



FOR IMMEDIATE RELEASE
September 11, 1997

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**STATEMENT BY U. S. SECRETARY OF EDUCATION RICHARD W. RILEY
On the Senate Vote on the Labor-HHS Appropriations Bill**

I am pleased that the Senate has adopted by an overwhelming majority (88 to 12) legislation to proceed with the voluntary national tests in reading and math and authorized an independent, bipartisan commission -- the National Assessment Governing Board (NAGB) -- to oversee the development of these tests. These tests will give millions of parents the direct information they need to make clear decisions about their children's education. State standards are improving, which is very positive, but they are very uneven. Too many parents are discovering that their "A" student is really getting a "C" education. This is why the American people support national standards of excellence.

Unfortunately, the Senate has also hastily adopted (51 to 49) the Gorton Amendment which was not well thought out and would possibly wipe out many very important programs. This amendment is unacceptable to the Administration.

This effort is not about Washington vs. local control as some suggest. The hasty decision by the Senate to vote for the Gorton Amendment would eliminate many of the key education initiatives for which President Clinton has worked so hard to help improve American education.

Some of the President's most promising initiatives -- getting computers into every classroom, helping the charter school movement grow, raising standards through Goals 2000, and increasing funding so that many more immigrant children learn English -- are all on the chopping block. In addition, the under-served populations that historically have received federal support would no longer be guaranteed the protections they have received. Overall, there is little logic to the broad-brush attack of the Gorton Amendment. In the space of two hours, for example, the Senate voted to support the development of the voluntary national tests in reading and math and then voted to eliminate the funding for this purpose.

* 421 charter schools now receive start-up funding, a number that would double under the President's budget. The Gorton Amendment could choke off funding for all of these schools and give it to school districts that do not even have a charter school.

* Special funding for 3 million children in bilingual education classes would be placed in jeopardy. Further, the amendment would allocate funds without regard to distribution of immigrant and LEP children. A school district like Los Angeles with a large number of immigrant children would be severely affected. In addition, all federal funding to train bi-lingual and English as a second language teachers would be cut. California alone reports a shortage of more than 20,000 such teachers.

-MORE-

* In 1997, the Department made 1,222 formula grants to public school districts with large numbers of Native American children. Under the Gorton Amendment the targeting of these high enrollment districts would be eliminated in favor of giving every school district in the state some funding.

* Goals 2000, a perennial political target, currently helps parents and teachers raise academic standards in about 6,000 school districts. If the Gorton amendment became law, Goals 2000 funding would no longer be focused on districts committed to raising academic standards.

* 1.2 million disabled Americans are in the vocational rehabilitation system, and many state VR agencies are unable to meet current demand. Over 600,000 disabled Americans would no longer know if they would get the help they need to find employment and become self-sufficient if the Gorton Amendment's provisions become law.

* the technology literacy challenge grant which has fostered some of the most creative and comprehensive partnerships between business, schools and universities would no longer exist. In 1996, 586 groups applied to receive one of the 24 grants. These challenge grants have leveraged millions of dollars from private and non-profit entities.

I am also concerned that this broad-brush approach de-emphasizes education, and once again makes the Department of Education a target. The education of America's children should be above politics. I worry that the bipartisan spirit of cooperation that led to the budget agreement is starting to erode. This is not what the American people want when it comes to the education of their children. The American people have made education a national priority and they support President Clinton when it comes to moving American education forward.

###

National -voluntary test:

Coats offer: test available to States only upon request

White House: allow local districts to request as well

Coats response: accept White House proposal, keep language not as a condition of receiving Federal funds

Composition of the Board**Governors:**

Coats offer: three Governors, or former Governors, of whom not more than 1 shall be a member of the same political party as the President. (currently two of different parties)

White House: accept three but make bi-partisan

Coats response: Insist on our position, not more than 1 from Presidents's party

State legislators:

Coats offer: three State legislators, of whom not more than 1 shall be a member of the same political party as the President. (currently two of different parties)

White House: back to current law, two legislators

Coats response: accept White House offer but Coats language on 1 from same political party as President

Chief School Officers:

Coats offer: one chief State school officer (currently two)

White House: back to current law, two

Coats response: accept White House offer

Business representatives:

Coats offer: three representatives of business or industry (currently one)

White House: accept Coats offer

Mayors:

Coats offer: three mayors, of whom not more than 1 shall be a member of the same political party as the President. (currently no local elected officials on Board)

White House: two mayors

Coats response: accept White House offer

Principals:

Coats offer: one elementary school or secondary school principal (currently two, one of each)

White House: two as in current law

Coats response: accept White House offer

Curriculum specialists and testing experts:

Coats offer: eliminate

White House: accept Coats offer

College Presidents:

White House: would like to add two new slots

Coats response: insist on our position

NAGB contract review:

Coats proposal: NAGB has 120 days to review and make revisions

White House: 60 days

Coats response: Split the difference, 90 days

Additional proposal:

1. As a gesture of good faith, White House would agree to consult with and agree to the recommendations of the Speaker and Majority Leader of the Senate in filling current NAGB vacancies. (5 or 6) 1/2
2. Within 30 days, the eliminated positions would be vacated and new positions would be filled. At that time NAGB's self-nominating authority would kick in.
3. No State or Local Education Agency may require any private or parochial school or home schooled individual to take any test developed under this Act with federal funds without their consent.
4. Package as agreed will be decided by voice vote



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Pages (Including Cover Sheet): _____

Comments: _____

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S.L.C.

AMENDMENT NO. ____

Calendar No. ____

Purpose: To make changes regarding national tests in reading and mathematics.

IN THE SENATE OF THE UNITED STATES—105th Cong., 1st Sess.

S. 1061

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table, and to be printed

AMENDMENT intended to be proposed by Mr. COATS (for himself and Mr. GREGG) to the amendment (No. ____)
proposed by _____

Viz:

- 1 In lieu of the matter proposed to be inserted, insert
- 2 the following:
- 3 SEC. ____ (a) Notwithstanding any other provision
- 4 of law, the Office of Educational Research and Improve-
- 5 ment shall submit to the Committee on Appropriations of
- 6 the Senate a spending plan for activities funded under this
- 7 title under the heading "EDUCATION RESEARCH, STATIS-
- 8 TICS, AND IMPROVEMENT", prior to the obligation of the
- 9 funds.

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1 (b)(1) Notwithstanding any other provision of law,
2 the National Assessment Governing Board established
3 under section 412 of the National Education Statistics Act
4 of 1994 (20 U.S.C. 9011) (hereafter in this section re-
5 ferred to as the "Board") shall hereafter have exclusive
6 authority over all policies, direction, and guidelines for es-
7 tablishing and implementing voluntary national tests for
8 4th grade English reading and 8th grade mathematics:
9 *Provided*, That the tests shall be made available to a State,
10 local educational agency, or private or parochial school,
11 upon the request of the State, agency, or school, and the
12 use of the tests shall not be a condition for receiving any
13 Federal funds: *Provided further*, That within 90 days after
14 the date of enactment of this Act, the Board shall review
15 the national test development contract in effect on the
16 date of enactment of this Act; and modify the contract
17 as the Board determines necessary: *Provided further*, That
18 if the contract cannot be modified to the extent deter-
19 mined necessary by the Board, the contract shall be termi-
20 nated and the Board shall negotiate a new contract, under
21 the Board's exclusive control, for the tests.

22 (2) In exercising the Board's responsibilities under
23 paragraph (1) regarding the national tests, and notwith-
24 standing any action undertaken by the Department of
25 Education or a person contracting with or providing serv-

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1 ices for the Department regarding the planning, or the
2 development of specifications, for the tests, the Board
3 shall--

4 (A) ensure that the content and standards for
5 the tests are the same as the content and standards
6 for the National Assessment;

7 (B) exercise exclusive authority over any expert
8 panel or advisory committee that will be or is estab-
9 lished with respect to the tests;

10 (C) ensure that the tests are linked to the Na-
11 tional Assessment to the maximum degree possible ;

12 (D) develop test objectives, test specifications,
13 and test methodology;

14 (E) develop policies for test administration, in-
15 cluding guidelines for inclusion of, and accommoda-
16 tions for, students with disabilities and students
17 with limited English proficiency;

18 (F) develop policies for reporting test results,
19 including the use of standards or performance levels,
20 and for test use;

21 (G) have final authority over the appropriate-
22 ness of all test items;

23 (H) ensure that all items selected for use on the
24 tests are free from racial, cultural, or gender bias;
25 and

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1 (I) take such actions and make such policies as
2 the Board determines necessary.

3 (c) No State or local educational agency may require
4 any private or parochial school student, or home-schooled
5 individual, to take any test developed under this Act with-
6 out the written consent of the student or individual.

7 (d) Section 412 of the National Education Statistics
8 Act of 1994 (20 U.S.C. 9011) is amended—

9 (1) in subsection (b)(1)—

10 (A) by amending subparagraph (A) to read
11 as follows:

12 “(A) three Governors, or former Gov-
13 ernors, of whom not more than 1 shall be a
14 member of the same political party as the
15 President;”;

16 (B) by amending subparagraph (B) to read
17 as follows:

18 “(B) *two* State legislators, of whom not
19 more than 1 shall be a member of the same po-
20 litical party as the President;”;

21 (C) in subparagraph (f), by striking “one
22 representative” and inserting “three representa-
23 tives”;

24 (D) by amending subparagraph (I) to read
25 as follows:

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1 “(I) two mayors, of whom not more than
2 1 shall be a member of the same political party
3 as the President;”;

4 (E) by striking subparagraph (J); and

5 (F) by redesignating subparagraphs (K),
6 (L), and (M) as subparagraphs (J), (K), and
7 (L), respectively;

8 (2) in subsection (c)—

9 (A) in paragraph (1), by striking “and
10 may not exceed a period of 3” and inserting
11 “and shall be for periods of 4”; and

12 (B) in paragraph (2), by inserting “con-
13 secutive” after “two”;

14 (3) by amending subsection (d) to read as fol-
15 lows:

16 “(d) VACANCIES.—As vacancies on the Board occur,
17 new members of the Board shall be appointed by the Sec-
18 retary from among individuals who are nominated by the
19 Board after consultation with representatives of the indi-
20 viduals described in subsection (b)(1). For each vacancy,
21 the Board shall nominate at least 3 individuals who are
22 qualified by experience or training to fill the particular
23 Board vacancy.”; and

24 (4) in subsection (e) by adding at the end the
25 following:

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1 “(7) INDEPENDENCE.—In the exercise of its
2 functions, powers, and duties, the Board shall be
3 independent of the Secretary and the other offices
4 and officers of the Department. The Secretary shall,
5 by written delegation of authority, authorize the
6 Board to award grants and contracts, and otherwise
7 operate, to the maximum extent practicable, inde-
8 pendent of the Department.”

9 (e) Not later than 30 days after the date of enact-
10 ment of this Act, the Secretary of Education, in consulta-
11 tion with the Speaker and Minority Leader of the House
12 of Representatives, and the Majority Leader and Minority
13 Leader of the Senate, shall appoint individuals to fill va-
14 cancies on the National Assessment Governing Board
15 caused by the expiration of the terms of members of the
16 Board, or the creation of new membership positions on
17 the Board pursuant to amendments made by this Act.

09-10-97 09:22PM

TO 94565581

P008/008

09/09/87 TUE 18:20 FAX 202 458 8581

DOMESTIC POLICY COL

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INITIALS: Py DATE: 3/23/12

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1 the Board shall nominate at least 3 individuals who are
2 qualified by experience or training to fill the particular
3 Board vacancy."; and

4 (4) in subsection (c) by adding at the end the
5 following:

6 "(7) INDEPENDENCE.—In the exercise of its
7 functions, powers, and duties, the Board shall be
8 independent of the Secretary and the other offices
9 and officers of the Department. The Secretary shall,
10 by written delegation of authority, authorize the
11 Board to award grants and contracts, and otherwise
12 operate, to the maximum extent practicable, inde-
13 pendent of the De-
14 partment."

Permanence

Mark -- Could you please take a shot at the following amendment, which we'd like to have written as a perfecting amendment (strike all but the first word) in a way that can be used with either the Bingaman first degree amendment (pending #1115) or the Coats amendment. With the exception of the item *in italics* near the end, all of the items below refer to changes to Coats amendment (SIG97.631) that we discussed earlier.

Am VCS Act

►Offered by Bingaman and Dorgan

[CHANGES AFFECTING ONLY FY98]

►On page 2, line 1, ~~strike "Notwithstanding any other provision of law,"~~

►On page 2, line 5, insert after "authority" the following: ", subject to the established functions, duties, and responsibilities of the National Center on Education Statistics and its Commissioner described in sections 403 through 411 of the National Education Statistics Act of 1994,"

►On page 2, line 9, please add " or local educational agency" after the word "State" *^ private school*

►On page 2, line 12 after the word "That" add, ", at the earliest possible time or in any case"

►Same line as above: replace 120 days with 45 days

►On page 2, line 16, strike the word "necessary" and insert "both (a) feasible without causing undue delay or additional costs in the development and implementation of the program, and (b) unavoidably necessary to preserve the fundamental technical integrity of the voluntary national tests."

►On page 2, line 17, strike the word "necessary" and insert "both (a) feasible without causing undue delay or additional costs in the development and implementation of the program, and (b) unavoidably necessary to preserve the fundamental technical integrity of the voluntary national tests"

►On page 3, insert the following text as (B) and re-sequence the subsequent items: "(B) ~~continue to work in cooperation with the National Center on Education Statistics on issues of a technical nature in the same manner that it~~

works with the Center to conduct the National Assessment of Educational Progress.”

[CHANGES TO PERMANENT LAW]

- ▶ On page 4, line 8, change the number of Governors to 4 and make them equally divided between members of the two parties.
- ▶ On page 4, line 14, change the number of legislators to 4 and make them equally divided between members of the two parties.
- ▶ On page 4, line 17, strike that line through the end of line 19
- ▶ On page 5, line 1 and following, change the number of mayors to 4 and make them equally divided between both parties.
- ▶ On page 5, line 4, strike all
- ▶ On page 5, line 5, strike all
- ▶ Insert on page 5 as the last provision of membership “() two curriculum experts;”
- ▶ Please redesignate the above as necessary to be in alphabetical order
- ▶ On page 5, line 23, strike and replace after the word “nominated” with the following: “from (a) individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1), (b) individuals who are nominated by the Board, or (c) individuals of the type and qualifications described in subsection (b)(1) who are selected by the Secretary.”
- ▶ On page 6, line 4, insert the following amendment to the existing subsection (e)(D) in current law, after striking the words “design the methodology” and renumbering as necessary: “develop guidelines for the methodological design”...
- ▶ On page 6, line 7 insert after the word “be” the following: “, subject to the established functions, duties, and responsibilities of the National Center on Education Statistics and its Commissioner described in sections 403 through 411 of the National Education Statistics Act of 1994,”

Cent
law

AMENDMENT NO. _____

Calendar No. _____

Purpose: To authorize the National Assessment Governing Board to develop policy for voluntary national tests in reading and mathematics.

IN THE SENATE OF THE UNITED STATES—105th Cong., 1st Sess.

S. 1061

AMENDMENT No. 1115

abor, Health
related agen-
30, 1998,

By

Harkin for Bingham

Bill/Res. No.

S. 1061

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Page(s)

GPO: 1996 25-891 (mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BINGAMAN, *and Mr Kennedy*
~~to the amendment (No. _____) proposed by Mr. COATS~~

Viz:

At the appropriate place

- 1 ~~In lieu of the matter proposed to be inserted, insert~~
- 2 the following:
- 3 SEC. _____. (a) Notwithstanding any other provision
- 4 of law, the National Assessment Governing Board estab-
- 5 lished under section 412 of the National Education Statis-
- 6 tics Act of 1994 (20 U.S.C. 9011), using funds appro-
- 7 priated under section 413(c) of that Act (20 U.S.C.
- 8 9012(c)), shall formulate policy guidelines for voluntary
- 9 national tests of reading or mathematics, for which the

1 Secretary of Education uses funds appropriated to the De-
2 partment of Education.

3 (b) In carrying out subsection (a), the National As-
4 sessment Governing Board shall—

5 (1) develop test objectives and specifications;
6 test methodology; guidelines for test administration,
7 including guidelines for inclusion of, and accom-
8 modations for, students with disabilities and stu-
9 dents with limited English proficiency; guidelines for
10 reporting test results, including the use of perform-
11 ance levels; and guidelines for test use;

12 (2) have final authority over the appropriate-
13 ness of cognitive items; and

14 (3) ensure that all items selected for use on the
15 tests are free from racial, cultural, or gender bias.

FAX COVER SHEET

United States Senator Dan Coats
Subcommittee on Children and Families
Committee on Labor and Human Resources

United States Senate
625 Hart Office Building
Washington, D.C. 20510

To: Mike Cohen

From: Stephanie Monroe

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Remarks:

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S.L.C.

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DETERMINED TO BE AN
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INITIALS: Ry DATE: 3/23/12

AMENDMENT NO. _____ Calendar No. _____

Purpose: To make changes regarding national tests in reading and mathematics.

IN THE SENATE OF THE UNITED STATES—105th Cong., 1st Sess.

S. 1061

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. COATS (for himself and Mr. GREGG) to the amendment (No. _____) proposed by _____

Viz:

- 1 In lieu of the matter proposed to be inserted, insert
- 2 the following:
- 3 SEC. _____. (a) Notwithstanding any other provision
- 4 of law, the Office of Educational Research and Improve-
- 5 ment shall submit to the Committee on Appropriations of
- 6 the Senate a spending plan for activities funded under this
- 7 title under the heading "EDUCATION RESEARCH, STATIS-
- 8 TICS, AND IMPROVEMENT", prior to the obligation of the
- 9 funds.

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1 (b)(1) Notwithstanding any other provision of law,
2 the National Assessment Governing Board established
3 under section 412 of the National Education Statistics Act
4 of 1994 (20 U.S.C. 9011) (hereafter in this section re-
5 ferred to as the "Board") shall have exclusive authority
6 over all policies, direction, and guidelines for establishing
7 and implementing voluntary national tests for 4th grade
8 English reading and 8th grade mathematics: *Provided*,
9 That the tests shall be made available to a State upon
10 the request of the State, and the use of the tests shall
11 not be a condition for receiving any Federal funds: *Pro-*
12 *vided further*, That within 120 days of the date of enact-
13 ment of this Act, the Board shall review the national test
14 development contract in effect on the date of enactment
15 of this Act, and modify the contract as the Board deter-
16 mines necessary: *Provided further*, That if the contract
17 cannot be modified to the extent determined necessary by
18 the Board, the contract shall be terminated and the Board
19 shall negotiate a new contract, under the Board's exclusive
20 control, for the tests.

21 (2) In exercising the Board's responsibilities under
22 paragraph (1) regarding the national tests, and notwith-
23 standing any action undertaken by the Department of
24 Education or a person contracting with or providing serv-
25 ices for the Department regarding the planning, or the

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1 development of specifications, for the tests, the Board
2 shall—

3 (A) ensure that the content and standards for
4 the tests are the same as the content and standards
5 for the National Assessment;

6 (B) exercise exclusive authority over any expert
7 panel or advisory committee that will be or is estab-
8 lished with respect to the tests;

9 (C) ensure that the tests are linked to the Na-
10 tional Assessment to the maximum degree possible ;

11 (D) develop test objectives, test specifications,
12 and test methodology;

13 (E) develop policies for test administration, in-
14 cluding guidelines for inclusion of, and accommoda-
15 tions for, students with disabilities and students
16 with limited English proficiency;

17 (F) develop policies for reporting test results,
18 including the use of standards or performance levels,
19 and for test use;

20 (G) have final authority over the appropriate-
21 ness of all test items;

22 (II) ensure that all items selected for use on the
23 tests are free from racial, cultural, or gender bias;
24 and

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1 (I) take such actions and make such policies as
2 the Board determines necessary.

3 (c) Section 412 of the National Education Statistics
4 Act of 1994 (20 U.S.C. 9011) is amended—

5 (1) in subsection (b)(1)—

6 (A) by amending subparagraph (A) to read
7 as follows:

8 “(A) three Governors, or former Gov-
9 ernors, of whom not more than 1 shall be a
10 member of the same political party as the
11 President;”;

12 (B) by amending subparagraph (B) to read
13 as follows:

14 “(B) three State legislators, of whom not
15 more than 1 shall be a member of the same po-
16 litical party as the President;”;

17 (C) in subparagraph (C), by striking “two
18 chief State school officers” and inserting “one
19 chief State school officer”;

20 (D) in subparagraph (H), by striking “one
21 representative” and inserting “three representa-
22 tives”;

23 (E) by amending subparagraph (I) to read
24 as follows:

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1 “(I) three mayors, of whom not more than
2 1 shall be a member of the same political party
3 as the President;”;

4 (F) by striking subparagraph (J);

5 (G) by amending subparagraph (L) to read
6 as follows:

7 “(L) one elementary school or secondary
8 school principal; and” ; and

9 (H) by redesignating subparagraphs (K),
10 (L) (as amended by subparagraph (G)), and
11 (M) as subparagraphs (J), (K), and (L), re-
12 spectively;

13 (2) in subsection (c)—

14 (A) in paragraph (1), by striking “and
15 may not exceed a period of 3” and inserting
16 “and shall be for periods of 4”; and

17 (B) in paragraph (2), by inserting “con-
18 secutive” after “two”;

19 (3) by amending subsection (d) to read as fol-
20 lows:

21 “(d) VACANCIES.—As vacancies on the Board occur,
22 new members of the Board shall be appointed by the Sec-
23 retary from among individuals who are nominated by the
24 Board after consultation with representatives of the indi-
25 viduals described in subsection (b)(1). For each vacancy,

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1 the Board shall nominate at least 3 individuals who are
2 qualified by experience or training to fill the particular
3 Board vacancy.”; and

4 (4) in subsection (e) by adding at the end the
5 following:

6 “(7) INDEPENDENCE.—In the exercise of its
7 functions, powers, and duties, the Board shall be
8 independent of the Secretary and the other offices
9 and officers of the Department. The Secretary shall,
10 by written delegation of authority, authorize the
11 Board to award grants and contracts, and otherwise
12 operate, to the maximum extent practicable, inde-
13 pendent of the De-
14 partment.”



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

September 2, 1997

Honorable Albert Gore, Jr.
President of the Senate
Washington, DC 20510

Dear Mr. President:

Enclosed for the consideration of the Congress is a bill to authorize the bipartisan National Assessment Governing Board to develop policy for the voluntary national tests in 4th-grade reading and 8th-grade mathematics advocated by the President. Also enclosed is a section-by-section analysis of the bill. I am sending an identical letter to the Speaker of the House.

Earlier this year, the President called for the development of these annual tests, which will be a valuable resource for parents, teachers, and schools to use as States and local school districts continue in their efforts to raise standards and improve student achievement. These tests would be based on the highly respected National Assessment of Educational Progress (NAEP), a series of assessments that measure student performance in a variety of subjects in the 4th, 8th, and 12th grades, using samples of students in the Nation and in participating States.

The National Assessment Governing Board is a bipartisan board established by Congress in 1989 to independently formulate policy guidelines for the NAEP. Among other duties, the Board is responsible for developing appropriate student performance levels; developing assessment objectives and test specifications through a national consensus approach; developing guidelines for reporting and disseminating NAEP results; and determining the appropriateness of test items and ensuring that they are free from bias.

The enclosed legislation would give the Board similar responsibilities with respect to the voluntary national tests. The Board's involvement in the development and oversight of these tests will ensure that they are responsive to, and earn the confidence of, parents, teachers, school districts, and States. In light of the numerous steps that need to be taken for these tests to be ready for use in the spring of 1999, as we intend, I urge the Congress to act promptly on this proposal.

Page 2 - Honorable Albert Gore, Jr.

The Office of Management and Budget advises that there is no objection to the submission of this proposal, and that its enactment would be in accord with the program of the President.

Yours sincerely,


Richard W. Riley

Enclosures

A BILL

To authorize the National Assessment Governing Board to develop policy for voluntary national tests in reading and mathematics.

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

ROLE OF THE NATIONAL ASSESSMENT GOVERNING BOARD
IN VOLUNTARY NATIONAL TESTS IN READING AND MATHEMATICS

SEC. 1. Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) shall (using funds appropriated under section 413(c) of that Act), formulate policy guidelines for voluntary national tests of reading or mathematics for which the Secretary of Education uses funds appropriated to the Department of Education.

DUTIES

SEC. 2. In carrying out section 1, the National Assessment Governing Board shall--

(1) develop test objectives and specifications; test methodology; guidelines for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency; guidelines for reporting test results, including the use of performance levels; and guidelines for test use;

(2) have final authority over the appropriateness of cognitive items; and

- 1 (3) ensure that all items selected for use on the tests
- 2 are free from racial, cultural, or gender bias.

* * * * *

SECTION-BY-SECTION ANALYSIS

Section 1. Section 1 of the bill would authorize the National Assessment Governing Board, established under section 412 of the National Education Statistics Act of 1994, to formulate policy guidelines for voluntary national tests of reading or mathematics for which the Secretary of Education uses funds appropriated to the Department of Education, such as funds appropriated for the Fund for the Improvement of Education under Title X of the Elementary and Secondary Education Act of 1965.

Section 2. Section 2 of the bill would direct the Board, in carrying out section 1, to: (1) develop test objectives and specifications; test methodology; guidelines for test administration, including guidelines for inclusion of, and accommodations for, students with disabilities and students with limited English proficiency; guidelines for reporting test results, including the use of performance levels; and guidelines for test use; (2) have final authority over the appropriateness of cognitive items; and (3) ensure that all items selected for use on the tests are free from racial, cultural, or gender bias.

* * * * *

FAX COVER SHEET

United States Senator Dan Coats
Subcommittee on Children and Families
Committee on Labor and Human Resources

United States Senate
625 Hart Office Building
Washington, D.C. 20510

To: *Mike Cohen*

Fax: *456-5581*

Phone:

Remarks:

Stephanie Monroe

From: Townsend Lange

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Amend page 6, line 3, add the following exception:

Transition exception:

Except that, within 30 days of the date of enactment of this Act, the Secretary shall, in consultation with the Speaker of the House of Representatives and the Majority Leader of the Senate, appoint individuals to fill vacancies on the Board caused by term expirations or the creation of new positions pursuant to this Act.

MEMORANDUM

TO : Sue Betka
Office of Educational Research and Improvement

FROM : William H. Haubert II
Assistant General Counsel

SUBJECT : National Assessment Governing Board

This responds to your request for an opinion regarding the independence of the National Assessment Governing Board (NAGB). NAGB is authorized and established by section 412 of the National Education Statistics Act of 1994 (20 U.S.C. § 9011). That section provides generally for NAGB's membership, administration, and duties. Significantly, section 412(f)(1) provides:

In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

This section secures and guarantees NAGB's independence with respect to its judgment and substantive responsibilities. Because that guarantee is based in statute, it cannot be abridged by the Secretary.

Building on that statutory foundation, Secretary Lamar Alexander entered into a Memorandum of Understanding (MOU) in March of 1992 to delegate to NAGB the day-to-day authorities to facilitate the Congressional mandate of independence. These authorities include the appointment of excepted service personnel, the obligation of funds, the acceptance of gifts, and the making of contracts. The MOU contains no provision for its termination and remains in effect. Thus, it is clear that NAGB's substantive powers derive from a statute enacted by Congress; only its ministerial authorities have been delegated by the Secretary.

This framework would govern NAGB's assumption of additional responsibilities for the voluntary national tests in mathematics and reading. Specifically, draft legislation would authorize NAGB to oversee test specifications, administration, and reporting of results. The draft legislation does not address the Board's organizational framework --

*who contract
for test
development*

Memorandum to Sue Betka -- Page 2

nor would one expect it to do so since all of those organizational issues were addressed in section 412, to which the draft refers. The draft legislation thus assigns additional responsibilities to an existing organization. In that regard, it is significant that, in articulating the Board's independence, section 412(f)(1) refers unqualifiedly to the Board's "responsibilities." That provision could have been limited to the National Assessment of Educational Progress or could merely have referred to "its responsibilities under this section." By not limiting NAGB's independence in that way, NAGB would enjoy programmatic independence with respect to any additional responsibilities which Congress may choose to entrust to it, unless, of course, Congress chose to limit that independence.

Please feel free to call me at 401-6700 with any additional questions you might have.



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

August 1, 1997

William T. Randall
Chairman
National Assessment Governing Board
800 North Capitol Street, N.W.
Suite 825, Mailstop 7583
Washington, DC 20002-4233

Dear Bill:

Thank you for your thoughtful letter in response to Michael Cohen's invitation for advice from the National Assessment Governing Board on governance of the voluntary national tests initiative. We also appreciate your offer of ongoing assistance and advice. This certainly makes sense because of the close relationship of the voluntary national tests and NAEP.

We are considering the points you raise and consulting with members of Congress and others about what needs to be done to ensure that the voluntary national tests will measure what teachers, parents, policymakers, and many others agree students should know and be able to do in the areas of fourth grade reading and eighth grade mathematics. While additional strategies are needed, we have already done much to address this.

We are working to ensure that the tests are based on the content frameworks for the National Assessment and requiring that those developing the specifications for the tests and those developing the tests themselves actively involve a broad range of advisors comprised of teachers, parents, content specialists, testing specialists, and others in their work. In addition, we are having meetings in conjunction with groups such as the National Academy of Sciences, to gain the perspective and advice of many groups and individuals. During the meetings we are considering issues such as how and under what conditions the national tests will be made available for use in States and districts throughout the country. We also are discussing how to ensure that the tests stimulate action on the part of schools, school districts, teachers and parents to see that students are prepared so that they will do well on these tests.

Page 2 - William T. Randall

In your letter you mentioned the upcoming reauthorization of the National Assessment of Educational Progress and the National Assessment Governing Board. We agree that this is a time when the issue of governance of the voluntary national tests can be addressed. Your suggestion is a sensible direction, but as you know it will take Congressional action.

Thank you again for your helpful letter. We look forward to an ongoing consultation with you as we continue to seek advice on the national tests initiative.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Dick", written over the typed name.

Richard W. Riley

cc: Michael Cohen