(I) award to high poverty local educational agencies described in clause (ii), in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such local educational agencies received under part A of title I for fiscal year 2002 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State;

''(II) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under part A of title I for fiscal year 2001 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

''(III) award the remaining funds to local educational agencies not receiving an award under subclause (I) or (II), including high poverty and rural local educational agencies that did not receive such an award.

''(ii) HIGH POVERTY LOCAL EDUCATIONAL AGENCIES.—A local educational agency is described in this clause if—

''(I) the percentage described in subparagraph (C)(i) with respect to the agency is 30 percent or greater; or

''(II) the number of children described in such subparagraph with respect to the agency is at least 10,000.

''(C) CRITERIA FOR AWARDING GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

''(i) The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

''(ii) The need of a local educational agency for school repair and renovation, as demonstrated by the condition of its public school facilities.

''(iii) The fiscal capacity of a local educational agency to meet its needs for repair and renovation of public school facilities without assistance under this section, including its ability to raise funds through the use of local bonding capacity and otherwise.

''(iv) In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school or schools, the extent to which the school or schools have access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

''(v) The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

''(D) POSSIBLE MATCHING REQUIREMENT.—

''(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

''(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

''(3) RESERVATION FOR COMPETITIVE IDEA OR TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 25 percent of such funds to local educational agencies through competitive grant processes, to be used for the following:

''(i) To carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(ii) For technology activities that are carried out in connection with school repair and renovation, including—

''(I) wiring;

''(II) acquiring hardware and software;

''(III) acquiring connectivity linkages and resources; and

''(IV) acquiring microwave, fiber optics, cable, and satellite transmission equipment.

''(B) CRITERIA FOR AWARDING IDEA GRANTS.—In awarding competitive grants under subparagraph (A) to be used to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), a State educational agency shall take into account the following criteria:

''(i) The need of a local educational agency for additional funds for a student whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State's average per-pupil expenditure (as defined in section 3).

''(ii) The need of a local educational agency for additional funds for special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(iii) The need of a local educational agency for additional funds for assistive technology devices (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) or assistive technology services (as so defined) for children being served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(iv) The need of a local educational agency for additional funds for activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in order for children with disabilities to make progress toward meeting the performance goals and indicators established by the State under section 612(a)(16) of such Act (20 U.S.C. 1412).

''(C) CRITERIA FOR AWARDING TECHNOLOGY GRANTS.—In awarding competitive grants under subparagraph (A) to be used for technology activities that are carried out in connection with school repair and renovation, a State educational agency shall take into account the need of a local educational agency for additional funds for such activities, including the need for the activities described in subclauses (I) through (IV) of subparagraph (A)(ii).

''(c) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

''(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to one or more of the following:

''(A) Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

''(i) repairing, replacing, or installing roofs, electrical wiring, plumbing systems, sewage systems, windows, or doors;

''(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

''(iii) bringing public schools into compliance with fire and safety codes.

''(B) School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

''(C) School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

''(D) Asbestos abatement or removal from public school facilities.

''(E) Implementing measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of each.

''(F) Renovation, repair, and acquisition needs related to the building infrastructure of a charter school.

''(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

''(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

''(B) the construction of new facilities, except for facilities for an impacted local educational agency (as defined in subsection (a)(3)); or

''(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

''(3) CHARTER SCHOOLS.—A public charter school that constitutes a local educational agency under State law shall be eligible for assistance under the same terms and conditions as any other local educational agency (as defined in section 3).

''(4) SUPPLEMENT, NOT SUPPLANT.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to 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 school repair and renovation.

''(d) SPECIAL RULE.—Each local educational agency that receives funds under this section shall ensure that, if it carries out repair or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

''(e) PUBLIC COMMENT.—Each local educational agency receiving funds under paragraph (2) or (3) of subsection (b)—

''(1) shall provide parents, educators, and all other interested members of the community the opportunity to consult on the use of funds received under such paragraph;

''(2) shall provide the public with adequate and efficient notice of the opportunity described in paragraph (1) in a widely read and distributed medium; and

''(3) shall provide the opportunity described in paragraph (1) in accordance with any applicable State and local law specifying how the comments may be received and how the comments may be reviewed by any member of the public.

''(f) REPORTING.—

''(1) LOCAL REPORTING.—Each local educational agency receiving funds under subsection (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for—

''(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

''(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

''(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

''(2) STATE REPORTING.—Each State educational agency shall submit to the Secretary of Education, not later than December 31, 2003, a report on the use of funds received under subsection (a)(1)(D) by local educational agencies for—

''(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

''(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

''(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

''(3) ADDITIONAL REPORTS.—Each entity receiving funds allocated under subsection (a)(1) (A) or (B) shall submit to the Secretary, not later than December 31, 2003, a report on its uses of funds under this section, in such form and containing such information as the Secretary may require.

''(g) APPLICABILITY OF PART B OF IDEA.—If a local educational agency uses funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), such part (including provisions respecting the participation of private school children), and any other provision of law that applies to such part, shall apply to such use.

''(h) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(1)(D) for fiscal year 2002, or does not use its entire allocation for such fiscal year, the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(1)(D).

''(i) PARTICIPATION OF PRIVATE SCHOOLS.—

''(1) IN GENERAL.—Section 5342 shall apply to subsection (b)(2) in the same manner as it applies to activities under title VI, except that—

''(A) such section shall not apply with respect to the title to any real property renovated or repaired with assistance provided under this section;

''(B) the term 'services' as used in section 5342 with respect to funds under this section shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include for purposes of subsection (b)(2) only—

''(i) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(ii) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

''(iii) asbestos abatement or removal from school facilities; and

''(C) notwithstanding the requirements of section 5342(b), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of such section if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools that have child poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

''(2) REMAINING FUNDS.—If the expenditure for services described in paragraph (1)(B) is less than the amount calculated under paragraph (1)(C) because of insufficient need for such services, the remainder shall be available to the local educational agency for renovation and repair of public school facilities.

''(3) APPLICATION.—If any provision of this section, or the application thereof, to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

''(j) DEFINITIONS.—For purposes of this section:

''(1) CHARTER SCHOOL.—The term 'charter school' has the meaning given such term in section 5120(1).

''(2) POOR CHILDREN AND CHILD POVERTY.—The terms 'poor children' and 'child poverty' refer to children 5 to 17 years of age, inclusive, 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 (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

''(3) RURAL LOCAL EDUCATIONAL AGENCY.—The term 'rural local educational agency' means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term 'rural'.

''(4) STATE.—The term 'State' means each of the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,600,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

(c) CHARTER SCHOOL FACILITY ACQUISITION.—Part A of title V, as amended by section 501, is further amended by adding at the end the following:

''Subpart 4—Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation

''SEC. 5161. PURPOSE.

''The purpose of this subpart is to provide one-time grants to eligible entities to permit them to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

''SEC. 5162. GRANTS TO ELIGIBLE ENTITIES.

''(a) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than three grants to eligible entities having applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

''(b) GRANTEE SELECTION.—The Secretary shall evaluate each application submitted, and shall make a determination of which are sufficient to merit approval and which are not. The Secretary shall award at least one grant to an eligible entity described in section 5160(2)(A), at least one grant to an eligible entity described in section 5160(2)(B), and at least one grant to an eligible entity described in section 5160(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

''(c) GRANT CHARACTERISTICS.—Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

''(d) SPECIAL RULE.—In the event the Secretary determines that the funds available are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c), such three-grant minimum and the second sentence of subsection (b) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

''SEC. 5163. APPLICATIONS.

''(a) IN GENERAL.—To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

''(b) CONTENTS.—An application under subsection (a) shall contain—

''(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the applicant will determine which charter schools will receive assistance, and how much and what types of assistance 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 leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and 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 they need to have adequate facilities; and

''(7) such other information as the Secretary may reasonably require.

''SEC. 5164. CHARTER SCHOOL OBJECTIVES.

''An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 5165(a) to assist one or more charter schools to access private sector capital to accomplish one or both 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.

''SEC. 5165. RESERVE ACCOUNT.

''(a) USE OF FUNDS.—To assist charter schools to accomplish the objectives described in section 5164, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 5166) in a reserve account established and maintained by the entity for this purpose. Amounts deposited in such account shall be used by the entity for one 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 5164.

''(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 5164.

''(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and 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, 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).

''(b) INVESTMENT.—Funds received under this subpart 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.

''(c) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

''SEC. 5166. LIMITATION ON ADMINISTRATIVE COSTS.

An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

''SEC. 5167. AUDITS AND REPORTS.

''(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this subpart 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 subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

''(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 reviewing 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 its use of the Federal funds provided under this subpart in leveraging private funds;

''(D) a listing and description of the charter schools served 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 5164; and

''(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart 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 subpart.

''SEC. 5168. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

''No financial obligation of an eligible entity entered into pursuant to this subpart (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 which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

''SEC. 5169. 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 5165(a) if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this subpart, that the entity has failed to make substantial progress in carrying out the purposes described in section 5165(a); or

''(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5165(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 5165(a).

''(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 one or more of the purposes described in section 5165(a).

''(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. 5170. DEFINITIONS.

''In this subpart:

''(1) The term 'charter school' has the meaning given such term in section 5120.

''(2) 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. 5171. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 2001.''.

SA 576. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. ESEA.

The provisions of the Jeffords amendment No. 358 (107th Congress) are incorporated into this Act and enacted into law.

TITLE —NATIONAL COLLEGIATE AND AMATEUR ATHLETIC PROTECTION ACT OF 2001

SEC. 01. SHORT TITLE.

This title may be cited as the ''National Collegiate and Amateur Athletic Protection Act of 2001''.

SEC. 02. TASK FORCE ON ILLEGAL WAGERING ON AMATEUR AND COLLEGIATE SPORTING EVENTS.

(a) ESTABLISHMENT.—The Attorney General shall establish a prosecutorial task force on illegal wagering on amateur and collegiate sporting events (referred to in this section as the ''task force'').

(b) DUTIES.—The task force shall—

(1) coordinate enforcement of Federal laws that prohibit gambling relating to amateur and collegiate athletic events; and

(2) submit annually, to the House of Representatives and the Senate a report describing specific violations of such laws, prosecutions commenced, and convictions obtained.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $4,000,000 in fiscal year 2002 and $6,000,000 in each of the fiscal years 2003 through 2006.

SEC. 03. INCREASED PENALTIES FOR ILLEGAL SPORTS GAMBLING.

(a) INTERSTATE TRANSMISSION OF BETS OR INFORMATION ASSISTING IN PLACING BETS ON

SPORTING EVENTS.—Section 1084(a) of title 18, United States Code, is amended by striking ''two'' and inserting ''5''.

(b) INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA.—Section 1953(a) of title 18, United States Code, is amended by adding at the end the following: ''If the matter carried or sent in interstate or foreign commerce was intended by the defendant to be used to assist in the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(c) ILLEGAL GAMBLING BUSINESS.—Section 1955(a) of title 18, United States Code, is amended by adding at the end the following: ''If the gambling business included the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(d) INTERSTATE TRAVEL TO PROMOTE AND CONDUCT AN ILLEGAL GAMBLING BUSINESS.—Section 1952 of title 18, United States Code, is amended by adding at the end the following:

''(d) If the offense violated paragraph (1) or (3) of subsection (a) and the illegal activity included the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(e) SPORTS BRIBERY.—Section 224(a) of title 18, United States Code, is amended by adding at the end the following: ''If the purpose of the bribery is to affect the outcome of a bet or wager placed on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

SEC. 04. STUDY ON ILLEGAL SPORTS GAMBLING BEHAVIOR AMONG MINORS.

(a) IN GENERAL.—The Director of the National Institute of Justice shall conduct a study to determine the extent to which minor persons participate in illegal sports gambling activities.

(b) REPORT.—Not later than 2 years after the date of enactment of this title, the Director of the National Institute of Justice shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing the extent to which minor persons participate in illegal sports gambling activities; and

(2) making recommendations on actions that should be taken to curtail participation by minor persons in sports gambling activities.

SEC. 05. STUDY OF GAMBLING ON COLLEGE AND UNIVERSITY CAMPUSES.

(a) ESTABLISHMENT OF PANEL.—Not later than 90 days after the date of enactment of this title, the Attorney General shall establish a panel, which shall be composed of Federal, State, and local government law enforcement officials, to conduct a study of illegal college sports gambling.

(b) CONTENTS OF STUDY.—The study conducted by the panel established under subsection (a) shall include an analysis of—

(1) the scope and prevalence of illegal college sports gambling, including unlawful sports gambling (as defined in section 3702 of title 28, United States Code);

(2) the role of organized crime in illegal gambling on college sports;

(3) the role of State regulators and the legal sports books in Nevada in assisting law enforcement to uncover illegal sports gambling and related illegal activities;

(4) the enforcement and implementation of the Professional and Amateur Sports Protection Act of 1992, including whether it has been adequately enforced;

(5) the effectiveness of steps taken by institutions of higher education to date, whether individually or through national organizations, to reduce the problem of illegal gambling on college sports;

(6) the factors that influence the attitudes or levels of awareness of administrators, professors, and students, including student athletes, about illegal gambling on college sports;

(7) the effectiveness of new countermeasures to reduce illegal gambling on college sports, including related requirements for institutions of higher education and persons receiving Federal education funds;

(8) potential actions that could be taken by the National Collegiate Athletic Association to address illegal gambling on college and university campuses; and

(9) other matters relevant to the issue of illegal gambling on college sports as determined by the Attorney General.

(c) REPORT TO CONGRESS.—Not later than 12 months after the establishment of the panel under this section, the Attorney General shall submit to Congress a report on the study conducted under this section, which shall include—

(1) recommendations for actions colleges, universities, and the National Collegiate Athletic Association should implement to address the issue of illegal gambling on college sports;

(2) recommendations for intensive educational campaigns which the National Collegiate Athletic Association could implement to assist in the effort to prevent illegal gambling on college sports;

(3) recommendations for any Federal and State legislative actions to address the issue of illegal gambling on college sports; and

(4) recommendations for any administrative or private sector actions to address the issue of illegal gambling on college sports.

SEC. 06. REDUCTION OF GAMBLING ON COLLEGE CAMPUSES.

(a) COLLEGE PROGRAMS TO REDUCE ILLEGAL GAMBLING.—

(1) COMPREHENSIVE PROGRAM.—Each institution of higher education (as defined in section 101 of the Higher Education Act (20 U.S.C. 1001)) shall designate 1 or more full-time senior officers of the institution to coordinate the implementation of a comprehensive program, as determined by the Secretary of Education, to reduce illegal gambling and gambling control disorders by students and employees of the institution.

(2) ANNUAL REPORTING.—An institution described in paragraph (1) shall annually prepare and submit to the Secretary of Education a report, in a form and manner prescribed by the Secretary, concerning the progress made by the institution to reduce illegal gambling by students and employees of the institution.

(3) CONTINUED ELIGIBILITY.—An institution described in paragraph (1) shall make reasonable further progress (as defined by the Secretary of Education) toward the elimination of illegal gambling at the institution as a condition of the institution remaining eligible for assistance and participation in other programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(b) GAMBLING ENFORCEMENT INFORMATION AND POLICIES.—

(1) IN GENERAL.—Each institution described in subsection (a)(1) shall include—

(A) statistics and other information on illegal gambling, including gambling over the Internet, in addition to the other criminal offense on which such institution must report pursuant to section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) in the form and manner so prescribed; and

(B) a statement of policy regarding underage and other illegal gambling activity at the institution, in the form and manner prescribed for statements of policy on alcoholic beverages and illegal drugs pursuant to such section 485(f), including a description of any gambling abuse education programs available to students and employees of the institution.

(2) REVIEW OF PROCEDURES.—Notwithstanding paragraph (2) of section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)), the Attorney General, in consultation with the Secretary of Education, shall periodically review the policies, procedures, and practices of institutions described in subsection (a)(1) with respect to campus crimes and security related directly or indirectly to illegal gambling, including the integrity of the athletic contests in which students of the institution participate.

(c) ZERO TOLERANCE OF ILLEGAL GAMBLING.—

(1) REVOCATION OF AID.—A recipient of athletically related student aid (as defined in section 485(e)(8) of the Higher Education Act of 1965 (20 U.S.C. 1092(e)(8)) shall cease to be eligible for such aid upon a determination by either the institution of higher education providing such aid, or the applicable amateur sports organization, that the recipient has engaged in illegal gambling activity, including sports bribery, in violation of the policies or by-laws of the institution or organization.

(2) REPORT.An institution of higher education that provides athletically related student aid, and an amateur sports organization that sanctions a competitive game or performance in which 1 or more competitors receives such aid, shall annually report to the Attorney General and the Secretary of Education on actions taken to implement this subsection.

SEC. 07. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) illegal sports gambling poses a significant threat to youth on college campuses and in society in general;

(2) State and local governments, the National Collegiate Athletic Association, and other youth, school, and collegiate organizations should provide educational and prevention programs to help youth recognize the dangers of illegal sports gambling and the serious consequences it can have;

(3) such programs should include public service announcements, especially during tournament and bowl game coverage;

(4) the National Collegiate Athletic Association and other amateur sports government bodies should adopt mandatory codes of conduct regarding the avoidance and prevention of illegal sports gambling among our youth; and

(5) the National Collegiate Athletic Association should enlist universities in the United States to develop scientific research on youth sports gambling, and related matters.

SA 577. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SECTION 1. ESEA.

The provisions of the Jeffords amendment No. 358 (107th Congress) are incorporated into this Act and enacted into law.

SEC. 2. BROADCAST OF SPORTS GAMBLING EDUCATION INFORMATION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall issue a final rule requiring broadcasters

within its jurisdiction to include in any broadcast of a game or performance 1 or more public service announcements on the illegal nature of sports gambling in most States, including over the Internet, in such form and manner as the Commission deems appropriate and sufficient to be certain this information is effectively conveyed to the public as part of the public interest obligation of the broadcaster.

(b) TELEPHONE NUMBERS.—Each public service announcement under subsection (a) shall include the display of 1 or more toll-free telephone lines administered by a non-profit organization to assist persons with a sports wagering problem or other compulsive gambling disorder.

SA 578. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SEC. 1. ESEA.

The provisions of the Jeffords amendment No. 358 (107th Congress) are incorporated into this Act and enacted into law.

SECTION 2. BROADCAST OF SPORTS GAMBLING EDUCATION INFORMATION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall issue a final rule requiring broadcasters within its jurisdiction to include in any broadcast of a game or performance 1 or more public service announcements on the illegal nature of sports gambling in most States, including over the Internet, in such form and manner as the Commission deems appropriate and sufficient to be certain this information is effectively conveyed to the public as part of the public interest obligation of the broadcaster.

(b) TELEPHONE NUMBERS.—Each public service announcement under subsection (a) shall include the display of 1 or more toll-free telephone lines administered by a non-profit organization to assist persons with a sports wagering problem or other compulsive gambling disorder.

SA 579. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ESEA.

The provisions of the Jeffords amendment No. 358 (107th Congress) are incorporated into this Act and enacted into law.

TITLE —NATIONAL COLLEGIATE AND AMATEUR ATHLETIC PROTECTION ACT OF 2001

SEC. 01. SHORT TITLE.

This title may be cited as the ''National Collegiate and Amateur Athletic Protection Act of 2001''.

SEC. 02. TASK FORCE ON ILLEGAL WAGERING ON AMATEUR AND COLLEGIATE SPORTING EVENTS.

(a) ESTABLISHMENT.—The Attorney General shall establish a prosecutorial task force on illegal wagering on amateur and collegiate sporting events (referred to in this section as the ''task force'').

(b) DUTIES.—The task force shall—

(1) coordinate enforcement of Federal laws that prohibit gambling relating to amateur and collegiate athletic events; and

(2) submit annually, to the House of Representatives and the Senate a report describing specific violations of such laws, prosecutions commenced, and convictions obtained.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $4,000,000 in fiscal year 2002 and $6,000,000 in each of the fiscal years 2003 through 2006.

SEC. 03. INCREASED PENALTIES FOR ILLEGAL SPORTS GAMBLING.

(a) INTERSTATE TRANSMISSION OF BETS OR INFORMATION ASSISTING IN PLACING BETS ON SPORTING EVENTS.—Section 1084(a) of title 18, United States Code, is amended by striking ''two'' and inserting ''5''.

(b) INTERSTATE TRANSPORTATION OF WAGERING PARAPHERNALIA.—Section 1953(a) of title 18, United States Code, is amended by adding at the end the following: ''If the matter carried or sent in interstate or foreign commerce was intended by the defendant to be used to assist in the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(c) ILLEGAL GAMBLING BUSINESS.—Section 1955(a) of title 18, United States Code, is amended by adding at the end the following: ''If the gambling business included the placing of bets or wagers on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(d) INTERSTATE TRAVEL TO PROMOTE AND CONDUCT AN ILLEGAL GAMBLING BUSINESS.—Section 1952 of title 18, United States Code, is amended by adding at the end the following:

''(d) If the offense violated paragraph (1) or (3) of subsection (a) and the illegal activity included the placing of bets or wagers on any sporting even or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

(e) SPORTS BRIBERY.—Section 224(a) of title 18, United States Code, is amended by adding at the end the following: ''If the purpose of the bribery is to affect the outcome of a bet or wager placed on any sporting event or contest, the maximum term of imprisonment for the offense shall be 10 years.''.

SEC. 04. STUDY ON ILLEGAL SPORTS GAMBLING BEHAVIOR AMONG MINORS.

(a) IN GENERAL.—The Director of the National Institute of Justice shall conduct a study to determine the extent to which minors persons participate in illegal sports gambling activities.

(b) REPORT.—Not later than 2 years after the date of enactment of this title, the Director of the National Institute of Justice shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing the extent to which minor persons participate in illegal sports gambling activities; and

(2) making recommendations on actions that should be taken to curtail participation by minor persons in sports gambling activities.

SEC. 05. STUDY OF GAMBLING ON COLLEGE AND UNIVERSITY CAMPUSES.

(a) ESTABLISHMENT OF PANEL.—Not later than 90 days after the date of enactment of this title, the Attorney General shall establish a panel, which shall be composed of Federal, State, and local government law enforcement officials, to conduct a study of illegal college sports gambling.

(b) CONTENTS OF STUDY.—The study conducted by the panel established under subsection (a) shall include an analysis of—

(1) the scope and prevalence of illegal college sports gambling, including unlawful sports gambling (as defined in section 3702 of title 28, United States Code);

(2) the role of organized crime in illegal gambling on college sports;

(3) the role of State regulators and the legal sports books in Nevada in assisting law enforcement to uncover illegal sports gambling and related illegal activities;

(4) the enforcement and implementation of the Professional and Amateur Sports Protection Act of 1992, including whether it has been adequately enforced;

(5) the effectiveness of steps taken by institutions of higher education to date, whether individually or through national organizations, to reduce the problem of illegal gambling on college sports;

(6) the factors that influence the attitudes or levels of awareness of administrators, professors, and students, including student athletes, about illegal gambling on college sports;

(7) the effectiveness of new countermeasures to reduce illegal gambling on college sports, including related requirements for institutions of higher education and persons receiving Federal education funds;

(8) potential actions that could be taken by the National Collegiate Athletic Association to address illegal gambling on college and university campuses; and

(9) other matters relevant to the issue of illegal gambling on college sports as determined by the Attorney General.

(c) REPORT TO CONGRESS.—Not later than 12 months after the establishment of the panel under this section, the Attorney General shall submit to Congress a report on the study conducted under this section, which shall include—

(1) recommendation for actions colleges, universities, and the National Collegiate Athletic Association should implement to address the issue of illegal gambling on college sports;

(2) recommendations for intensive educational campaigns which the National Collegiate Athletic Association could implement to assist in the effort to prevent illegal gambling on college sports;

(3) recommendations for any Federal and State legislative actions to address the issue of illegal gambling on college sports; and

(4) recommendations for any administrative or private sector actions to address the issue of illegal gambling on college sports.

SEC. 06. REDUCTION OF GAMBLING ON COLLEGE CAMPUSES.

(a) COLLEGE PROGRAMS TO REDUCE ILLEGAL GAMBLING.—

(1) COMPREHENSIVE PROGRAM.—EAch institution of higher education (as defined in section 101 of the Higher Education Act (20 U.S.C. 1001)) shall designate 1 or more full-time senior officers of the institution to coordinate the implementation of comprehensive program, as determined by the Secretary of Education, to reduce illegal gambling and gambling control disorders by students and employees of the institution.

(2) ANNUAL REPORTING.—An institution described in paragraph (1) shall annually prepare and submit to the Secretary of Education a report, in a form and manner prescribed by the Secretary, concerning the progress made by the institution to reduce illegal gambling by students and employees of the institution.

(3) CONTINUED ELIGIBILITY.—An institution described in paragraph (1) shall make reasonable further progress (as defined by the Secretary of Education) toward the elimination of illegal gambling at the institution as a condition of the institution remaining eligible for assistance and participation in other programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(b) GAMBLING ENFORCEMENT INFORMATION AND POLICIES.—

(1) IN GENERAL.—Each institution described in subsection (a)(1) shall include—

(A) statistics and other information on illegal gambling, including gambling over the Internet, in addition to the other criminal offense on which such institution must report pursuant to section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)) in the form and manner so prescribed; and

(B) a statement of policy regarding underage and other illegal gambling activity at the institution, in the form and manner prescribed for statements of policy on alcoholic beverages and illegal drugs pursuant to such section 485(f), including a description of any gambling abuse education programs available to students and employees of the institution.

(2) REVIEW OF PROCEDURES.—Notwithstanding paragraph (2) of section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)), the Attorney General, in consultation with the Secretary of Education, shall periodically review the policies, procedures, and practices of institutions described in subsection (a)(1) with respect to campus crimes and security related directly or indirectly to illegal gambling, including the integrity of the athletic contests in which students of the institution participate.

(c) ZERO TOLERANCE OF ILLEGAL GAMBLING.—

(1) REVOCATION OF AID.—A recipient of athletically related student aid (as defined in section 485(e)(8) of the Higher Education Act of 1965 (20 U.S.C. 1092(e)(8)) shall cease to be eligible for such aid upon a determination by either the institution of higher education providing such aid, or the applicable amateur sports organization, that the recipient has engaged in illegal gambling activity, including sports bribery, in violation of the policies or by-laws of the institution or organization.

(2) REPORT.—An institution of higher education that provides athletically related student aid, and an amateur sports organization that sanctions a competitive game or performance in which 1 or more competitors receives such aid, shall annually report to the Attorney General and the Secretary of Education on actions taken to implement this subsection.

SEC. 07. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) illegal sports gambling poses a significant threat to youth on college campuses and in society in general;

(2) State and local governments, the National Collegiate Athletic Association, and other youth, school, and collegiate organizations should provide educational and prevention programs to help youth recognize the dangers of illegal sports gambling and the serious consequences it can have;

(3) such programs should include public service announcements, especially during tournament and bowl game coverage;

(4) the National Collegiate Athletic Association and other amateur sports governing bodies should adopt mandatory codes of conduct regarding the avoidance and prevention of illegal sports gambling among our youth; and

(5) the National Collegiate Athletic Association should enlist universities in the United States to develop scientific research on youth sports gambling, and related matters.

SA 580. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CREDIT FOR CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS WHICH PROVIDE SCHOLARSHIPS FOR STUDENTS ATTENDING ELEMENTARY AND SECONDARY SCHOOLS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 30B. CREDIT FOR CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS WHICH PROVIDE SCHOLARSHIPS FOR STUDENTS ATTENDING ELEMENTARY AND SECONDARY SCHOOLS.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified charitable contributions of the taxpayer for the taxable year.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed $250 ($500, in the case of a joint return).

''(c) QUALIFIED CHARITABLE CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified charitable contribution' means, with respect to any taxable year, the amount allowable as a deduction under section 170 (determined without regard to subsection (d)(1)) for cash contributions to a school tuition organization.

''(2) SCHOOL TUITION ORGANIZATION.—

''(A) IN GENERAL.—The term 'school tuition organization' means any organization described in section 170(c)(2) if the annual disbursements of the organization for elementary and secondary school scholarships are normally not less than 90 percent of the sum of such organization's annual gross income and contributions and gifts.

''(B) ELEMENTARY AND SECONDARY SCHOOL SCHOLARSHIP.—The term 'elementary and secondary school scholarship' means any scholarship excludable from gross income under section 117 for expenses related to education at or below the 12th grade.

''(d) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any contribution for which credit is allowed under this section.

''(2) APPLICATION WITH OTHER CREDITS.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

''(B) the tentative minimum tax for the taxable year.

''(3) CONTROLLED GROUPS.—All persons who are treated as one employer under subsection (a) or (b) of section 52 shall be treated as 1 taxpayer for purposes of this section.

''(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 30B. Credit for contributions to charitable organizations which provide scholarships for students attending elementary and secondary schools.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SA 581. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CREDIT FOR CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS WHICH PROVIDE SCHOLARSHIPS FOR STUDENTS ATTENDING ELEMENTARY AND SECONDARY SCHOOLS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 30B. CREDIT FOR CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS WHICH PROVIDE SCHOLARSHIPS FOR STUDENTS ATTENDING ELEMENTARY AND SECONDARY SCHOOLS.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified charitable contributions of the taxpayer for the taxable year.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed $250 ($500, in the case of a joint return).

''(c) QUALIFIED CHARITABLE CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified charitable contribution' means, with respect to any taxable year, the amount allowable as a deduction under section 170 (determined without regard to subsection (d)(1)) for cash contributions to a school tuition organization.

''(2) SCHOOL TUITION ORGANIZATION.—

''(A) IN GENERAL.—The term 'school tuition organization' means any organization described in section 170(c)(2) if the annual disbursements of the organization for elementary and secondary school scholarships are normally not less than 90 percent of the sum of such organization's annual gross income and contributions and gifts.

''(B) ELEMENTARY AND SECONDARY SCHOOL SCHOLARSHIP.—The term 'elementary and secondary school scholarship' means any scholarship excludable from gross income under section 117 for expenses related to education at or below the 12th grade.

''(d) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any contribution for which credit is allowed under this section.

''(2) APPLICATION WITH OTHER CREDITS.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year, reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

''(B) the tentative minimum tax for the taxable year.

''(3) CONTROLLED GROUPS.—All persons who are treated as one employer under subsection (a) or (b) of section 52 shall be treated as 1 taxpayer for purposes of this section.

''(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 30B. Credit for contributions to charitable organizations which provide scholarships for students attending elementary and secondary schools.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SA 582. Mr. HUTCHINSON submitted an amendment intended to be proposed to amendment SA 457 submitted by Mr. DODD and intended to be proposed to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. ___. 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 for military recruiting purposes.

(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) 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.

SA 583. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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''.

SA 584. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

Subtitle ____—Environmental Education

SEC. 9___1. SHORT TITLE.

(a) THIS SUBTITLE.—This subtitle 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. 9___2. 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. 9___3. 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. 9___4. 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. 9___5. 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.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 9___4(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. 9___6. 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. 9___7. 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 9___4(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. 9___8. 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. ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established a grant program to be known as the '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 9___5(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. 9___9. INFORMATION STANDARDS.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act is amended by inserting after section 11 (as added by section 9___8(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. Environmental Stewardship Grant Program.
''Sec. 12. Information standards.
''Sec. 13. Authorization of appropriations.''.

SEC. 9___0. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the John H. Chafee Environmental Education Act (20 U.S.C. 5510) (as redesignated by section 9___8(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 40 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.

''(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)''.

SA 585. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 207, strike line 8 and all that follows through page 212, line 15, and insert 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, 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 shall be located in a community served by a local educational agency described in paragraph (1); or

''(3) one or more local educational agencies described in paragraph (1) in collaboration with one or more organizations described in paragraph (2).

''(c) APPLICATIONS.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary which shall include a description of—

''(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the 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 1227, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

''SEC. 1245. REPORTING REQUIREMENTS.

''Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. 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; and

''(3) 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.''.

SA 586. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 83, strike lines 3 through 9.

SA 587. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 774 strike line 1 and all that follows through page 778, line 21, and insert the following:

''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.—The Secretary may make 1-time bonus payments to States that complete the development of assessments required by section 1111 in advance of the schedule specified in such section.

''(c) NO CHILD LEFT BEHIND AWARDS.—The Secretary may make awards, to be known as 'No Child Left Behind Awards' to the schools that—

''(1) are nominated by the States in which the schools are located; and

''(2) have made the greatest progress in improving the educational achievement of economically disadvantaged students.

''(d) FUND TO IMPROVE EDUCATION ACHIEVEMENT.—The Secretary may make awards for activities other than the activities described in subsections (a) through (c), such as character education, that are designed to promote the improvement of elementary and secondary education nationally.

''SEC. 6202. LOSS OF ADMINISTRATIVE FUNDS.

''(a) 2 YEARS OF INSUFFICIENT PROGRESS.—

''(1) REDUCTION.—If the Secretary makes the determinations described in paragraph (2) for 2 consecutive years, the Secretary shall reduce, by not more than 30 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''(2) DETERMINATIONS.—The determinations referred to in paragraph (1) are determinations, made 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); and

''(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).

''(b) 3 OR MORE YEARS OF INSUFFICIENT PROGRESS.—If the Secretary makes the determinations described in subsection (a)(2) for a third or subsequent consecutive year, the Secretary shall reduce, by not more than 75 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''SEC. 6203. 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. 6204. AUTHORIZATION OF APPROPRIATIONS.

''(a) 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.

''(b) 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.''.

SA 588. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 74, strike line 24, and insert the following:

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

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SA 589. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 83, line 25, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 84, line 4, insert '', principals, teachers, and other staff in an instructionally useful manner'' after ''schools''.

On page 84, line 25, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 88, line 6, strike ''meet'' and insert ''make continuous and significant progress towards meeting the goal of all students reaching''.

On page 90, line 5, insert ''(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)'' after ''problems''.

On page 91, line 15, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 92, line 13, insert ''and giving priority to the lowest achieving students'' after ''basis''.

On page 95, line 9, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 95, beginning with line 13, strike all through page 96, line 6, and insert the following:

''(i)(I) provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1); 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;

On page 96, line 7, strike ''(ii)'' and insert ''(iii)''.

On page 96, line 21, strike ''(iii)'' and insert ''(iv)''.

On page 96, strike line 23 and all that follows through page 97, line 23.

On page 97, line 24, strike ''(E)'' and insert ''(D)''.

On page 98, line 7, strike ''(F)'' and insert ''(E)''.

On page 98, line 16, strike ''and fails'' and all that follows through ''this paragraph'' on page 98, line 20.

On page 98, line 25, strike ''(D)'' and insert ''(C)''.

On page 99, line 6, insert ''(i)'' after ''(B)''.

On page 99, line 12, strike ''(i)'' and insert ''(I)''.

On page 99, line 14, strike ''(ii)'' and insert ''(II)''.

On page 99, line 16, strike ''(iii)'' and insert ''(III)''.

On page 99, line 19, strike ''(iv)'' and insert ''(IV)''.

On page 99, line 21, strike ''(v)'' and insert ''(V)''.

On page 99, between lines 22 and 23, insert the following:

''(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.

On page 100, line 6, strike ''(D)'' and insert ''(C)''.

On page 100, line 23, strike ''(A)''.

On page 101, strike lines 5 though 20.

On page 102, lines 15 and 16, strike ''(7)(C) and subject to paragraph (7)(D)'' and insert ''(5)''.

On page 102, line 21, strike '', and that'' and all that follows through ''1111(b)(2)(B)(v)(II),'' on page 102, line 25.

On page 103, line 1, strike ''(D)'' and insert ''(C)''.

On page 103, line 7, strike '', and that'' and all that follows through ''disadvantaged students,'' on page 103, line 10.

On page 103, line 20, strike ''(D)'' and insert ''(C)''.

On page 104, line 22, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 105, line 13, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 105, lines 20 and 21, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 106, between lines 13 and 14, insert the following:

''(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.

On page 106, lines 22 and 23, strike ''meet proficient levels'' and insert ''make continuous and significant progress towards meeting the goal of all students reaching the proficient level''.

On page 109, line 15, strike ''(C)'' and insert ''(E)''.

On page 112, line 16, strike ''(A)''.

On page 112, line 19, strike ''(3)'' and insert ''(6)''.

On page 112, strike line 23 and all that follows through page 113, line 2.

On page 113, line 14, strike ''(D)'' and insert ''(C)''.

On page 115, line 14, strike ''(D)'' and insert ''(C)''.

SA 590. Mr. JEFFORDS submitted an amendment intended to be proposed by

him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 683, strike lines 12 and 13, and insert the following:

''(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;

On page 684, line 6, strike ''and''.

On page 684, line 7, strike the period and insert a semicolon.

On page 684, between lines 7 and 8, insert the following:

''(O) 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

''(P) supplemental educational services as defined in section 1116(f)(6).

SA 591. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 130, strike line 2, and insert the following:

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).'';

On page 130, line 5, strike the period and insert ''; and ''.

On page 130, between lines 5 and 6, insert the following:

(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.''.

On page 127, line 23, insert ''(1)'' after ''(b)''.

On page 127, line 24, strike ''in paragraph (1),''.

SA 592. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 29, between lines 14 and 15, insert the following:

''SEC. 16. 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.''.

On page 36, strike lines 21 and 22, strike ''served under this part''.

On page 36, strike line 24 and all that follows through page 37, line 2, and insert the following:

guage 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

On page 37, line 18, insert ''and'' after the semicolon.

On page 37, line 23, strike ''; and'' and insert a period.

On page 37, strike line 24 and all that follows through page 38, line 4.

On page 38, line 19, strike ''subparagraph (B)'' and insert ''subparagraphs (B) and (D)''.

On page 41, strike lines 6 through 8 and insert the following:

''(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

On page 41, line 13, strike ''discretionary''.

On page 44, lines 13 and 14, strike ''curriculum''.

On page 45, line 2, strike ''curriculum''.

On page 46, strike line 20 and all that follows through page 47, line 2.

On page 47, line 3, strike ''(E)'' and insert ''(D)''.

On page 47, between lines 6 and 7, insert the following:

''(E)(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;

On page 47, line 8, strike ''annual''.

On page 47, line 10, insert ''annually'' after ''standards''.

On page 47, line 11, insert '', and at least once in grades 10 through 12,'' after ''8''.

On page 47, line 12, insert ''if the tests are aligned with State standards,'' after ''arts,''.

On page 48, between lines 14 and 15, insert the following:

''(G) at the discretion of the State, measure the proficiency of students in academic subjects not described in subparagraphs (E) and (F) in which the State has adopted challenging content and student performance standards;

On page 48, line 15, strike ''(G)'' and insert ''(H)''.

On page 50, between lines 7 and 8, insert the following:

''(I) beginning not later than school year 2002–2003, provide for the annual assessment of the oral English proficiency 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 (H);

On page 50, line 8, strike ''(H)'' and insert ''(J)''.

On page 50, line 17, strike ''(I)'' and insert ''(K)''.

On page 50, lines 19 and 20, strike ''scores, or'' and insert ''performance on assessments aligned with State standards, and''.

On page 51, line 1, strike ''(J)'' and insert ''(L)''.

On page 51, line 20, insert '', but such measures shall not be the primary or sole indicator of student progress toward meeting State standards'' after ''measures''.

On page 51, line 21, insert ''Consistent with section 1112(b)(1)(D),'' before ''States''.

On page 52, strike lines 21 and 22 and insert the following:

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

On page 53, line 12, strike ''(i)'' and insert ''(j)''.

On page 59, lines 16 and 17, strike ''performance standards,'' and insert ''performance standards, a set of high quality annual student assessments aligned to the standards,''.

On page 59, line 19, insert ''and take such other steps as are needed to assist the State in coming into compliance with this section'' after ''1117''.

On page 68, line 24, strike ''paraprofessionals'' and insert ''a paraprofessional''.

On page 69, line 18, insert '', the setting of State performance standards, the development of measures of adequate yearly progress that are valid and reliable,'' before ''and other''.

SA 593. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

''(a) IN GENERAL.—From funds reserved under section 1225, the Secretary shall contract with an independent outside organization for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

''(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.

SA 594. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

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

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

(1) All children deserve a quality education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(j) FUNDING.—

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

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

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

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

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

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

''(F) 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;

''(G) 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;

''(H) 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;

''(I) 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

''(J) 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.

''(2) 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.''.

SA 595. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of tile IX, add the following:

SEC. . 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 his part, other than section 619.''.

SA 596. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. 902. LOAN FORGIVENESS FOR MATHEMATICS AND SCIENCE TEACHERS.

(a) FFEL PROGRAM.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078–10) is amended by adding at the end the following:

''(i) LOAN FORGIVENESS FOR TEACHERS OF MATHEMATICS AND SCIENCE.—

''(1) STATEMENT OF PURPOSE.—It is the purpose of this subsection to encourage individuals who majored in, or obtained a graduate degree in, mathematics or science to teach those subjects in high need schools.

''(2) PROGRAM AUTHORIZED.—The Secretary shall carry out a program, through the holder of the loan, of assuming the obligation to repay a qualified loan amount for a loan made under section 428 or 428H, in accordance with paragraph (3), for a borrower whose academic major or graduate degree was in mathematics or science, and who—

''(A) has been employed for 5 consecutive complete school years—

''(i) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools; and

''(ii) as a full-time teacher of mathematics or science, as certified by the chief administrative officer of the public or nonprofit private elementary school or secondary school in which the borrower is employed;

''(B) has not been employed as a full-time teacher in a public or nonprofit private elementary school or secondary school prior to the date of enactment of the Better Education for Students and Teachers Act, other than as part of a teacher preparation or certification program; and

''(C) is not in default on a loan for which the borrower seeks forgiveness.

''(3) QUALIFIED LOANS AMOUNT.—

''(A) IN GENERAL.—The Secretary shall repay not more than $17,500 in the aggregate of the loan obligation on a loan made under section 428 or 428H that is outstanding after the completion of the fifth complete school year of teaching described in paragraph (2)(A). No borrower may receive a reduction of loan obligations under both this section and section 460.

''(B) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this paragraph only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H for a borrower who meets the requirements of paragraph (2), as determined in accordance with regulations prescribed by the Secretary.''.

(b) DIRECT LOAN PROGRAM.—Section 460 of the Higher Education Act of 1965 (20 U.S.C. 1087j) is amended by adding at the end the following:

''(i) LOAN FORGIVENESS FOR TEACHERS OF MATHEMATICS AND SCIENCE.—

''(1) STATEMENT OF PURPOSE.—It is the purpose of this subsection to encourage individuals who majored in, or obtained a graduate degree in, mathematics or science to teach those subjects in high need schools.

''(2) PROGRAM AUTHORIZED.—

''(A) IN GENERAL.—The Secretary shall carry out a program of canceling the obligation to repay a qualified loan amount in accordance with paragraph (3) for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made under this part for a borrower whose academic major or graduate degree was in mathematics or science, and who—

''(i) has been employed as a full-time teacher for 5 consecutive complete school years—

''(I) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools; and

''(II) as a full-time teacher of mathematics or science, as certified by the chief administrative officer of the public or nonprofit private elementary school or secondary school in which the borrower is employed;

''(ii) has not been employed as a full-time teacher in a public or nonprofit private elementary school or secondary school prior to the date of enactment of the Better Education for Students and Teachers Act, other than as part of a teacher preparation or certification program; and

''(iii) is not in default on a loan for which the borrower seeks forgiveness.

''(B) SPECIAL RULE.—No borrower may obtain a reduction of loan obligations under both this section and section 428J.

''(3) QUALIFIED LOAN AMOUNTS.—

''(A) IN GENERAL.—The Secretary shall cancel not more than $17,500 in the aggregate of the loan obligation on a Federal Direct Stafford Loan or a Federal Direct Unsubsidized Stafford Loan that is outstanding after the completion of the fifth complete school year of teaching described in paragraph (2)(A)(i).

''(B) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a Federal Direct Consolidation Loan may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H, for a borrower who meets the requirements of paragraph (2), as determined in accordance with regulations prescribed by the Secretary.''.

(c) CONFORMING AMENDMENTS.—

(1) FFEL PROGRAM.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078–10) is amended—

(A) in subsection (f), by inserting ''or (i)'' after ''(b)''; and

(B) in subsection (g)(1)—

(i) in subparagraph (A), by inserting ''or (i)(2)(A)(i)'' after ''(b)(1)(A)''; and

(ii) in the matter following subparagraph (B), by inserting ''or (i), as appropriate'' after ''(b)''.

(2) DIRECT LOAN PROGRAM.—Section 460 of the Higher Education Act of 1965 (20 U.S.C. 1087j) is amended—

(A) in subsection (f), by inserting ''or (i)'' after ''(b)''; and

(B) in subsection (g)(1)—

(i) in subparagraph (A), by inserting ''or (i)(2)(A)(i)(I)'' after ''(b)(1)(A)''; and

(ii) in subparagraph (B), by inserting ''or (i), as appropriate'' after ''(b)''.

SA 597. Mr. WELLSTONE (for himself, Mr. DAYTON, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 48, between lines 14 and 15, insert the following:

''(iii) no State shall be required to conduct any assessments under this subparagraph in any school year if, by July 1, 2005, the amount appropriated to carry out this part for fiscal year 2005 does not equal or exceed $24,720,000,000;''.

SA 598. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

''SEC. . 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 their competency in understanding the Declaration of Independence, the United States Constitution, and the Federalist Papers.''

SA 599. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. CONFIDENTIAL REPORTING OF INDIVIDUALS SUSPECTED OF IMMINENT SCHOOL VIOLENCE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (27), as added by section 103 of Public Law 106–177 (114 Stat. 35) by striking ''and'' at the end;

(2) in paragraph (28), by striking the period at the end and inserting a semicolon;

(3) by redesignating paragraph (27), as added by section 2 of Public Law 106–561 (114 Stat. 2787) as paragraph (29);

(4) in paragraph (29), as redesignated by this section by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(30) to—

''(A) 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;

''(B) ensure proper State training of personnel to answer and respond to telephone calls to hotlines described in subparagraph (A);

''(C) assist in the acquisition of technology necessary to enhance the effectiveness of hotlines described in subparagraph (A), including the utilization of Internet web-pages or resources;

''(D) enhance State efforts to offer appropriate counseling services to individuals who call hotlines described in subparagraph (A) threatening to do harm to themselves or others; and

''(E) further State effort to publicize services offered by the hotlines described in subparagraph (A) and to encourage individuals to utilize those services.''.

SA 600. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 512, line 2, strike the end quotation mark and the second period.

On page 512, between lines 2 and 3, insert the following:

''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.''.

SA 601. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 619, strike lines 23 and 24, and insert ''and public and private entities''.

SA 602. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 510, after line 22, add the following: ''Notwithstanding any other provision of this title, and part B of title V, funds made available under such titles may be used by States to provide contracts or grants to, and by the Secretary to provide Federal assistance to, for-profit entities to enable such entities to perform or assist in the performance of the activities described in this section.''.

SA 603. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 440, lines 15 and 16, strike ''and other public and private nonprofit agencies and organizations'' and insert ''and public and private entities''

On page 440, line 22, strike ''nonprofit organizations'' and insert ''entities''.

On page 452, line 13, insert ''with public and private entities'' after ''contracts''.

On page 460, lines 7 and 8, strike ''and other public entities and private nonprofit organizations'' and insert ''public and private entities''.

On page 483, lines 20 and 21, strike ''nonprofit organizations'' and insert ''entities''.

On page 489, lines 14 and 15, strike ''nonprofit private organizations'' and insert ''private entities''.

SA 604. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE —INDIVIDUALS WITH DISABILITIES

SEC. 01. 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 in the jurisdiction of the agency to ensure the safety of such children and an appropriate educational atmosphere in the schools in the jurisdiction of the agency.

''(2) LIMITATION.—

''(A) IN GENERAL.—A child with a disability who is removed from his or her regular educational placement under paragraph (1) shall receive a free appropriate public education in an alternative educational setting if the behavior that led to his or her removal is a manifestation of his or her 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 his or her 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 that would apply to children without a disability.

''(D) RECORDS FOR DECISION.—If the agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of a child with a disability are transmitted for consideration by the person making the final decision regarding the disciplinary action.''

SEC. 02. PROCEDURAL SAFEGUARDS.

Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) (as amended by section 01) is amended by adding at the end the following:

''(o) DISCIPLINE BY LOCAL AUTHORITY WITH RESPECT TO WEAPONS, DRUGS, AND TEACHER ASSAULTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, school personnel may discipline (including expel or suspend) a child with a disability in the same manner in which the personnel may discipline a child without a disability if the child with a disability—

''(A) carries or possesses a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

''(B) threatens to carry, possess, or use a weapon, (including a threat to kill another person) to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local education agency;

''(C) possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or

''(D) assaults or threatens to assault a teacher, teacher's aide, principal, school counselor, or other school personnel, including independent contractors and volunteers.

''(2) INDIVIDUAL DETERMINATIONS.—In carrying out any disciplinary action described in paragraph (1), school personnel have discretion to consider all germane factors in each individual case and modify any disciplinary action on a case-by-case basis.

''(3) DEFENSE.—Nothing in paragraph (1) precludes a child with a disability who is disciplined under paragraph (1) from asserting a defense that the alleged act was unintentional or innocent.

''(4) LIMITATION.—

''(A) IN GENERAL.—A child with a disability who is removed from his or her regular educational placement under paragraph (1) shall receive a free appropriate public education in an alternative educational setting if the behavior that led to his or her removal is a manifestation of his or her 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 his or her 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 that would apply to children without a disability.

''(D) RECORDS FOR DECISION.—If the agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person making the final decision regarding the disciplinary action.

''(E) REVIEW OF MANIFESTATION DETERMINATION.—If the parents or the local educational agency disagree with the manifestation determination, the agency or the parents may request a review of that determination through the procedures in subsections (f) through (i).

''(F) PLACEMENT DURING REVIEW.—During the course of any review proceedings under subparagraph (E), the child shall receive a free appropriate public education in an alternative education placement.

''(5) DEFINITIONS.—In this subsection:

''(A) WEAPON.—The term 'weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury.

''(B) ILLEGAL DRUG, CONTROLLED SUBSTANCE, AND ASSAULT.—The terms 'illegal drug', 'controlled substance', 'assault', 'unintentional', and 'innocent' have the meanings given such terms under State law.''.

''(C) REVIEW OF MANIFESTATION DETERMINATION.—If the parents or the local educational agency disagree with the manifestation determination, they may request a review of that determination through the procedures in subsections (f) through (i).

''(D) PLACEMENT DURING REVIEW.—During the course of any review proceedings under subparagraph (E), the child shall receive a free appropriate public education in an alternative education placement.''.

SA 605. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE ____—INDIVIDUALS WITH DISABILITIES

SEC. ___01. 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) DISCIPLINE BY LOCAL AUTHORITY WITH RESPECT TO WEAPONS, DRUGS, AND TEACHER ASSAULTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, school personnel may discipline (including expel or suspend) a child with a disability in the same manner in which the personnel may discipline a child without a disability if the child with a disability—

''(A) carries or possesses a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

''(B) threatens to carry, possess, or use a weapon, (including a threat to kill another person) to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local education agency;

''(C) possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or

''(D) assaults or threatens to assault a teacher, teacher's aide, principal, school counselor, or other school personnel, including independent contractors and volunteers.

''(2) INDIVIDUAL DETERMINATIONS.—In carrying out any disciplinary action described in paragraph (1), school personnel have discretion to consider all germane factors in each individual case and modify any disciplinary action on a case-by-case basis.

''(3) DEFENSE.—Nothing in paragraph (1) precludes a child with a disability who is disciplined under paragraph (1) from asserting a defense that the alleged act was unintentional or innocent.

''(4) LIMITATION.—

''(A) IN GENERAL.—A child with a disability who is removed from his or her regular educational placement under paragraph (1) shall receive a free appropriate public education in an alternative educational setting if the behavior that led to his or her removal is a manifestation of his or her 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 his or her 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 that would apply to children without a disability.

''(D) RECORDS FOR DECISION.—If the agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person making the final decision regarding the disciplinary action.

''(E) REVIEW OF MANIFESTATION DETERMINATION.—If the parents or the local educational agency disagree with the manifestation determination, the agency or the parents may request a review of that determination through the procedures in subsections (f) through (i).

''(F) PLACEMENT DURING REVIEW.—During the course of any review proceedings under subparagraph (E), the child shall receive a free appropriate public education in an alternative education placement.

''(5) DEFINITIONS.—In this subsection:

''(A) WEAPON.—The term 'weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury.

''(B) ILLEGAL DRUG, CONTROLLED SUBSTANCE, AND ASSAULT.—The terms 'illegal drug', 'controlled substance', 'assault', 'unintentional', and 'innocent' have the meanings given such terms under State law.''.

''(C) REVIEW OF MANIFESTATION DETERMINATION.—If the parents or the local educational agency disagree with the manifestation determination, they may request a review of that determination through the procedures in subsections (f) through (i).

''(D) PLACEMENT DURING REVIEW.—During the course of any review proceedings under subparagraph (E), the child shall receive a free appropriate public education in an alternative education placement.''.

SA 606. Mrs. FEINSTEIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 145, strike lines 3 through 8 and insert the following:

''(B) 40 percent of the average per pupil expenditure in the State, except that—

''(i) if the average per pupil expenditure in the State is less than 90 percent of the average per pupil expenditure in the United States, the amount shall be 90 percent of the average per pupil expenditure in the United States; or

''(ii) if the average per pupil expenditure in the State is more than 110 percent of the average per pupil expenditure in the United States, the amount shall be 110 percent of the average per pupil expenditure in the United States.

SA 607. Mrs. FEINSTEIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 141, strike lines 5 through 22 and insert the following:

''(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—

''(A) the Secretary shall ratably reduce the allocations to such local educational agencies; and

''(B) if, after reducing the allocations, the amounts that some local educational agencies would be eligible to receive would exceed 90 percent of the full amount while the amounts that other local educational agencies would be eligible to receive would be less than 90 percent of the full amount, the Secretary shall reallocate the amounts exceeding 90 percent to the other local educational agencies ratably so that all such other local educational agencies would be eligible to receive as close as possible to 90 percent, but not more, of the full amount.

''(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.—If possible after application of subsection (b), 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—''.

SA 608. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 145, strike lines 3 through 8 and insert the following:

''(B) 40 percent of the average per pupil expenditure in the State, except that—

''(i) if the average per pupil expenditure in the State is less than 85 percent of the average per pupil expenditure in the United States, the amount shall be 85 percent of the average per pupil expenditure in the United States; or

''(ii) if the average per pupil expenditure in the State is more than 115 percent of the average per pupil expenditure in the United States, the amount shall be 115 percent of the average per pupil expenditure in the United States.

SA 609. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. ____. 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.

SA 610. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 144, line 23, strike ''is the amount'' and all that follows through

page 145, line 8, and insert ''shall be based on the number of children counted under subsection (c).''.

SA 611. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 18 and all that follows through line 15 on page 143, and insert the following:

''(c) SPECIAL FUNDING RULES.—Notwithstanding any other provision of law, a State shall not receive under this part for fiscal year 2000 or any succeeding fiscal year, an amount that—

''(1) exceeds by more than 10 percent the amount the State received under this part for fiscal year 1999; and

''(2) is less than 0.25 percent of the amount appropriated to carry out this part for the fiscal year for which the determination is made.

Beginning on page 144, line 23, strike ''year is'' and all that follows through line 8 on page 145, and insert ''year shall bear the same relation to the amount appropriated under section 1002(a) for the fiscal year as the number of children counted under section 1124(c) for the local educational agency bears to the number of children counted under section 1124(c) for all local educational agencies in all States.''.

Beginning on page 149, strike line 23 and all that follows through line 11 on page 150, and insert the following:

''(3) PUERTO RICO.—The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for each fiscal year is equal to the amount received by the Commonwealth of Puerto Rico under this section for fiscal year 1999.

Beginning on page 155, strike line 13 and all that follows through line 3 on page 156.

On page 161, line 11, strike ''year shall'' and all that follows through line 16, and insert ''year shall bear the same relation to the amount made available to carry out this section for the fiscal year as the number of children counted under section 1124(c) for the local educational agency bears to the number of children counted under section 1124(c) for all local educational agencies in all States.''.

On page 161, strike lines 17 through 23, and insert the following:

''(2) PUERTO RICO.—The amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section is equal to the amount received by the Commonwealth of Puerto Rico under this section for fiscal year 1999.

SA 612. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1. to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 141, strike lines 5 through 22 and insert the following:

''(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—

''(A) the Secretary shall ratably reduce the allocations to such local educational agencies; and

''(B) if, after reducing the allocations, the amounts that some local educational agencies would be eligible to receive would exceed 85 percent of the full amount while the amounts that other local educational agencies would be eligible to receive would be less than 85 percent of the full amount, the Secretary shall reallocate the amounts exceeding 85 percent to the other local educational agencies ratably so that all such other local educational agencies would be eligible to receive as close as possible to 85 percent, but not more, of the full amount.

''(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.—If possible after application of subsection (b), 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—''.

SA 613. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1. to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 75 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 65 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.''

SA 614. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 85 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 80 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 75 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.''

SA 615. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, strike line 14 and insert the following:

remain available until expended.

''PART B—POVERTY DATA

''SEC. 9201. POVERTY DATA ADJUSTMENTS.

''Whenever the Secretary uses any data that relates to the incidence of poverty and is produced or published by or for the Secretary of Commerce for subnational, State or substate areas, the Secretary shall adjust the data to account for differences in the cost of living in the areas.''.

SA 616. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 90 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 85 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 80 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.''

SA 617. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 80 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 75 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

SA 618. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 23 and all that follows through page 142, line 13, and insert the following:

''(A) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, served by the local educational agency;

''(B) 65 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is not less than 15 percent and not more than 30 percent; and

''(C) 70 percent of the amount made available to the local educational agency under each such section for the preceding fiscal year if such percentage is less than 15 percent.

SA 619. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 143, between lines 15 and 16, insert the following:

''(4) INAPPLICABILITY.—Notwithstanding any other provision of this part, this subsection shall not apply for any fiscal year for which the amount appropriated to carry out this part exceeds the amount appropriated to carry out this part for fiscal year 2001.

SA 620. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 145, strike lines 3 through 8 and insert the following:

''(B) 40 percent of the average per pupil expenditure in the State, except that—

''(i) if the average per pupil expenditure in the State is less than 95 percent of the average per pupil expenditure in the United States, the amount shall be 95 percent of the average per pupil expenditure in the United States; or

''(ii) if the average per pupil expenditure in the State is more than 105 percent of the average per pupil expenditure in the United States, the amount shall be 105 percent of the average per pupil expenditure in the United States.''

SA 621. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 141, strike lines 5 through 22 and insert the following:

''(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—

''(A) the Secretary shall ratably reduce the allocations to such local educational agencies; and

''(B) if, after reducing the allocations, the amounts that some local educational agencies would be eligible to receive would exceed 95 percent of the full amount while the amounts that other local educational agencies would be eligible to receive would be less than 95 percent of the full amount, the Secretary shall reallocate the amounts exceeding 95 percent to the other local educational agencies ratably so that all such other local educational agencies would be eligible to receive as close as possible to 95 percent, but not more, of the full amount.

''(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.—If possible after application of subsection (b), 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—''

SA 622. Mr. DAYTON (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. AMENDMENT TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Notwithstanding any other amendment made by this Act to section 611(j) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(j)), subsection (j) of such Act 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) $12,347,001,000 for fiscal year 2002;

''(2) not more than $18,370,317,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2003;

''(3) not more than $19,048,787,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2004;

''(4) not more than $19,719,918,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, for fiscal year 2005;

''(5) not more than $20,393,202,000, or the sum of the maximum amount that all States may receive under subsection (a)(2), whichever is lower, 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.''.

SA 623. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the End of title IV add the following:

SEC. 405. SAFE SCHOOLS INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the ''Safe Schools Initiative Act of 2001''.

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) acts of school violence disrupt the lives of children, families and communities nationwide;

(B) schools are places students go to learn, not to fear for their safety;

(C) the Federal Government should help local communities keep their schools safe;

(D) each year since fiscal year 1999, Senator Gregg, as chairman of the Commerce, Justice, State and the Judiciary Appropriations Subcommittee of the Senate, has included funding for a collaborative program entitled ''Safe Schools Initiative'' in the Commerce-Justice-State appropriations bill;

(E) the Safe Schools Initiative is an effort to help schools employ safety strategies and ensure the well-being of all students; and

(F) this worthwhile program should be established in statute.

(2) PURPOSE.—It is the purpose of this section to maximize local flexibility in responding to the threat of juvenile violence through the implementation of effective school violence prevention and safety programs.

(c) PROGRAM AUTHORIZED.—

(1) DEFINITION.—In this subsection, the term ''local educational agencies'' has the meaning given under section 3 of the Elementary and Secondary Education Act of 1965.

(2) AUTHORIZATION.—The Attorney General shall award grants to local educational agencies and law enforcement agencies to assist in planning, establishing, operating, coordinating and evaluating school violence prevention and school safety programs.

(d) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under subsection (c), an entity shall prepare and submit to the Attorney General an application at such time, in such manner and containing such information as the Attorney General may require, including—

(1) a detailed explanation of the intended uses of funds provided under the grant.

(e) ALLOWABLE USE OF FUNDS.—Amounts received under a grant under this section shall be used for innovative, local responses, consistent with the purposes of this section, which may include—

(1) training, including in-service training, for school personnel, custodians, and bus drivers in—

(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 of interested parents, teachers, and other school and law enforcement personnel in the identification and responses to early warning signs of troubled and violent youth;

(3) innovative research-based delinquency and violence prevention programs, including mentoring programs;

(4) comprehensive school security assessments;

(5) the purchase of school security equipment and technologies such as metal detectors, electronic locks, and surveillance cameras;

(6) collaborative efforts with law enforcement agencies and community-based organizations that have demonstrated expertise in providing effective, research-based violence prevention and intervention programs to schools age children;

(7) providing assistance to families in need for the purpose of purchasing required school uniforms;

(8) hiring school resource officers, including community police officers; and

(9) for any other purpose that the Attorney General determines to be appropriate and consistent with the purpose of this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $200,000,000 for fiscal year 2002, and sums as may be necessary for each of fiscal years 2003 through 2008.

(g) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, and every 2 years thereafter, the Attorney General shall prepare and submit to the appropriate committee of congress a report concerning the manner in which grantees have used amounts received under a grant under this section.

SA 624. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 776, line 17, strike ''education'' and all that follows through the end of line 19 and insert the following: ''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 $25,000,000 for fiscal year 2002, and such sums as may be necessary in each of the 7 fiscal years thereafter.''.

SA 625. Mr. WYDEN (for himself, Mr. CONRAD, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 648, strike lines 4 through 8 and insert the following:

''(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.''.

SA 626. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 573, after line 25, add the following:

SEC. 4203. 24-HOUR HOLDING PERIOD FOR STUDENTS WHO UNLAWFULLY BRING A GUN TO SCHOOL.

''(a) IN GENERAL.—Each state receiving Federal funds under this Act shall have in effect a policy or practice described in subsection (b) by not later than the first day of the fiscal year involved.

''(b) STATE POLICY OR PRACTICE DESCRIBED.—A policy or practice described in this subsection is a policy or practice of the State that requires State and local law enforcement agencies to detain, in an appropriate juvenile community-based facility or in an appropriate juvenile justice facility, for not less than 24 hours, any juvenile who,

''(1) unlawfully possesses a firearm in a school; and

''(2) is found by a judicial officer to be a possible danger to himself or herself or to the community.''.

SA 627. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 794, after line 7, add the following:

SEC. 9___. PEST MANAGEMENT IN SCHOOLS.

(a) IN GENERAL.—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) PESTICIDE.—The term 'pesticide' means a pesticide that, as identified by the Administrator—

''(A) contains a known or probable carcinogen;

''(B) contains a category I or II acute nerve toxin; or

''(C) is of the organophosphate, organochlorine, or carbamate class of pesticides.

''(2) SCHOOL.—The term 'school' means a public—

''(A) elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801));

''(B) secondary school (as defined in section 14101 of that Act); or

''(C) kindergarten or nursery school.

''(b) MANDATORY NOTIFICATION.—

''(1) IN GENERAL.—Not later than 72 hours prior to an application of a pesticide to the school grounds (including indoor and outdoor treatments), a school shall, in accordance with this subsection, notify parents and guardians of children attending that school of the application.

''(2) CONTENTS OF NOTIFICATION.—A notification required under this subsection shall include, with respect to each pesticide to be applied at the school during the application covered by the notification—

''(A) the common name, trade name, and Environmental Protection Agency registration number of the pesticide;

''(B) a description of the method, duration, and location of the application of the pesticide; and

''(C) a description of any potential acute or chronic effects on human health that may result from exposure to the pesticide.''.

(b) 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 and 31 and inserting the following:

''Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

''Sec. 31. Environmental Protection Agency minor use program.

''Sec. 32. Department of Agriculture minor use program.

''(a) In general.

''(b)(1) Minor use pesticide data.

''(2) Minor Use Pesticide Data Revolving Fund.

''Sec. 33. Pest management in schools.''

SA 628. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ____. PEST MANAGEMENT IN SCHOOLS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a et seq.) is amended—

(1) by redesignating sections 33 and 34 as sections 34 and 35, respectively; and

(2) by inserting after section 32 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 that is—

''(A) readily detected, recognized, or eaten by the target pest; or

''(B) applied in a manner that minimizes human exposure.

''(2) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(3) PESTICIDE.—

''(A) IN GENERAL.—The term 'pesticide' has the meaning given the term in section 2.

''(B) EXCLUSION.—The term 'pesticide' does not include—

''(i) an antimicrobial pesticide described in section 2(mm)(1)(A);

''(ii) a bait, paste, gel, or pesticide used for crack or crevice treatment; or

''(iii) any pesticide exempt from the requirements of this Act under section 25(b).

''(4) SCHOOL.—The term 'school' means a public—

''(A) elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)); or

''(B) secondary school (as defined in section 14101 of that Act).

''(b) MANDATORY NOTIFICATION.—

''(1) IN GENERAL.—A school shall, in accordance with this subsection, notify parents and guardians of children attending that school before school employees or persons contracted by the school apply a pesticide to the school grounds, including both indoor and outdoor treatments.

''(2) ANNUAL NOTIFICATION.—A school shall notify parents and guardians at the beginning of each school year, and on the enrollment of a child in the school, that pesticides may be used periodically throughout the school year to manage pests.

''(3) NOTIFICATION OF INDIVIDUAL APPLICATIONS.—

''(A) LIST OF PARENTS AND GUARDIANS REQUESTING NOTIFICATION.—A school shall establish and maintain a list of parents and guardians who have requested notification by the school before each individual application of a pesticide on school grounds, including both indoor and outdoor treatments.

''(B) NOTIFICATION REQUIREMENT.—Subject to subparagraph (D), a school shall notify each parent and guardian on the list at least 24 hours before the application of a pesticide on school grounds.

''(C) METHOD OF NOTIFICATION.—A school may notify parents or guardians on the notification list of an upcoming pesticide application by—

''(i) sending a notice home with students;

''(ii) making a phone call to parents and guardians;

''(iii) directly communicating with parents and guardians; or

''(iv) using any other method the school considers appropriate.

''(D) NOTIFICATION NOT REQUIRED.—A school shall not be required to provide notification of the application of a pesticide under this paragraph if the school—

''(i) will not be in session for at least 48 hours following the application; or

''(ii) determines that the urgent or immediate use of a pesticide is necessary to protect students, staff, or other persons.

''(4) CONTENTS OF NOTIFICATION.—A notification required under this subsection shall include—

''(A) the common name, trade name, and Environmental Protection Agency registration number of the pesticide;

''(B) a description of the location of the application of the pesticide;

''(C) a description of the approximate date and time of application, except that, in the case of outdoor pesticide applications, 1 notice shall include 3 dates, in chronological order, that the outdoor pesticide applications may take place if the preceding date is canceled;

''(D) a description of the pests to be controlled by the application of the pesticide and the potential health and safety threats posed by the pests;

''(E) the name and telephone number of the contact person of the school district; and

''(F) any telephone numbers (including toll-free telephone numbers) provided on the label of the pesticide to obtain information concerning the pesticide.

''(c) INTEGRATED PEST MANAGEMENT IN SCHOOLS.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the lead agency or board designated by each State for pesticide regulation shall develop a model integrated pest management program for schools in the State that is consistent with section 303 of the Food Quality Protection Act of 1996 (7 U.S.C. 136r–1) and this section.

''(2) IMPLEMENTATION.—Not later than 180 days after the development of the model integrated pest management program, each local educational agency in the State shall adopt and implement the program.

''(3) APPLICATORS.—A local educational agency of a State shall use a certified applicator or other person authorized by the lead agency or board of the State to implement the model integrated pest management program.''.

(b) 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 and 31 and inserting the following:

''Sec. 30. Minimum requirements for training of maintenance applicators and service technicians.

''Sec. 31. Environmental Protection Agency minor use program.

''Sec. 32. Department of Agriculture minor use program.

''(a) In general.

''(b)(1) Minor use pesticide data.

''(2) Minor Use Pesticide Data Revolving Fund.

''Sec. 33. Pest management in schools.

''(a) Definitions.

''(1) Bait.

''(2) Local educational agency.

''(3) Pesticide.

''(4) School.

''(b) Mandatory notification.

''(1) In general.

''(2) Annual notification.

''(3) Notification of individual applications.

''(4) Contents of notification.

''(c) Integrated pest management in schools.

''(1) In general.

''(2) Implementation.

''(3) Applicators.

''Sec. 34. Severability.

''Sec. 35. Authorization of appropriations.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section take effect on the date that is 18 months after the date of enactment of this Act.

SA 629. Mr. WELLSTONE (for himself, Mr. DEWINE, Mrs. CLINTON, Mr. SCHUMER, Mr. BIDEN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 309, lines 17 and 18, strike ''subsection (f)'' and insert ''subsections (e) and (f)''.

On page 339, line 6, strike ''(e)'' and insert ''(d)''.

Beginning on page 340, strike line 9 and all that follows through page 341, line 8.

On page 341, line 9, strike ''(e)'' and insert ''(d)''.

On page 341, between lines 21 and 22, insert the following:

''(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)(I) 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 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 Teacher Corps program 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 the Teacher Corps program 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 Teacher Corps 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.

On page 383, after line 21, add the following:

SEC. ___. 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.''

SA 630. Ms. CANTWELL (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 379, between lines 19 and 20, insert the following:

''SEC. ___. NATIONAL DIGITAL SCHOOL DISTRICTS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to address the important role that technology and the Internet can play in enhancing and improving education in the

schools of the United States when resources are allocated strategically and effectively;

''(2) to assist State and local school administrators of the United States in effectively devoting resources on proven methods to incorporate the use of high technology and the Internet in educational curricula;

''(3) to encourage the development of innovative strategic approaches to the appropriate and effective use of technology in teaching, learning, and managing elementary schools and secondary schools;

''(4) to evaluate and assess the various strategies described in paragraph (3) and provide models for the innovative use of technology in schools in the United States; and

''(5) to encourage partnerships between educational institutions and the private sector relating to the use of technology described in paragraph (3) in schools in the United States.

''(b) DEFINITIONS.—In this section:

''(1) STATE.—The term 'State' means 1 of the several States of the United States and the District of Columbia.

''(2) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State educational agency of a State.

''(c) GRANTS TO STATE EDUCATIONAL AGENCIES.—

''(1) FISCAL YEAR 2002.—For fiscal year 2002, the Secretary shall award 1 grant to each State educational agency to make subgrants to local educational agencies to create national digital school districts.

''(2) FISCAL YEAR 2003.—

''(A) IN GENERAL.—For fiscal year 2003, the Secretary shall award 1 grant to each State educational agency to pay for the Federal share of the cost of making subgrants to local educational agencies to create national digital school districts.

''(B) FEDERAL SHARE.—The Federal share of the cost referred to in subparagraph (A) is 50 percent.

''(3) STATE APPLICATIONS.—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 reasonably require.

''(d) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS.—A State educational agency that receives a grant under subsection (c) shall use not less than 95 percent of the funds made available through the grant to make subgrants, on a competitive basis, to local educational agencies.

''(2) NOTICE.—The State educational agency shall provide notice to all local educational agencies in the State of the availability of subgrants under this subsection and of the requirements for applying for the subgrants.

''(3) LOCAL APPLICATIONS.—To be eligible to receive a subgrant under this section, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

''(4) USE OF SUBGRANTS.—A local educational agency that receives a subgrant under this subsection may use the funds made available through the subgrant to create a national digital school district by—

''(A) acquiring technology;

''(B) providing teacher mentoring; and

''(C) carrying out other efforts to achieve the purposes of this section.

''(e) ACADEMIC RESEARCH.—The Secretary shall award grants, on a competitive basis, for fiscal year 2004 to institutions of higher education, to conduct research on the effectiveness of the technology used in national digital school districts.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 2002, $50,000,000 for fiscal year 2003, and $25,000,000 for fiscal year 2004.

''(g) REFERENCES.—References in this part to activities carried out under this part or funds provided to carry out this part shall not be considered to be references to activities carried out under this section or funds provided to carry out this section.

SA 631. Mr. LEVIN (for himself, Ms. LANDRIEU, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 189, between lines 17 and 18, insert the following:

''(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.

SA 632. Mr. LEVIN (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, add the following:

SEC. . INCREASE IN NUMBER OF MONTHS OF VOCATIONAL EDUCATIONAL TRAINING COUNTED AS A WORK ACTIVITY UNDER THE TANF PROGRAM.

Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended by striking ''12'' and inserting ''24''.

SA 633. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 328, line 21, insert before the semicolon the following: '', together with knowledge in the use of computer related technology to enhance student learning''.

SA 634. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 782, insert the following new subsections after line 17:

''(J) remedial and enrichment programs to assist Alaska Native students in succeeding in standardized tests;

''(K) education and training of Alaska Native Students enrolled in a degree program that will lead to certification as teachers;

''(L) parenting education for parents and caregivers of Alaska Native children to improve parenting skills (including skills relating to discipline and cognitive development), including parenting education provided through in-home visitation of new mothers;

''(M) cultural education programs operated by the Alaska Native Heritage Center and designed to share the Alaska Native culture with schoolchildren;

''(N) 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;

''(O) activities carried through Even Start programs carried out under 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;

''(P) other early learning and preschool programs;

''(Q) dropout prevention programs such as Partners for Success; and

''(R) Alaska Initiative for Community Engagement program.''

On page 783, strike lines 8 through 11 and insert in lieu thereof the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section the same amount as the authorization provided for activities under the Native Hawaiian Education Act in section 7205 of this Act for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(d) AVAILABILITY OF FUNDS.—Of the funds appropriated and made available under this section for a fiscal year, the Secretary shall make available not less than $1,000,000 to support activities described in subsection (a)(2)(L), not less than $1,000,000 to support activities described in subsection (a)(2)(M), not less than $1,000,000 to support activities described in subsection (a)(2)(N); not less than $2,000,000 to support activities described in subsection (a)(2)(Q); and not less than $2,000,000 to support activities described in subsection (a)(2)(R).''

SA 635. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 383, after line 21, add the following:

SEC. 203. CLOSE UP FELLOWSHIP PROGRAM.

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. ___. 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. ___. 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. ___. 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. ___. 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. ___. 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 ___(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. ___. 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. ___. 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—Great American Cities Program

"SEC. ___. ESTABLISHMENT.

''(a) GENERAL AUTHORITY.—

''(1) IN GENERAL.—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 Great American Cities program to develop strong moral character, leadership qualities, a belief in community service and an understanding of Federal Government policy-making among economically disadvantaged young people who reside in large metropolitan areas.

''(2) DEFINITION.—For the purpose of this subpart, the term 'Great American Cities' means metropolitan areas as defined by the criteria of the Council of the Great City Schools.

''(b) USE OF FUNDS.—Grants under this subpart shall be used only to provide financial assistance to teachers and economically disadvantaged secondary school students who participate in the program described in subsection (a) and to assist in the development and execution of the program. Financial assistance received pursuant to this subpart by such students shall be know as the Close Up Great American Cities Fellowships.

"SEC. ___. 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 teachers and economically disadvantaged secondary school students who reside in large metropolitan areas;

''(2) that every effort shall be made to ensure the participation of teachers and students from large metropolitan areas, and that in awarding fellowships to the teachers and economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including students with disabilities and ethnic minority students; and

''(3) the proper disbursement of the funds received under this subpart.

"Subpart 5—General Provisions

"SEC. ___. 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, 3 and 4 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. ___. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of subparts 1, 2, 3 and 4 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 ___ and ___.''.

SA 636. Mr. MCMCAIN submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 893, after line 14, insert the following:

TITLE —EDUCATIONAL CHOICES FOR DISADVANTAGED CHILDREN.

SEC. 01. PURPOSES.

The purposes of this title are—

(1) to assist the District of Columbia to—

(A) give children from low-income families in the District of Columbia the same choices among all elementary schools and secondary schools and other academic programs as children from wealthier families already have;

(B) improve schools and other academic programs in the District of Columbia by giving parents in low-income families increased consumer power to choose the schools and programs that the parents determine best fit the needs of their children; and

(C) more fully engage parents in the District of Columbia in their children's schooling; and

(2) to demonstrate, through a 3-year grant program, the effects of a voucher program in the District of Columbia that gives parents in low-income families—

(A) choice among public, private, and religious schools for their children; and

(B) access to the same academic options as parents in wealthy families have for their children.

SEC. 02. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title (other than section 09) $24,000,000 for each of fiscal years 2002 through 2005.

(b) EVALUATION.—There is authorized to be appropriated to carry out section 09 $1,000,000 for each of fiscal years 2002 through 2005.

SEC. 03. PROGRAM AUTHORITY.

(a) IN GENERAL.—From amounts made available to carry out this title, the Secretary of Education shall award grants to the District of Columbia to enable the District of Columbia to carry out educational choice programs that provide scholarships, in accordance with this title.

(b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDITURES.—The Secretary of Education may reserve not more than 5 percent of the amounts appropriated under section 02(a) for a fiscal year to the District of Columbia Board of Education or other entity that exercises administrative jurisdiction over the District of Columbia public schools, the Superintendent of the District of Columbia public schools, and other school scholarship programs in the District of Columbia, to pay for the costs of administering this title.

SEC. 04. ELIGIBLE SCHOOLS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Schools identified under paragraph (2) shall be considered to be eligible schools under this title. The identification under paragraph (2) shall be carried out by the District of Columbia Board of Education or other entity that exercises administrative jurisdiction over the District of Columbia public schools, the Superintendent of the District of Columbia public schools, and other school scholarship programs in the District of Columbia.

(2) DETERMINATION.—Not later than 180 days after the date of enactment of this title, the District of Columbia shall identify the public elementary schools and secondary schools that are at or below the 25th percentile for academic performance of schools in the District of Columbia.

(b) PERFORMANCE.—The District of Columbia shall determine the academic performance of a school under this section based on such criteria as the District of Columbia may consider to be appropriate.

SEC. 05. SCHOLARSHIPS.

(a) IN GENERAL.—

(1) SCHOLARSHIP AWARDS.—With funds awarded under this title, District of Columbia shall provide scholarships to the parents of eligible children, in accordance with subsections (b) and (c). The District of Columbia shall ensure that the scholarships may be redeemed for elementary or secondary education for the eligible children at any of a broad variety of public and private schools, including religious schools, in the District of Columbia.

(2) SCHOLARSHIP AMOUNT.—The amount of each scholarship shall be $2000 per year.

(3) TAX EXEMPTION.—Scholarships awarded under this title shall not be considered income of the parents for Federal income tax purposes or for determining eligibility for any other Federal program.

(b) ELIGIBLE CHILD.—To be eligible to receive a scholarship under this title, a child shall be—

(1) a child who is enrolled in a public elementary school or secondary school that is an eligible school; and

(2) a member of a family with a family income that is not more than 200 percent of the poverty line.

(c) AWARD RULES.—

(1) PRIORITY.—In providing scholarships under this title, the District of Columbia shall provide scholarships for eligible children through a lottery system administered for all eligible schools in the District of Columbia.

(2) CONTINUING ELIGIBILITY.—The District of Columbia shall provide a scholarship in each year of the program to each child who received a scholarship during the previous year of the program, unless—

(A) the child no longer resides in the area served by an eligible school;

(B) the child no longer attends school;

(C) the child's family income exceeds, by 20 percent or more, 200 percent of the poverty line;

(D) the child is expelled; or

(E) the child is convicted of possession of a weapon on school grounds, convicted of a violent act against another student or a member of the school's faculty, or convicted of a felony, including felonious drug possession.

SEC. 06. USES OF FUNDS.

Any scholarship awarded under this title for a year shall be used—

(1) first, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if the school is not the school to which the child would be assigned in the absence of a program under this title;

(2) second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents, that the District of Columbia determines is capable of providing such services and has an appropriate refund policy; and

(3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

SEC. 07. REQUIREMENT.

The District of Columbia shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

SEC. 08. EFFECT OF PROGRAMS.

(a) TITLE I.—Notwithstanding any other provision of law, if the District of Columbia would, in the absence of an educational choice program that is funded under this title, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the District of Columbia shall ensure the provision of such services to such child.

(b) INDIVIDUALS WITH DISABILITIES.—Nothing in this title shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(c) AID.—

(1) IN GENERAL.—Scholarships under this title shall be considered to aid families, not institutions. For purposes of determining Federal assistance under Federal law, a parent's expenditure of scholarship funds under this title at a school or for supplementary academic services shall not constitute Federal financial aid or assistance to that school or to the provider of supplementary academic services.

(2) SUPPLEMENTARY ACADEMIC SERVICES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a school or provider of supplementary academic services that receives scholarship funds under this title shall, as a condition of participation under this title, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) REGULATIONS.—The Secretary of Education shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this title and the nature, variety, and missions of schools and providers that may participate in providing services to children under this title.

(d) OTHER FEDERAL FUNDS.—No Federal, State, or local agency may, in any year, take into account Federal funds provided to the District of Columbia or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to the District of Columbia or to a school attended by such child.

(e) NO DISCRETION.—Nothing in this title shall be construed to authorize the Secretary of Education to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this title.

SEC. 09. EVALUATION.

The Comptroller General of the United States shall conduct an evaluation of the program authorized by this title. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this

title and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. 10. ENFORCEMENT.

(a) REGULATIONS.—The Secretary of Education shall promulgate regulations to enforce the provisions of this title.

(b) PRIVATE CAUSE.—No provision or requirement of this title shall be enforced through a private cause of action.

SEC. 11. WASTEFUL SPENDING AND FUNDING.

(a) IN GENERAL.—The Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives shall identify wasteful spending by the Federal Government as a means of providing funding for this title.

(b) REPORT.—Not later than 60 days after the date of enactment of this title, the committees referred to in subsection (a) shall jointly prepare and submit to the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, a report concerning the spending identified under such subsection.

SEC. 12. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) DEFINITIONS.—In this section—

(1) the term ''Board'' means the Board of Directors of the Corporation established under subsection (c); and

(2) the term ''Corporation'' means the District of Columbia Scholarship Corporation established under subsection (b).

(b) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the ''District of Columbia Scholarship Corporation'', which is neither an agency nor an establishment of the United States Government or the District of Columbia government.

(2) DUTIES.—The Corporation shall administer, publicize, and evaluate the scholarship program established under this section, and determine student and school eligibility for participation in the program.

(3) CONSULTATION.—The Corporation shall exercise its authority in consultation with the Board of Education, the Superintendent, the Consensus Commission, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this section, and, to the extent that it is consistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, 29–501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia, and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) FUND.—There is established in the District of Columbia general fund, a fund that shall be known as the ''District of Columbia Scholarship Fund''.

(7) DISBURSEMENT.—The Mayor of the District of Columbia shall disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year for which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this section shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this section shall be used by the Corporation in a prudent and financially responsible manner, solely for awarding scholarships and for administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There is authorized to be appropriated to the District of Columbia Scholarship Fund for fiscal years 2002 through 2004, .

(B) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 3 percent of the amount appropriated to carry out this section for any fiscal year may be used by the Corporation for any purpose other than assistance to students.

(c) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors comprised of 7 members, with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives, the Majority Leader of the Senate, Minority Leader of the Senate in accordance with this paragraph.

(B) HOUSE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of not fewer than 6 individuals nominated by the Speaker of the House of Representatives, and 1 member of the Board from a list of not fewer than 3 individuals nominated by the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of not fewer than 6 individuals nominated by the Majority Leader of the Senate, and 1 member of the Board from a list of not fewer than 3 individuals nominated by the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker and Minority Leader of the House of Representatives and the Majority Leader and Minority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor of the District of Columbia shall appoint 1 member of the Board not later than 60 days after the date of enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 member of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence, together with the appointee of the Mayor of the District of Columbia, shall serve as an interim Board, with all the powers and other duties of the Board described in this section, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board shall elect 1 of the members of the Board to serve as chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member shall be 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(9) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(10) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or the District of Columbia government.

(11) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this section, shall be provided a stipend. Such stipend shall be at the rate of $150 per day, for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(d) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG-16 of the Educational Service of the District of Columbia, to be fixed by the Board.

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay that is greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(e) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and

panels to aid the Corporation in carrying out this section.

SA 637. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 18 and all that follows through line 15 on page 143, and insert the following:

''(c) SPECIAL FUNDING RULES.—Notwithstanding any other provision of law, a State shall not receive under this part for fiscal year 2000 or any succeeding fiscal year, an amount that—

''(1) exceeds by more than 10 percent the amount the State received under this part for fiscal year 1999; and

''(2) is less than 0.25 percent of the amount appropriated to carry out this part for the fiscal year for which the determination is made.

Beginning on page 144, line 23, strike ''year is'' and all that follows through line 8 on page 145, and insert ''year shall bear the same relation to the amount appropriated under section 1002(a) for the fiscal year as the number of children counted under section 1124(c) for the local educational agency bears to the number of children counted under section 1124(c) for all local educational agencies in all States.''.

Beginning on page 149, strike line 23 and all that follows through line 11 on page 150, and insert the following:

''(3) PUERTO RICO.—The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for each fiscal year is equal to the amount received by the Commonwealth of Puerto Rico under this section for fiscal year 1999.

Beginning on page 155, strike line 13 and all that follows through line 3 on page 156.

On page 161, line 11, strike ''year shall'' and all that follows through line 16, and insert ''year shall bear the same relation to the amount made available to carry out this section for the fiscal year as the number of children counted under section 1124(c) for the local educational agency bears to the number of children counted under section 1124(c) for all local educational agencies in all States.''.

On page 161, strike lines 17 through 23, and insert the following:

''(2) PUERTO RICO.—The amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section is equal to the amount received by the Commonwealth of Puerto Rico under this section for fiscal year 1999.

SA 638. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 69, between lines 9 and 10, insert the following:

''(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) the number and name of each school identified for school improvement 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 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.

SA 639. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

Beginning on page 141, strike line 18 and all that follows through line 15 on page 143, and insert the following:

''(c) SPECIAL FUNDING RULES.—Notwithstanding any other provision of law, a State shall not receive under this part for fiscal year 2000 or any succeeding fiscal year, an amount that—

''(1) exceeds by more than 10 percent the amount the State received under this part for fiscal year 1999; and

''(2) is less than 0.25 percent of the amount appropriated to carry out this part for the fiscal year for which the determination is made.

Beginning on page 144, line 23, strike ''year is'' and all that follows through line 8 on page 145, and insert ''year shall bear the same relation to the amount appropriated under section 1002(a) for the fiscal year as the number of children counted under section 1124(c) for the local educational agency bears to the number of children counted under section 1124(c) for all local educational agencies in all States.''.

Beginning on page 149, strike line 23 and all that follows through line 11 on page 150, and insert the following:

''(3) PUERTO RICO.—The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for each fiscal year is equal to the amount received by the Commonwealth of Puerto Rico under this section for fiscal year 1999.

Beginning on page 155, strike line 13 and all that follows through line 3 on page 156.

On page 161, line 11, strike ''year shall'' and all that follows through line 16, and insert ''year shall bear the same relation to the amount made available to carry out this section for the fiscal year as the number of children counted under section 1124(c) for the local educational agency bears to the number of children counted under section 1124(c) for all local educational agencies in all States.''.

On page 161, strike lines 17 through 23, and insert the following:

''(2) PUERTO RICO.—The amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section is equal to the amount received by the Commonwealth of Puerto Rico under this section for fiscal year 1999.

SA 640. Mr. DORGAN (for himself, Mr. REID, Mr. DURBIN, Ms. BOXER, Mrs. FEINSTEIN, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

at the appropriate place, insert:

The Senate finds:

The price of energy has skyrocketed in recent months;

The California consumers have seen a 10-fold increase in electricity prices in less than 2 years;

Natural gas prices have doubled in some areas, as compared with a year ago;

Gasoline prices are close to $2.00 per gallon now and are expected to increase to as much as $3.00 per gallon this summer;

Energy companies have seen their profits doubled, tripled, and in some cases even quintupled; and

High energy prices are having a detrimental effect on families across the country and threaten economic growth.

SECTION 1. SENSE OF THE SENATE CONCERNING THE NEED TO ESTABLISH A JOINT COMMITTEE OF THE SENATE AND HOUSE OF REPRESENTATIVES TO INVESTIGATE THE RAPIDLY INCREASING ENERGY PRICES ACROSS THE COUNTRY AND TO DETERMINE WHAT IS CAUSING THE INCREASES.

It is the sense of the Senate that there should be established a joint committee of the Senate and House of Representatives to—

(1) study the dramatic increases in energy prices (including increases in the prices of gasoline, natural gas, electricity, and home heating oil);

(2) investigate the cause of the increases;

(3) make findings of fact; and

(4) make such recommendations, including recommendations for legislation and any administrative or other actions, as the joint committee determines to be appropriate.

SA 641. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 203. 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 the National Education Technology Standards, or an information technology certification that is directly related to the curriculum or content area in which the teacher provides instruction;''.

SA 642. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 178, between lines 19 and 20, insert the following:

''(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.

On page 272, line 10, strike ''and the Republic of Palau'' and insert ''Republic of Palau, and Bureau of Indian Affairs for purposes of serving schools funded by the Bureau''.

On page 776, line 10, insert before the semicolon the following: ''or, in the case of a Bureau of Indian Affairs funded school, by the Secretary of the Interior''

On page 807, strike lines 1 through 18.

On page 808, strike lines 15 and 16.

SA 643. Mr. ENZI (for himself and Ms. COLLINS, Mrs. MURRAY, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 99, between line 22 and 23, Title I, Sec. 1116(8)(B), is amended by inserting:

(1) SPECIAL RULE.—Rural local educational agencies, as described in Sec. 5231(b) may apply to the Secretary for a waiver of the requirements under this sub-paragraph provided that they submit to the Secretary an alternative plan for making significant changes to improve student performance in the school, such as providing extended learning time through 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 submitted under this rule within 30 days of 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 30 days, the application shall be treated as having been accepted by the Secretary.

SA 644. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—PUBLIC SCHOOL CONSTRUCTION

Subtitle A—General Provisions

SEC. ___. PUBLIC SCHOOL CONSTRUCTION FINANCING OPTIONS.

(a) IN GENERAL.—For the purpose of providing funding for qualified public school facility construction projects, a State may choose 1 of the Federal funding mechanisms described in subtitles B, C, or D.

(b) QUALIFIED PUBLIC SCHOOL FACILITY CONSTRUCTION PROJECT.—For purposes of this title—

(1) IN GENERAL.—The term ''qualified public school facility construction project'' means a construction project selected by the State with respect to a public school facility—

(A) 50 percent of the enrollment population of which is from families whose income does not exceed the poverty level, as determined by annual census data published by the Department of Labor,

(B) located in a district in which the district bonded indebtedness or the indebtedness authorized by the district electorate and payable from general property tax levies of the districts within the agency's jurisdiction has reached or exceeded 90 percent of the debt limitation imposed upon school districts pursuant to State law,

(C) with respect to which the local educational agency has made its best effort to maintain the existing facility, and

(D) among all public school facilities in the State meeting the criteria under subparagraphs (A), (B), and (C) is among the 10 percent of such facilities most in need.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(3) PUBLIC SCHOOL FACILITY.—The term ''public school facility'' means any public elementary or secondary school facility, but shall not include—

(A) any stadium or other facility primarily used for athletic contests or exhibitions, or other events for which admission is charged to the general public; or

(B) any facility that is not owned by a State or local government or any agency or instrumentality of a State or local government.

(4) PUBLIC SCHOOLS.—The terms ''elementary school'' and ''secondary school'' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(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, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Subtitle B—Liberalization of Tax-Exempt Financing Rules for Qualified Public School Facility Construction Projects

SEC. ___. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE QUALIFIED PUBLIC SCHOOL FACILITY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) of the Internal Revenue Code of 1986 (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking ''$5,000,000'' the second place it appears and inserting ''$5,000,000 plus $5,000,000 solely for qualified public school facility construction projects (as defined in section ___(b)(1) of the Better Education for Students and Teachers Act)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after December 31, 2001.

SEC. ___. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', or'', and by adding at the end the following new paragraph:

''(13) qualified public educational facilities.''.

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Section 142 of such Code (relating to exempt facility bond) is amended by adding at the end the following new subsection:

''(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—

''(1) IN GENERAL.—For purposes of subsection (a)(13), the term 'qualified public educational facility' means any public school facility within the meaning of section ___(b)(1) of the Better Education for Students and Teachers Act), owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

''(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DESCRIBED.—A public-private partnership agreement is described in this paragraph if it is an agreement—

''(A) under which the corporation agrees—

''(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

''(ii) at the end of the term of the agreement, to transfer the school facility to such agency for no additional consideration, and

''(B) the term of which does not exceed the term of the issue to be used to provide the school facility.

''(3) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

''(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of—

''(i) $10 multiplied by the State population, or

''(ii) $5,000,000.

''(B) ALLOCATION RULES.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the State may allocate the amount described in subparagraph (A) for any calendar year in such manner as the State determines appropriate.

''(ii) RULES FOR CARRYFORWARD OF UNUSED LIMITATION.—A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of such Code (relating to exception for certain bonds) is amended—

(1) by striking ''or (12)'' and inserting ''(12), or (13)'', and

(2) by striking ''and environmental enhancements of hydroelectric generating facilities'' and inserting ''environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities''.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(h) of such Code (relating to certain rules not to apply to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds) is amended by adding at the end the following new paragraph:

''(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public educational facilities).''.

(e) CONFORMING AMENDMENT.—The heading for section 147(h) of such Code is amended by striking ''MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS'' and inserting ''CERTAIN BONDS''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2001.

Subtitle C—Revolving Loan Program for Bond Interest Repayment

SEC. ___. DEFINITIONS.

In this subtitle:

(1) BOND.—The term ''bond'' includes any obligation.

(2) GOVERNOR.—The term ''Governor'' includes the chief executive officer of a State.

(3) QUALIFIED SCHOOL CONSTRUCTION BOND.—The term ''qualified school construction bond'' means any bond (or portion of a bond) issued as part of an issue if—

(A) 95 percent or more of the proceeds attributable to such bond (or portion) are to be used for the construction, rehabilitation, or repair of a public school facility (within the meaning of section ____(b)(1) of the Better Education for Students and Teachers Act) or for the acquisition of land on which such a facility is to be constructed with part of the proceeds;

(B) the bond is issued by a State, regional, or local entity, with bonding authority; and

(C) the issuer designates such bond (or portion) for purposes of this section.

(4) STABILIZATION FUND.—The term ''stabilization fund'' means the stabilization fund established under section 5302 of title 31, United States Code.

SEC. ____. LOANS FOR SCHOOL CONSTRUCTION BOND INTEREST PAYMENTS AND OTHER SUPPORT.

(a) LOAN AUTHORITY AND OTHER SUPPORT.—

(1) LOANS AND STATE-ADMINISTERED PROGRAMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from funds made available to a State under section ____(b) the State, in consultation with the State educational agency—

(i) shall use not less than 50 percent of the funds to make loans to State, regional, or local entities within the State to enable the entities to make annual interest payments on qualified school construction bonds that are issued by the entities not later than December 31, 2004; and

(ii) may use not more than 50 percent of the funds to support State revolving fund programs or other State-administered programs that assist State, regional, and local entities within the State in paying for the cost of construction, rehabilitation, repair, or acquisition described in section ____(3)(A).

(B) STATES WITH RESTRICTIONS.—If, on the date of enactment of this Act, a State has in effect a law that prohibits the State from making the loans described in subparagraph (A)(i), the State, in consultation with the State educational agency, may use the funds described in subparagraph (A) to support the programs described in subparagraph (A)(ii).

(2) REQUESTS.—The Governor of each State desiring assistance under this Act shall submit a request to the Secretary of the Treasury at such time and in such manner as the Secretary of the Treasury may require.

(b) REPAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), a State that uses funds made available under section ____(b) to make a loan or support a State-administered program under subsection (a)(1) shall repay to the stabilization fund the amount of the loan or support, plus interest, at an annual rate of 4.5 percent. A State shall not be required to begin making such repayment until the year immediately following the 15th year for which the State is eligible to receive annual distributions from the fund (which shall be the final year for which the State shall be eligible for such a distribution under this subtitle). The amount of such loan or support shall be fully repaid during the 10-year period beginning on the expiration of the eligibility of the State under this subtitle.

(2) EXCEPTIONS.—

(A) IN GENERAL.—The interest on the amount made available to a State under section ____(b) shall not accrue, prior to January 1, 2007, unless the amount appropriated to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) for any fiscal year prior to fiscal year 2007 is sufficient to fully fund such part for the fiscal year at the originally promised level, which promised level would provide to each State 40 percent of the average per-pupil expenditure for providing special education and related services for each child with a disability in the State.

(B) APPLICABLE INTEREST RATE.—Effective January 1, 2007, the applicable interest rate that will apply to an amount made available to a State under section ____(b) shall be—

(i) 0 percent with respect to years in which the amount appropriated to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) is not sufficient to provide to each State at least 20 percent of the average per-pupil expenditure for providing special education and related services for each child with a disability in the State;

(ii) 2.5 percent with respect to years in which the amount described in clause (i) is not sufficient to provide to each State at least 30 percent of such average per-pupil expenditure;

(iii) 3.5 percent with respect to years in which the amount described in clause (i) is not sufficient to provide to each State at least 40 percent of such average per-pupil expenditure; and

(iv) 4.5 percent with respect to years in which the amount described in clause (i) is sufficient to provide to each State at least 40 percent of such average per-pupil expenditure.

(c) FEDERAL RESPONSIBILITIES.—The Secretary of the Treasury and the Secretary of Education—

(1) jointly shall be responsible for ensuring that funds provided under this subtitle are properly distributed;

(2) shall ensure that funds provided under this subtitle are used only to pay for—

(A) the interest on qualified school construction bonds; or

(B) a cost described in subsection (a)(1)(A)(ii); and

(3) shall not have authority to approve or disapprove school construction plans assisted pursuant to this subtitle, except to ensure that funds made available under this subtitle are used only to supplement, and not supplant, the amount of school construction, rehabilitation, and repair, and acquisition of land for school facilities, in the State that would have occurred in the absence of such funds.

[SEC. ____. AMOUNTS AVAILABLE TO EACH STATE.

(a) RESERVATION FOR INDIANS.—

(1) IN GENERAL.—From $7,000,000,000 of the funds in the stabilization fund, the Secretary of the Treasury shall make available $100,000,000 to provide assistance to Indian tribes.

(2) USE OF FUNDS.—An Indian tribe that receives assistance under paragraph (1)—

(A) shall use not less than 50 percent of the assistance for a loan to enable the Indian tribe to make annual interest payments on qualified school construction bonds, in accordance with the requirements of this Act that the Secretary of the Treasury determines to be appropriate; and

(B) may use not more than 50 percent of the assistance to support tribal revolving fund programs or other tribal-administered programs that assist tribal governments in paying for the cost of construction, rehabilitation, repair, or acquisition described in section 3(5)(A), in accordance with the requirements of this Act that the Secretary of the Treasury determines to be appropriate.

(b) AMOUNTS AVAILABLE.—

(1) IN GENERAL.—Subject to paragraph (3) and from $7,000,000,000 of the funds in the stabilization fund that are not reserved under subsection (a), the Secretary of the Treasury shall make available to each State submitting a request under section 4(a)(2) an amount that bears the same relation to such remainder as the amount the State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for fiscal year 2001 bears to the amount received by all States under such part for such year.

(2) DISBURSAL.—The Secretary of the Treasury shall disburse the amount made available to a State under paragraph (1) or (3), on an annual basis, during the period beginning on October 1, 2001, and ending September 30, 2018.

(3) SMALL STATE MINIMUM.—

(A) MINIMUM.—No State shall receive an amount under paragraph (1) that is less than $30,000,000.

(B) STATES.—In this paragraph, the term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) NOTIFICATION.—The Secretary of the Treasury and the Secretary of Education jointly shall notify each State of the amount of funds the State may receive for loans and other support under this Act.**]**

Subtitle D—Grants

SEC. ____. GRANT PROGRAM.

(a) AUTHORITY TO AWARD GRANTS TO CONSTRUCT PUBLICLY OWNED EDUCATION FACILITIES.—

(1) IN GENERAL.—The Secretary of Education (in this section referred to as the ''Secretary'') is authorized to make grants, pursuant to this section, for the construction, including erection, building, acquisition, alteration, remodeling, improvement, or extension, of a public school facility (within the meaning of section ____(b)(1) of this Act).

(2) APPLICATION REQUIREMENTS.—The Secretary shall make the following prerequisite determinations when considering approval of an application for a grant under this section:

(A) That the proposed facilities plan is the most economical and cost-effective to meet the requirements of this section, including, but not limited to, construction costs, operation, maintenance, and replacement costs.

(B) As appropriate, that the proposed facilities plan will take into account and allow to the extent practicable, future accommodations for any necessary alteration, remodeling, improvement, or extension to meet the State established education standards, including the nature, extent, timing, and costs of future expansion and the manner in which the local educational agency intends to finance such future construction.

(b) STATE ELIGIBILITY.—

(1) IN GENERAL.—A State shall be deemed an eligible State in which local educational agencies may receive grants under this section if the State is meeting its obligation toward school construction financing. The State shall demonstrate that it has an operational plan to meet such an obligation.

(2) RULE OF CONSTRUCTION.—In the case of a State with a school financing law separate from the State's education facilities capital construction plan, nothing in paragraph (2) shall be construed as affecting the application of such financing law or the eligibility of such a State to receive a grant under this section.

(c) APPLICATION REQUIREMENTS.—Not later than December 1 of the school year for which a grant is being requested under this section, a local educational agency shall submit to the Secretary an application for a facilities grant, which has been approved by the local school board, only upon meeting the following criteria:

(1) The school—

(A) due to the lack of onsite facilities and for the purposes of regular curriculum delivery, houses students in instructional facilities located away from the school site (such as in rented space, trailers, or other public or community property); or

(B) facilities fail to meet functional (including environmental and code) requirements, resulting in a consistent substandard performance and would require extensive corrective maintenance and repair, of a financial threshold that exceeds the school's bonding or levy authority by at least 150 percent.

(2) The school's facilities features are limited to roofs, framing, floors, foundation, exterior walls, windows, doors, interior finishes, plumbing, heating, ventilation and air conditioning, electrical power, electrical lighting, life safety codes or technology infrastructure, limited to, telephone lines, conduits or raceways for computer network cables, fiber optic cable, electrical wiring for communications technology and electrical power for communications technology.

(3) The estimate for all costs in the proposal are based on facilities inspections and assessments made in the most recent 2 years.

(4) The school's facilities fall within a State's statewide needs assessment as inadequate for education or safety reasons, if such a State assessment is in place.

(5) The proposal meets all applicable Federal, State, and local building code requirements.

(6) The proposal includes a certified accounting, to be compliant with all State and local privacy requirements, of the number of children at each grade level and the number of children expected to be served through alternative special needs education facilities, as required by Federal, State, and local law, if the proposal includes such a request.

(d) ALLOWABLE USES OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), a grant made to a local educational agency under this section shall only be used for the following:

(A) School facility construction, including erection, building, acquisition, alteration, remodeling, improvement, or extension, but excluding facilities that are not consistently used for regular curriculum delivery and instructional purposes.

(B) Major renovation or repair of existing school facilities, excluding normal and regular building operation, maintenance and repair expenses.

(2) COMPLIANCE WITH STATE AND LOCAL STANDARDS.—Grants awarded under this section for facility construction proposals that fall within State or local minimum and maximum building standards, as established by State or local law, rule, or regulation, which are more limited than the allowable uses under this subsection, shall be compliant with such State and local standards.

(e) FEDERAL SHARE.—The Federal funds provided to a local educational agency under this section shall not exceed 50 percent of the total cost of the facility construction proposal. A local educational agency may use in-kind contributions to meet the matching requirement of the preceding sentence.

(f) PROGRESS REPORTS.—The Secretary shall require an entity receiving a grant under this section to submit quarterly progress reports to ensure compliance with this section and to evaluate the impact of activities assisted under this section.

Subtitle E—Authorization of Appropriations

(a) IN GENERAL.—For the purposes of this title and subject to subsection (b), there are authorized to be appropriated $21 billion for fiscal year 2001 through FY 2008, to be equally divided between Subtitle B, Subtitle C, and Subtitle D.

(b) LIMITATION.—No funds may be expended under this title until the Federal obligation is met for the construction of federally impacted schools and Indian schools.

SA 645. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 203. 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 the National Education Technology Standards, or an information technology certification that is directly related to the curriculum or content area in which the teacher provides instruction;''.

SA 646. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 679, after line 25, add the following:

''(6) support for arrangements that provide for independent analysis to measure and report on school district achievement.''.

SA 647. Mr. HATCH proposed an amendment to the bill H.R. 428, concerning the participation of Taiwan in the World Health Organization; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CONCERNING THE PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION (WHO).

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

(1) Good health is important to every citizen of the world and access to the highest standards of health information and services is necessary to improve the public health.

(2) Direct and unobstructed participation in international health cooperation forums and programs is beneficial for all parts of the world, especially with today's greater potential for the cross-border spread of various infectious diseases such as the human immunodeficiency virus (HIV), tuberculosis, and malaria.

(3) Taiwan's population of 23,500,000 people is larger than that of ¾ of the member states already in the World Health Organization (WHO).

(4) Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, and the first to eradicate polio and provide children with hepatitis B vaccinations.

(5) The United States Centers for Disease Control and Prevention and its Taiwan counterpart agencies have enjoyed close collaboration on a wide range of public health issues.

(6) In recent years Taiwan has expressed a willingness to assist financially and technically in international aid and health activities supported by the WHO.

(7) On January 14, 2001, an earthquake, registering between 7.6 and 7.9 on the Richter scale, struck El Salvador. In response, the Taiwanese government sent 2 rescue teams, consisting of 90 individuals specializing in firefighting, medicine, and civil engineering. The Taiwanese Ministry of Foreign Affairs also donated $200,000 in relief aid to the Salvadoran Government.

(8) The World Health Assembly has allowed observers to participate in the activities of the organization, including the Palestine Liberation Organization in 1974, the Order of Malta, and the Holy See in the early 1950's.

(9) The United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations.

(10) Public Law 106–137 required the Secretary of State to submit a report to the Congress on efforts by the executive branch to support Taiwan's participation in international organizations, in particular the WHO.

(11) In light of all benefits that Taiwan's participation in the WHO can bring to the state of health not only in Taiwan, but also regionally and globally, Taiwan and its 23,500,000 people should have appropriate and meaningful participation in the WHO.

(b) PLAN.—The Secretary of State is authorized—

(1) to initiate a United States plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly in May 2001 in Geneva, Switzerland; and

(2) to instruct the United States delegation to Geneva to implement that plan.

(c) REPORT.—Not later than 14 days after the date of the enactment of this Act, the Secretary of State shall submit a written report to the Congress in unclassified form containing the plan authorized under subsection (b).

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, May 16, 2001, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nominations of J. Steven Griles to be the Deputy Secretary of Interior, Lee Sarah Liberman Otis to be the General Counsel for the Department of Energy, Jessie Hill Roberson to be the Assistant Secretary for Environmental Management of the Department of Energy, Nora Mead Brownell to be a Commissioner of the Federal Energy Regulation Commission, and Patrick Henry Wood III to be a Commissioner of the Federal Energy Regulation Commission.

For further information, please contact David Dye of the Committee staff at (202) 224–0624.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, May 9, 2001. The purpose of this hearing will be to consider nominations for positions at the Department of Agriculture.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 9 at 9:30 a.m. to conduct a hearing. The committee will consider the nominations of Francis S. Blake to be the Deputy Secretary of the Department of Energy, Robert Gordon Card to be the Under Secretary of the Department of Energy, Bruce Marshall Carnes to be the Chief Financial Officer for the Department of Energy, and David Garman to be the Assistant Secretary for Energy Efficiency and Renewable Energy for the Department of Energy.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, May 9, 2001 at 10:00 a.m. for an oversight hearing on Federal election practices and procedures.

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

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, May 9, 2001, at 10:00 a.m., in Dirksen 226.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 9, 2001 at 2:00 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND DRINKING WATER

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Drinking Water be authorized to meet on Wednesday, May 9, 2001, at 9:30 a.m., to evaluate the listing and de-listing processes of the Endangered Species Act.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 9, 2001, at 9:30 a.m., on state of the rail industry.

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

PRIVILEGE OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that Amanda Farrish from my staff on the Health, Education, Labor, and Pensions Committee be granted the privilege of the floor for the remainder of this debate.

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

ORDERS FOR THURSDAY, MAY 10, 2001

Mr. ENSIGN. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, May 10. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senate then resume consideration of the conference report to accompany the budget resolution as under the previous order.

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

PROGRAM

Mr. ENSIGN. For the information of all Senators, there will be up to 1 hour 50 minutes of debate remaining on the budget conference report tomorrow morning. It is expected that some time on the resolution will be yielded back, and therefore the vote is expected to occur between 11 and 11:30 tomorrow morning. After the disposition of the budget conference report, the Senate will resume consideration of the education bill. There are numerous amendments pending and further amendments are expected to be offered. Therefore, further votes will occur during tomorrow's session.

ORDER FOR ADJOURNMENT

Mr. ENSIGN. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of Senator CONRAD.

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

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

BUDGET CONFERENCE REPORT

Mr. CONRAD. One of the great problems of this budget is the defense buildup that we all know the administration is going to call for—in fact, we are told it is going to come out next week—and the Secretary of Defense was asked by the President not to come out with his defense numbers before we passed the tax cut. Why? I suppose reasonable people could conjecture why they didn't want the defense numbers out before the tax cut was agreed to. But I think I know. I think the truth is that they know if you have the defense numbers, and if you have what is likely to happen in education spending, and if you have some commitment to strengthening Social Security, which everybody says they are for as part of a budget document, then the budget document before us simply does not add up. That is their problem.

When you put all of those numbers together, what you find is that you are into the Social Security and the Medicare trust funds.

In conclusion, I take my colleagues back to the budget proposal we made on our side because I think it was a fiscally responsible proposal, one that took the $5.6 trillion forecast but understood that it was a projection, and that it is very unlikely to come true.

The Senator from Michigan has just shown how inaccurate these forecasts have been year after year. They average being off by 100 percent or more. That tells me that we ought to be cautious in what we do.

In the budget proposal we made, we reserved all of the Social Security trust fund money for Social Security, $2.5 trillion, all of the Medicare trust fund money for Medicare, $400 billion, and then with what was left, we had a proposed tax cut of $745 billion in comparison to the $1.3 trillion that is before us.

In other words, we had about 60 percent of the tax cut that is being proposed. We had $300 billion more of investment on high-priority domestic needs. And the area where there were the big differences was education. We had $139 billion of new money for education. Actually, what passed the Senate was much more than that. But this conference committee came back with nothing—no new money for education.

I know there are colleagues who believe this conference report has more money for education. It does not. It does not.

I have gone over these numbers in great detail. There is only allowed in this budget resolution the inflationary increase so that we are not cutting the effective amount for education every year. The truth is, even with that inflationary adjustment, we are cutting what is available because the student population is growing.

With no new money for education in real terms in what can be delivered per student, this budget cuts education, after the President has said education is his top priority.

We had a smaller tax cut. We had more resources than is provided in this conference report dedicated to these high-priority needs, including education, including national defense, and including health care coverage. We set aside $750 billion to deal with this long-term debt that we all know is coming our way about when the baby boom generation retires. We set aside $750 billion for that purpose because we think it is kind of like the squirrel in the fall. You had better be putting some nuts away to prepare for the winter.

In this conference report there is zero set aside to strengthen Social Security for the long term, to address this long-term debt that is coming our way.

The fundamental difference between us is that we had about twice as much money set aside for debt reduction. The other side has about twice as much money set aside for a tax cut. We had more new money set aside for education and more money set aside for national defense than is in this conference report.

But this conference report isn't the full story because we know the Secretary of Defense has said he is going to come out next week and propose a huge increase in defense. But they are not in the budget.

We know the President has a Social Security commission that is going to come back and propose privatization. That has a transition cost of about $1 trillion. There is no money in the budget for it, just as there is no money in the budget for the defense buildup they are going to ask for, just as there is no new money for education, although the President says it is his top priority.

There is something wrong with a budget that does not have what we really intend to do in it. That is the way we get into financial trouble. There is no private sector enterprise in America that would budget this way. It is profoundly irresponsible.

I hope we reject the conference report. I sincerely do. I call on my colleagues to do just that. Let's go back to the drawing board. Let's wait until we have that defense number next week. Let's wait until the President proposes how much he needs to strengthen Social Security for the long term. Let's wait until we finish action on the education bill that is on the floor of the Senate right now and see how much money that is going to require, so that we have a full accounting, a full budget, and make certain that it adds up.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 tomorrow morning.

Thereupon, the Senate, at 8:19 p.m., adjourned until Thursday, May 10, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 9, 2001:

THE JUDICIARY

BARRINGTON D. PARKER, JR., OF CONNECTICUT, TO BE UNITED STATES CIRCUIT
JUDGE FOR THE SECOND CIRCUIT, VICE RALPH K. WINTER, JR., RETIRED.

TERRENCE W. BOYLE, OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE J. DICKSON PHILLIPS, JR., RETIRED.

DENNIS W. SHEDD, OF SOUTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE CLYDE H. HAMILTON, RETIRED.

EDITH BROWN CLEMENT, OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE JOHN M. DUHE, JR., RETIRED.

PRISCILLA RICHMAN OWEN, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE WILLIAM L. GARWOOD, RETIRED.

DEBORAH L. COOK, OF OHIO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE ALAN E. NORRIS, RETIRED.

JEFFREY S. SUTTON, OF OHIO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE DAVID A. NELSON, RETIRED.

MICHAEL W. MCCONNELL, OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT, VICE STEPHEN H. ANDERSON, RETIRED.

MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE PATRICIA M. WALD, RETIRED.

ROGER L. GREGORY, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE JAMES L. BUCKLEY, RETIRED.

In the Marine Corps

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RONALD H ANDERSON, 0000
DOUGLAS L APPLEGATE, 0000
JAMES A ATWOOD JR., 0000
NICHOLAS E AUGUSTINE, 0000
JOHN R BALLARD, 0000
WILLIAM J BLALOCK III, 0000
WILLIAM F BOOTH, 0000
TERRENCE P BRENNAN, 0000
JAMES E BROTHWELL, 0000
JOHN A CAREY, 0000
DARRYL A DONEGAN, 0000
MARIO ENRIQUEZ, 0000
RICHARD A FINDELL, 0000
MICHAEL P FLYNN, 0000
GEORGE W HALISCAK, 0000
ROBERT D HERMES, 0000
RICHARD D HINE, 0000
MICHAEL C HOWARD, 0000
CHRIS A JOHNSON, 0000
RAYMOND S KEITH, 0000
MICHAEL L KELLEY, 0000
KENNETH J LEE, 0000
STEPHEN A MALONEY, 0000
PAUL H MAUBERT, 0000
MARY P MCCAFFREY, 0000
JOHN J MCGUIRE III, 0000
ROBERT H MCKENZIE, 0000
CHRISTOPHER W MURPHY, 0000
TIMOTHY P MURPHY, 0000
MICHAEL R PANNELL, 0000
CHARLES J PEARSON III, 0000
GREGORY J PLUSH, 0000
RENEE L RENNER, 0000
MARC T RICHARDSON, 0000
PATRICIA D SAINT, 0000
GEORGE F SANCHEZ, 0000
MICHAEL J SHAMP, 0000
RANDOLPH P SINNOTT, 0000
WILLIAM F SINNOTT, 0000
JOHN L SKELLEY, 0000
HOBART N SMITH JR., 0000
MICHAEL T SPENCER, 0000
WILLIAM M THAMM, 0000
DANIEL L TRAVERS, 0000
JOHN M VINING, 0000
MICHAEL M WALKER, 0000
DAVID J WASSINK, 0000
COURTNEY WHITNEY III, 0000
JOHN H WILLIAMS, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate May 9, 2001:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

STEPHEN GOLDSMITH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2005.

DEPARTMENT OF LABOR

PAT PIZZELLA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DAVID D. LAURISKI, OF UTAH, TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH.

ANN LAINE COMBS, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF LABOR.

SHINAE CHUN, OF ILLINOIS, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR.