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Cc: <Jack.McGrath@ed.gov>
Subject: : FW: Senate LEP proposal
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CREATOR:"Cook, Sandra" <Sandra.Cook@ed.gov> ("Cook, Sandra" <Sandra.Cook@ed.gov> [UNKNOWN])
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TO:'Sandy Kress' <skress@akingump.com> ('Sandy Kress' <skress@akingump.com> [UNKNOWN])
READ:UNKNOWN
TO:Sarah E. Youssef (CN=Sarah E. Youssef/OU=OPD/O=EOP [OPD])
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TO:Kathryn B. Stack (CN=Kathryn B. Stack/OU=OMB/O=EOP [OMB])
READ:UNKNOWN
TO:Townsend L. McNitt (CN=Townsend L. McNitt/OU=WHO/O=EOP [WHO])
READ:UNKNOWN
CC:"McGrath, Jack" <Jack.McGrath@ed.gov> ("McGrath, Jack" <Jack.McGrath@ed.gov> [UNKNOWN])
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Below is the revised document that was sent to the Senate on Friday.
Sorry,
but I just realized that you were not included on the e-mail because the person who sent it over for me didn't realize that you needed to receive it.
I have sent the document to Holly as well.

> <<b-esea-lep(Senate)4.doc>>
> - att1.htm - b-esea-lep(Senate)4.doc
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_U6ED1004_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_U6ED1004_WHO.TXT_2>

**The following document is attachment
P_U6ED1004_WHO.TXT_1**

Below is the revised document that was sent to the Senate on Friday. Sorry, but I just realized that you were not included on the e-mail because the person who sent it over for me didn't realize that you needed to receive it. I have sent the document to Holly as well.

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**The following document is attachment
P_U6ED1004_WHO.TXT_2**

1 3/28/01

2 SEC. 301. Part A of Title III is amended to read as follows:

3 "PART A — LANGUAGE MINORITY STUDENTS

4 "FINDINGS, POLICY, AND PURPOSE

5 "SEC. 3101. (a) FINDINGS. Congress makes the following findings:

6 "(1)(A) Educating limited English proficient students, including
7 recent immigrant children, is an urgent goal for many local educational agencies,
8 but that goal is not being achieved.

9 "(B) Each year, 640,000 limited English proficient students
10 are not served by any sort of program targeted to the students' unique needs.

11 "(C) In 1998, only 15 percent of local educational agencies
12 that applied for bilingual education enhancement grants and comprehensive
13 school grants (as those programs were authorized by the Bilingual Education
14 Act) received such funding.

15 "(2)(A) In 1999, the school dropout rate for Hispanic students, the
16 largest group of limited English proficient students, was approximately 29
17 percent, and was approximately 44 percent for Hispanics born outside of the
18 United States.

19 "(B) A Department of Education report regarding school
20 dropout rates states that language difficulty ` may be a barrier to participation in
21 United States schools'.

22 "(C) Reading ability is a key predictor of graduation and
23 academic success.

1 "(3) Through fiscal year 2001, bilingual education capacity and
2 demonstration grants under the Bilingual Education Act—

3 "(A) have spread funding too broadly to make an impact on
4 language instruction educational programs implemented by State educational
5 agencies and local educational agencies;

6 "(B) have not provided sufficient flexibility to State
7 educational agencies and local educational agencies, even though their
8 personnel are the most familiar with the educational needs of their limited English
9 proficient students and are in the best position to determine the most appropriate
10 instructional methods for those students; and

11 "(B) have lacked concrete performance measures.

12 "(4)(A) Since 1979, the number of limited English proficient children
13 in schools in the United States has doubled to more than 3,000,000, and
14 demographic trends indicate that the population of limited English proficient
15 children will continue to increase.

16 "(B) Language-minority students in the United States speak
17 virtually all world languages, including many that are indigenous to the United
18 States.

19 "(C) The rich linguistic diversity that language-minority
20 students bring to classrooms in the United States enhances the learning
21 environment for all students and should be valued for the significant, positive
22 impact it has on the entire school environment.

1 "(D) Parent and community participation in educational
2 language programs for limited English proficient students contributes to program
3 effectiveness.

4 "(E) The Federal Government has a special and continuing
5 obligation, as reflected in title VI of the Civil Rights Act of 1964 and section 204(f)
6 of the Equal Educational Opportunities Act of 1974, to ensure that States and
7 local educational agencies take appropriate action to provide equal educational
8 opportunities to limited English proficient children and youth, and other children
9 and youth.

10 "(F) The Federal Government also has a special and
11 continuing obligation to assist States and local educational agencies, as
12 exemplified by programs authorized under this title, to—

13 "(i) develop the capacity to provide programs of
14 instruction that offer equal educational opportunities to limited English proficient
15 children and youth, and other children and youth; and

16 "(ii) implement high-quality instructional programs
17 for limited English proficient children and youth, including recent immigrant
18 children and youth, that are designed to prepare them to enter all-English
19 instructional settings after three consecutive years of enrollment in U.S. schools.

20 "(5) Limited English proficient children and youth face a number of
21 challenges in receiving an education that will enable them to participate fully in
22 society, including—

1 "(A) disproportionate attendance at high-poverty schools, as
2 demonstrated by the fact that, in 1994, 75 percent of limited English proficient
3 students attended schools in which at least half of all students were eligible for
4 free or reduced-price meals;

5 "(B) the limited ability of parents of those children and youth
6 to participate fully in the education of their children because of the parents' own
7 limited English proficiency;

8 "(C) a shortage of teachers and other staff who are
9 professionally trained and qualified to serve those children and youth; and

10 "(D) lack of appropriate performance and assessment
11 standards that distinguish between language ability and academic achievement
12 so that State educational agencies and local educational agencies are equally as
13 accountable for the achievement of limited English proficient students in
14 academic content while the students are acquiring English language skills as the
15 agencies are for enabling the students to acquire those skills.

16 "(b) POLICY. It is the policy of the United States that, in order to ensure
17 equal educational opportunity for all children and youth, and to promote
18 educational excellence, the Federal Government should—

19 "(1) assist States and, through the States, local educational
20 agencies and schools to build their capacity to establish, implement, and sustain
21 programs of instruction and English language development for children and youth
22 with limited English proficiency;

1 "(2) hold States and, through the States, local educational agencies
2 and schools accountable for increases in English proficiency and core content
3 knowledge among limited English proficient students; and

4 "(3) promote parental and community participation in limited English
5 proficiency programs.

6 "(c) PURPOSES. The purposes of this part are—

7 "(1) to assist all limited English proficient students, including recent
8 immigrant students, to attain English proficiency;

9 "(2) to assist all limited English proficient students, including recent
10 immigrant students, to develop high levels of attainment in the core academic
11 subjects so that those students can meet the same challenging State content
12 standards and challenging State student performance standards as all students
13 are expected to meet, as required by section 1111(b)(1);

14 "(3) to assist local educational agencies to develop and enhance
15 their capacity to provide high-quality instructional programs designed to prepare
16 limited English proficient students, including recent immigrant students, to enter
17 all-English instructional settings within three years; and

18 "(4) to provide the assistance described in paragraphs (1), (2), and
19 (3) by—

20 "(A) streamlining language instruction educational programs
21 into a program carried out through a performance-based grant for State and local
22 educational agencies to help limited English proficient students, including recent
23 immigrant students, become proficient in English;

1 "(3) LIMITED ENGLISH PROFICIENT STUDENT. The term 'limited
2 English proficient student' means an individual aged 5 through 17 enrolled in an
3 elementary school or secondary school—

4 "(A) who—

5 "(i) was not born in the United States or whose native
6 language is a language other than English;

7 "(ii)(I) is a Native American or Alaska Native, or a
8 native resident of the outlying areas; and

9 "(II) comes from an environment where a
10 language other than English has had a significant impact on such individual's
11 level of English language proficiency; or

12 "(iii) is migratory, whose native language is a
13 language other than English, and who comes from an environment where a
14 language other than English is dominant; and

15 "(B) who has sufficient difficulty speaking, reading, writing, or
16 understanding the English language, and whose difficulties may deny the
17 individual—

18 "(i) the ability to meet the State's proficient level of
19 performance on State assessments described in section 1111(b)(4) in core
20 academic subjects; or

21 "(ii) the opportunity to participate fully in society.

22 "(4) LANGUAGE INSTRUCTION EDUCATIONAL PROGRAM. The
23 term 'language instruction educational program' means an instructional course in

1 which a limited English proficient student is placed for the purpose of becoming
2 proficient in the English language.

3 "(5) NATIVE LANGUAGE. The term 'native language,' when used
4 with reference to an individual of limited English proficiency, means the language
5 normally used by the individual or, in the case of a child or youth, the language
6 normally used by the parents of the child or youth.

7 "(6) SCIENTIFICALLY BASED RESEARCH. The term 'scientifically
8 based research' has the meaning given the term in [section 1701(f) / 8101(31)?].

9 "(7) SPECIALLY QUALIFIED AGENCY. The term 'specially
10 qualified agency' means a local educational agency in a State that does not
11 participate in a program under this part for a fiscal year.

12 "(8) STATE. The term 'State' means each of the 50 States of the
13 United States and the District of Columbia.

14 "PROGRAM AUTHORIZED

15 "SEC. 3103. (a) GRANTS AUTHORIZED. The Secretary shall award
16 grants, from allotments under subsection (b), to each State having a State plan
17 approved under section 3105(c), to enable the State to help limited English
18 proficient students become proficient in English.

19 "(b) RESERVATIONS AND ALLOTMENTS.—(1) RESERVATIONS. From
20 the amount appropriated under section 3111 to carry out this part for each fiscal
21 year, the Secretary shall reserve—

22 "(A) 1/2 of 1 percent of such amount for payments to the
23 Secretary of the Interior for activities approved by the Secretary of Education,

1 consistent with this part, in schools operated or supported by the Bureau of
2 Indian Affairs, on the basis of their respective needs;

3 "(B) 1/2 of 1 percent of such amount for payments to outlying
4 areas, to be allotted in accordance with their respective needs for assistance
5 under this part as determined by the Secretary, for activities, approved by the
6 Secretary, consistent with this part; and

7 "(C) 1/2 of 1 percent of such amount for payments to the
8 Commonwealth of Puerto Rico, for activities, approved by the Secretary,
9 consistent with this part.

10 "(2) STATE ALLOTMENTS. From the amount appropriated under
11 section 3111 for any of the fiscal years 2002 through 2006 that remains after
12 making reservations under paragraph (1), the Secretary shall allot to each State
13 having a State plan approved under section 3105(c)—

14 "(A) 67 percent of the remainder according to the same
15 ratio as the number of limited English proficient students in the State bears to the
16 number of such students in all States; and

17 "(B) 33 percent of the remainder according to the same
18 ratio as the number of immigrant children and youth in the State bears to the
19 number of such children and youth in all States.

20 "(3) DATA. For the purpose of determining the number of limited
21 English proficient students in a State and in all States, and the number of
22 immigrant children and youth in a State and in all States, for each fiscal year, the

1 Secretary shall use data that will yield the most accurate, up-to-date numbers of
2 such students, which may include—

3 "(A) data available from the Bureau of the Census; or

4 "(B) data submitted to the Secretary by the States.

5 "(4) HOLD-HARMLESS AMOUNTS. Notwithstanding paragraph
6 (2), the amount allotted to each State under paragraph (2)(A) for fiscal year 2002
7 shall be not less than 85 percent of the total amount the State and entities within
8 the State received for fiscal year 2001 under parts A and B of title VII of this Act
9 (as it was in effect on the day before the effective date of the [NAME OF ACT]),
10 and the amount so allotted to each State for fiscal year 2003 shall be not less
11 than 65 percent of that total amount for fiscal year 2001 under parts A and B of
12 Title VII.

13 "(c) DIRECT AWARDS TO SPECIALLY QUALIFIED AGENCIES.—

14 (1) NONPARTICIPATING STATE. If a State educational agency chooses not to
15 participate in a program under this part for a fiscal year, or fails to submit an
16 approvable application under section 3105, a specially qualified agency in such
17 State desiring a grant under this part for the fiscal year shall apply directly to the
18 Secretary to receive a grant under this subsection.

19 "(2) DIRECT AWARDS. The Secretary may award, on a
20 competitive basis, the amount the State educational agency is eligible to receive
21 under subsection (b)(2) directly to specially qualified agencies in the State
22 desiring a grant under this part and having an application approved under section
23 3105(c).

1 local educational agency in the State having a plan approved under section 3106
2 an amount that bears the same relationship to the amount of funds allocated
3 under subsection (a)(1) for the fiscal year as the population of limited English
4 proficient students in schools served by the local educational agency bears to the
5 population of limited English proficient students in schools served by all local
6 educational agencies in the State.

7 "(c) RESERVATIONS.—(1) STATE ACTIVITIES. Each State educational
8 agency receiving a grant under this part may reserve not more than 5 percent of
9 the grant funds to carry out activities described in the State plan submitted under
10 section 3105.

11 "(2) ADMINISTRATIVE EXPENSES. From the amount reserved
12 under paragraph (1), a State educational agency may use not more than 2
13 percent for the planning costs and administrative costs of carrying out the
14 activities described in the State plan and providing grants to local educational
15 agencies.

16 "STATE AND SPECIALLY QUALIFIED AGENCY PLANS

17 "SEC. 3105. (a) PLAN REQUIRED. Each State educational agency and
18 specially qualified agency desiring a grant under this part shall submit a plan to
19 the Secretary at such time, in such manner, and containing such information as
20 the Secretary may require.

21 "(b) CONTENTS. Each plan submitted under subsection (a) shall—

22 "(1) describe how the State or specially qualified agency will

1 establish standards and benchmarks for English language development that are
2 aligned with the State content and student performance standards described in
3 section 1111(b)(1);

4 "(2) contain an assurance that the—

5 "(A) State educational agency consulted with local
6 educational agencies, education-related community groups and nonprofit
7 organizations, parents, teachers, school administrators, and English language
8 instruction specialists, in setting the performance objectives; and

9 "(B) specially qualified agency consulted with education-
10 related community groups and nonprofit organizations, parents, teachers, and
11 English language instruction specialists, in setting the performance objectives;

12 "(3) describe how—

13 "(A) in the case of a State educational agency, the State
14 educational agency will hold local educational agencies and elementary schools
15 and secondary schools accountable for—

16 "(i) meeting the performance objectives described in
17 section 3109 for English proficiency; and

18 "(ii) making adequate yearly progress with limited
19 English proficient students in the core academic subjects as described in section
20 1111(b)(2); and

21 "(B) in the case of a specially qualified agency, the agency
22 will hold elementary schools and secondary schools accountable for—

1 "(i) meeting the performance objectives described in
2 section 3109 for English proficiency; and

3 "(ii) making adequate yearly progress with limited
4 English proficient students in the core academic subjects as described in section
5 1111(b)(2);

6 "(4) in the case of a specially qualified agency, describe the
7 activities for which assistance is sought, and how the activities will increase the
8 speed and effectiveness with which students learn English;

9 "(5) in the case of a State educational agency, describe how local
10 educational agencies in the State will be given the flexibility to teach English—

11 "(A) using a language instruction curriculum that is tied to
12 scientifically based research and has been demonstrated to be effective; and

13 "(B) in the manner the local educational agencies determine
14 to be the most effective; and

15 "(6) describe how—

16 "(A) in the case of a State educational agency, the State
17 educational agency will—

18 "(i) provide technical assistance to local educational
19 agencies and elementary schools and secondary schools for the purposes of
20 identifying and implementing English language instruction educational programs
21 and curricula that are tied to scientifically based research; and

22 "(ii) provide technical assistance to local educational
23 agencies and elementary schools and secondary schools for the purposes of

1 helping limited English proficient students meet the same challenging State
2 content standards and challenging State student performance standards as all
3 students are expected to meet; and

4 "(B) in the case of a specially qualified agency, the specially
5 qualified agency will—

6 "(i) provide technical assistance to elementary
7 schools and secondary schools served by the specially qualified agency for the
8 purposes of identifying and implementing programs and curricula that are tied to
9 scientifically based research; and

10 "(ii) provide technical assistance in elementary
11 schools and secondary schools served by the specially qualified agency for the
12 purposes described in subparagraph (A)(ii).

13 "(c) APPROVAL. The Secretary, after using a peer review process, shall
14 approve a State plan or a specially qualified agency plan if the plan meets the
15 requirements of this section, and holds reasonable promise of achieving the
16 purposes described in section 3101(c).

17 "(d) DURATION OF THE PLAN.—(1) IN GENERAL. Each State plan or
18 specially qualified agency plan shall—

19 "(A) remain in effect for the duration of the State educational
20 agency's or specially qualified agency's participation under this part; and

21 "(B) be periodically reviewed and revised by the State
22 educational agency or specially qualified agency, as necessary, to reflect

1 changes to the State's or specially qualified agency's strategies and programs
2 carried out under this part.

3 "(2) ADDITIONAL INFORMATION. If the State educational agency
4 or specially qualified agency makes significant changes to the plan, such as the
5 adoption of new performance objectives or assessment measures, the State
6 educational agency or specially qualified agency shall submit information
7 regarding the significant changes to the Secretary.

8 "(e) CONSOLIDATED PLAN. A State plan submitted under subsection (a)
9 may be submitted as part of a consolidated plan under [section 8302?].

10 "(f) SECRETARY ASSISTANCE. Pursuant to [section 7104(a)(3)?], the
11 Secretary shall provide technical assistance, if requested, in the development of
12 English language development standards and English language proficiency
13 assessments.

14 "LOCAL PLANS

15 "SEC. 3106. (a) PLAN REQUIRED. Each local educational agency
16 desiring a subgrant from the State educational agency under section 3104 shall
17 submit a plan to the State educational agency at such time, in such manner, and
18 containing such information as the State educational agency may require.

19 "(b) CONTENTS. Each local educational agency plan submitted under
20 subsection (a) shall—

21 "(1) describe how the local educational agency will use the
22 subgrant funds to meet the English proficiency performance objectives described
23 in section 3109;

1 "(2) describe how the local educational agency will hold elementary
2 schools and secondary schools accountable for—

3 "(A) meeting the performance objectives; and

4 "(B) making adequate yearly progress with limited English
5 proficient students in the core academic subjects as described in section
6 1111(b)(2);

7 "(3) contain an assurance that the local educational agency
8 consulted with teachers (including language instruction specialists), school
9 administrators, and parents, and, if appropriate, with education-related
10 community groups and nonprofit organizations, and institutions of higher
11 education, in developing the local educational agency plan; and

12 "(4) describe how the local educational agency will use the
13 disaggregated results of the student assessments required under section
14 1111(b)(4), and other measures or indicators available to the agency, to review
15 annually the progress of each school served by the agency under this part and
16 under title I to determine whether the schools are making the adequate yearly
17 progress necessary to ensure that limited English proficient students attending
18 the schools will meet the State's proficient level of performance on the State
19 assessment described in section 1111(b)(4) within 10 years after the date of
20 enactment of the [NAME OF ACT].

1 "USES OF FUNDS

2 "SEC. 3107. (a) ADMINISTRATIVE EXPENSES. Each local educational
3 agency receiving a grant under section 3104 may use not more than 1 percent of
4 the grant funds for a fiscal year for the cost of administering this part.

5 "(b) ACTIVITIES. Each local educational agency receiving grant funds
6 under section 3104—

7 (1) shall use the grant funds that are not used under subsection (a)
8 for one or both of the following:

9 "(A) To increase limited English proficient students'
10 proficiency in English by providing high-quality language instruction educational
11 programs that are—

12 "(i) tied to scientifically based research demonstrating
13 the effectiveness of the programs in increasing English proficiency; and

14 "(ii) approved by the State educational agency.

15 "(B) To provide high-quality professional development
16 activities for teachers of limited English proficient students, including teachers in
17 classroom settings that are not language instruction programs, that are—

18 "(i) designed to enhance the ability of the teachers to
19 understand and use curricula, assessment measures, and instructional strategies
20 for limited English proficient students;

21 "(ii) tied to scientifically based research demonstrating

1 the effectiveness of those activities in increasing students' English proficiency or
2 substantially increasing the subject matter knowledge, teaching knowledge, and
3 teaching skills of those teachers;

4 "(C) of sufficient intensity and duration (not to include
5 activities such as 1-day or short-term workshops and conferences) to have a
6 positive and lasting impact on the teachers' performance in the classroom,
7 except that this subparagraph shall not apply to an activity that is one component
8 described in a long-term, comprehensive professional development plan
9 established by a teacher and the teacher's supervisor based on an assessment
10 of the needs of the teacher, the supervisor, the students of the teacher, and the
11 local educational agency; and

12 (2) may use the grant funds that are not used under subsection (a)
13 to provide parent and community participation programs that are designed to
14 improve language instruction educational programs for limited English proficient
15 students.

16 "PROGRAM REQUIREMENTS

17 "SEC. 3108. (a) PROHIBITION. In carrying out this part, the Secretary
18 shall neither mandate nor preclude the use of a particular curricular or
19 pedagogical approach to educating limited English proficient students.

20 "(b) TEACHER ENGLISH FLUENCY. Each local educational agency
21 receiving subgrant funds under section 3104 shall certify to the State educational
22 agency that all teachers in any language instruction educational program for
23 limited English proficient students funded under this part are fluent in English.

1 "PERFORMANCE OBJECTIVES

2 "SEC. 3109. (a) IN GENERAL. Each State educational agency or
3 specially qualified agency receiving a grant under this part shall develop annual
4 measurable performance objectives with respect to helping limited English
5 proficient students become proficient in English. For each annual measurable
6 performance objective, the agency shall specify an incremental percentage
7 increase for the objective to be attained for each of the fiscal years (after the first
8 fiscal year) for which the agency receives a grant under this part, relative to the
9 preceding fiscal year, including increases in the number of limited English
10 proficient students demonstrating an increase in performance on annual
11 assessments.

12 "(b) ACCOUNTABILITY. Each State educational agency or specially
13 qualified agency receiving a grant under this part shall be held accountable for
14 meeting the annual measurable performance objectives under this part and the
15 adequate yearly progress levels for limited English proficient students under
16 section 1111(b)(2)(B). Any State educational agency or specially qualified
17 agency that fails to meet the annual performance objectives shall be subject to
18 sanctions under [section 7001(b)?].

19 "REGULATIONS AND NOTIFICATION

20 "SEC. 3110. (a) REGULATION RULE. In developing regulations under
21 this part, the Secretary shall consult with State educational agencies, local
22 educational agencies, organizations representing limited English proficient

1 individuals, and organizations representing teachers and other personnel
2 involved in the education of limited English proficient students.

3 "(b) PARENTAL NOTIFICATION.—(1) IN GENERAL. Each local
4 educational agency shall notify parents of a student participating in a language
5 instruction educational program under this part of—

6 "(A) the student's level of English proficiency, how that level
7 was assessed, the status of the student's academic achievement, and the
8 implications of the student's educational strengths and needs for age- and grade-
9 appropriate academic attainment, and promotion;

10 "(B)(i) the programs that are available to meet the student's
11 educational strengths and needs, and how those programs differ in content and
12 instructional goals from other language instruction educational programs; and

13 "(ii) in the case of a student with a disability who
14 participates in the language instruction educational program, how the program
15 meets the objectives of the individualized education program of the student; and

16 "(C)(i) the instructional goals of the language instruction
17 educational program in which the student participates, and how the program will
18 specifically help the limited English proficient student learn English and meet
19 age-appropriate standards for grade promotion and graduation;

20 "(ii) the characteristics, benefits, and past academic
21 results of the language instruction educational program and of instructional
22 alternatives; and

