

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 1963

At the request of Mr. AKAKA, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1963, a bill to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

S. 2128

At the request of Mr. LEMIEUX, the names of the Senator from Idaho (Mr. RISCH) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 2128, a bill to provide for the establishment of the Office of Deputy Secretary for Health Care Fraud Prevention.

S. 2727

At the request of Mr. LUGAR, the names of the Senator from Arizona (Mr. KYL), the Senator from Tennessee (Mr. CORCKER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Delaware (Mr. KAUFMAN) were added as cosponsors of S. 2727, a bill to provide for continued application of arrangements under the Protocol on Inspections and Continuous Monitoring Activities Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms in the period following the Protocol's termination on December 5, 2009.

S. 2730

At the request of Mr. BROWN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2730, a bill to extend and enhance the COBRA subsidy program under the American Recovery and Reinvestment Act of 2009.

S. 2743

At the request of Ms. SNOWE, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2743, a bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes.

S. 2787

At the request of Mr. THUNE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2787, a bill to repeal the authority of the Secretary of the Treasury to extend the Troubled Asset Relief Program.

S. RES. 316

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. Res. 316, a resolution calling upon the President to ensure that the foreign policy of the United States reflects ap-

propriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes.

S. RES. 337

At the request of Mr. ROCKEFELLER, the names of the Senator from Wyoming (Mr. ENZI), the Senator from North Dakota (Mr. DORGAN) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. Res. 337, a resolution designating December 6, 2009, as "National Miners Day".

AMENDMENT NO. 2785

At the request of Mr. COBURN, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of amendment No. 2785 proposed to S. 1963, a bill to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY (for herself and Mr. FRANKEN):

S. 2800. A bill to amend subtitle B of title VII of the McKinney-Vento Homeless Assistance Act to provide education for homeless children and youths, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, I rise today to talk about legislation that I introduced with Senator FRANKEN today that is essential to the academic success of millions of vulnerable children and youth.

The Educational Success for Children and Youth Without Homes Act responds to the growing crisis of homelessness in our Nation. The legislation will help homeless children and youth thrive in school, despite the constant moves, trauma, and loss associated with homelessness.

This legislation is needed now more than ever. The economic downturn and foreclosure crisis have had a significant impact on homelessness. Public schools reported a 17-percent increase in the number of homeless students in 2007. In Washington State, the number of homeless students has increased dramatically. For example, the number of homeless students enrolled in Whatcom County schools increased by 66 percent over the past 2 years; in Evergreen Public Schools, there has been a 56-percent increase over the past 2 years. This Fall, many schools face a veritable tidal wave of homelessness. Over one million children and youth are now homeless in our Nation.

The recession has contributed to homelessness among two groups of students: children who are homeless with their families, and youth who are homeless on their own. This reality

was brought starkly to light in the recent New York Times series about runaway and homeless youth. The series found a 40-percent increase in the number of homeless youth living on their own last year, more than double the number in 2003. It concluded that "Foreclosures, layoffs, rising food and fuel prices and inadequate supplies of low-cost housing have stretched families to the extreme, and those pressures have trickled down to teenagers and preteens."

School offers homeless children and youth structure, normalcy, support, and hope—it is a place where they can obtain the skills that they will need to avoid poverty and homelessness as adults. Yet these students face great educational challenges. High mobility, precarious living conditions, and severe poverty combine to create major barriers to school enrollment and regular attendance. Many homeless children and youth lack basic supplies and a reasonable environment where they can do homework. As a result of their circumstances, homeless students often perform below their peers in math and reading and are more likely to be held back.

We must do more to assist these students so they do not continue to be left behind. The Educational Success for Children and Youth Without Homes Act of 2009 would do just that. The bill amends the McKinney-Vento Act's Education for Homeless Children and Youth program. It makes a strong law even stronger by reinforcing and expanding the law's key provisions: school stability, enrollment, and support for academic achievement.

This legislation will enhance the right of homeless children to stay in the same school, so that children who have lost their homes do not also lose their schools. It will assist schools in meeting the challenges of transporting homeless students by increasing the authorized funding level and allowing other Federal funds for educating low-income students to be used for homeless transportation. When staying in the same school is not possible, or not in a child's best interest, the legislation will help the student make a seamless transition to a new school.

This bill will help students like Kyle, a 4th-grade student in Spokane. Due to the instability of homelessness, Kyle moved around with his family most of his life. In fact, he moved eleven times. There were large gaps where he had not gone to school at all, because of his family's frequent moves. Yet although Kyle moved eleven times, the homeless education program in Spokane was able to keep him stable in one school. Because he had the opportunity to attend one school consistently, the school district was able to determine that his academic and behavioral struggles were caused by more than just homelessness: a special education evaluation revealed that he was nearly deaf in both ears. He now has hearing aids in both ears and told his teacher:

"I can hear now, and I am being good. I want to be a crossing guard."

Yet many more children like Kyle are not receiving the assistance they need due to lack of funding. In fact, only 9 percent of school districts are able to receive funding through the McKinney-Vento program currently. This legislation would increase the authorized funding level, so that more school districts can participate in the homeless education program and reach more children and youth experiencing homelessness.

One of the most successful features of the McKinney-Vento program is the requirement for every school district to designate a liaison for homeless children and youth. Liaisons identify homeless students, ensure their enrollment and attendance, and connect them to community resources. Liaisons are the backbone of this program, the unsung heroes who have become a lifeline for children and youth in crisis. Yet most liaisons do not have the capacity to carry out their required duties; they wear many hats and struggle to meet the growing demands of this population. As a result, too many homeless children and youth are falling through the cracks and missing out on school. The Educational Success for Children and Youth Without Homes Act will strengthen the critical position of homeless liaison by ensuring that liaisons have the time, resources, and training to fulfill their mandated duties.

The Educational Success for Children and Youth Without Homes Act also recognizes the unique needs of certain groups of homeless children: preschool-aged homeless children, and unaccompanied homeless youth.

Young children who are homeless have higher rates of developmental delays and other problems that set them back as they start out life, yet they face numerous barriers to participating in early childhood programs. They miss out on services that can mitigate the harmful effect of homelessness on their development. This legislation will increase homeless children's participation in preschool programs by requiring public preschool programs to identify and prioritize homeless children for enrollment, and to develop the capacity to serve all identified homeless children.

Unaccompanied homeless youth struggle to go to school without the basic necessities of life or a parent to guide them. We must assist unaccompanied homeless youth to overcome the unique educational challenges related to being without a home and without a parent or guardian. This legislation will help ensure that unaccompanied homeless youth have the supports necessary to stay in school, graduate with their peers, and move on to a brighter future.

The history of litigation under the McKinney-Vento Act makes clear that we must do a better job helping educators learn about homelessness and

support them in implementing the law. To this end, the legislation provides funding for technical assistance and training, and requires participation in professional development activities.

I am pleased to be joined by Senator FRANKEN in cosponsoring this legislation to assist homeless students, and I am honored to cosponsor Senator FRANKEN's legislation, the Fostering Success in Education Act, to assist students who are in foster care. These bills recognize the similarities, and the differences, between students who are homeless and those who are in foster care. It is our intention to work with our Senate colleagues to ensure that children and youth who are currently served through the McKinney-Vento Act under the category of "awaiting foster care placement" will be transitioned to the Fostering Success in Education program, so that their unique needs may be best met.

As we look forward to the reauthorization of the Elementary and Secondary Education Act, we must recognize that children who do not know where they will sleep at night, or where their next meal will come from, face far greater challenges than simply remembering to do their homework. We must acknowledge that children who bounce between schools with each change of residence have little hope of taking advantage of even the best school programs. The most qualified teacher, or the most exceptional math or reading program, will not benefit children who are not enrolled in school, not attending regularly, and not assisted to overcome the barriers caused by homelessness. The Educational Success for Children and Youth Without Homes Act builds upon the proven successes of the McKinney-Vento Act's Education of Homeless Children and Youth program, while addressing remaining challenges. It is critical legislation that will help ensure that the homeless children of today do not become the homeless adults of tomorrow.

Mr. FRANKEN (for himself and Mrs. MURRAY):

S. 2801. A bill to provide children in foster care with school stability and equal access to educational opportunities; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRANKEN. Mr. President, a quality education can serve as a positive counterweight to the abuse, neglect, and instability that children in foster care have experienced. That is why Senator MURRAY and I are introducing the Fostering Success in Education Act. The act builds on previous Federal efforts to increase the school stability and success of foster children.

The very placement of children in foster care has deprived many children of their opportunity to obtain a decent education. The primary reason is that children in foster care frequently move between foster homes, and often change schools when they move. Research shows that students lose 4 to 6

months of educational progress each time they change schools. It therefore becomes nearly impossible for foster children—who change schools multiple times—to make significant educational progress.

Moreover, foster children often change schools in the middle of the school year. When this happens, it is hard for them to catch up with their classmates, since they didn't learn the material their classmates studied earlier in the year.

Because different schools offer different courses, it is also difficult for foster children to transfer their course credits from prior schools after they move. Many foster children therefore end up repeating courses and even grades.

But what is even more disturbing is that foster children are often segregated from other students, and inappropriately placed in separate schools at group foster homes and residential treatment facilities. At these separate schools, foster children typically receive a subpar education, making it difficult for them to transition smoothly to regular public schools later on.

As a result of all these challenges, many foster children fall behind their peers in school, lose hope, and ultimately drop out. Consider, for example, the school experience of Carrie, a 19 year-old young woman in Minnesota, who was placed in foster care in eighth grade. When Carrie moved to her first foster home, she had to transfer to a new school. Being uprooted from her family was difficult enough, but she also had to cope with the transition to her new school—just when she most needed the support of her friends and teachers at her old school. Moreover, because she changed schools in the middle of the school year, she found it difficult to keep up with her classmates in her new school.

There was no need to add further instability to Carrie's life by making her change schools. Her old school—the school that she had attended since kindergarten—was just 20 minutes away from her foster home. It would have been perfectly reasonable to transport Carrie back to that school.

Over her next 5 years in foster care, Carrie ended up 7 moving between 7 different foster care placements and schools. The schools where she spent most of her time in high school separated her from other children in her community, and offered her a low-quality education. For example, in ninth grade, Carrie attended a school at a residential treatment facility, where her education consisted of sitting in a classroom with children as young as ten, and filling out simple workbooks with little help from an instructor. Given the multiple educational disruptions Carrie experienced, it is not surprising that she believes she left high school with only a ninth grade education.

Unfortunately, Carrie's school experience is not unique. Many foster children in Minnesota, and across the

country, have experienced a similar pattern of moving between multiple schools, wasting time in segregated schools, and leaving school without much to show for all their years of education.

Last year, Congress decided that it was time to do something about this situation. Congress enacted the Fostering Connections to Success Act, a child welfare law that, among other things, requires child welfare agencies to collaborate with local education agencies to improve the school stability of foster children.

Child welfare agencies, however, can't go it alone. To fulfill the vision of the Fostering Connections Act, they need the full cooperation of State and local education agencies.

That is why Senator MURRAY and I have decided to place requirements on State and local education agencies that mirror those placed on child welfare agencies in the Fostering Connections Act. For example, our bill requires State and local education agencies to collaborate with child welfare agencies to provide foster children who move to new school districts with the right to attend their schools of origin—or, in other words, the right to attend their former schools or the schools they attended before they were placed in foster care.

If Carrie had this right when she was placed in foster care, she would have been able to remain in the school she had attended since kindergarten. When it's not in the best interest of particular foster children to remain in their schools of origin, our bill requires State and local education agencies to work with child welfare agencies to enroll foster children immediately in new schools. This is an important element of our bill because foster children often spend weeks out of school as a result of enrollment delays.

In addition, our bill provides funding to help school districts and child welfare agencies address the educational needs of foster children, such as funding to provide foster children with transportation back to schools in their former school districts.

Finally, our bill clarifies that foster children have a right to the same educational opportunities as other children in their community. This means, for example, that foster children cannot be placed in separate schools merely based on the misguided belief that foster children cannot fit in at a regular public school.

In addition to working with Senator MURRAY on the Fostering Success in Education Act, we have collaborated on a related bill—the Educational Success for Children and Youth Without Homes Act, which Senator MURRAY introduced earlier today. The Educational Success for Children and Youth Without Homes Act will improve the educational stability of homeless children, who, like foster children, face significant educational challenges because they often move be-

tween school districts. While there are many similarities between the protections provided to homeless and foster children in our bills, our bills also address the unique circumstances of each group.

I am grateful to Carrie, and the many other foster and homeless youth who have bravely spoken out about their difficult school experiences. Their efforts will help prevent other children entering foster care or experiencing homelessness in the future from suffering similar ordeals.

I believe it is time that we listen to these youth and take steps to ensure that we don't deprive homeless and foster children of their right to an equal education. Senator MURRAY and I therefore plan on working hard in the coming months to achieve the reforms we lay out in the bills we're introducing today, and I would urge my colleagues to support both of these important bills.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2801

*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 “Fostering Success in Education Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is the following:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; sense of Congress.
- Sec. 3. Purpose.
- Sec. 4. Definitions.
- Sec. 5. Regulations.
- Sec. 6. Effective date.

**TITLE I—EDUCATIONAL RIGHTS FOR CHILDREN IN FOSTER CARE**

Subtitle A—Required Educational Rights, Protections, and Services for Children in Foster Care

- Sec. 101. Required educational rights, protections, and services for children in foster care.
- Sec. 102. Remedies; rule of construction.
- Sec. 103. Conforming amendments.

Subtitle B—State Foster Care and Education Plan Grants

- Sec. 111. State foster care and education plan requirements and grants.
- Sec. 112. Subgrants.
- Sec. 113. Responsibilities of the Secretary.
- Sec. 114. Authorization of appropriations.

**TITLE II—SOCIAL SECURITY ACT AMENDMENTS**

- Sec. 201. Social Security Act amendments.

**SEC. 2. FINDINGS; SENSE OF CONGRESS.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) Educational success is vital to every young person's well being, successful transition to adulthood, and economic stability.

(2) At the end of fiscal year 2007, approximately 500,000 children were in foster care in the United States, with nearly 800,000 children having spent at least some time in foster care in the United States during the year.

(3) Numerous studies have demonstrated that children in foster care fall behind the general student population with respect to

test scores, graduation rates, and successful transitions to postsecondary education.

(4) Only one-third of high school students in foster care graduate on time and only 3 percent of such students graduate from college.

(5) On average, children in foster care move to new foster care placements 2 times per year, and often change schools when they move.

(6) Studies indicate that with each school move, children, on average, fall 4 to 6 months behind their classmates. Because foster children often change schools multiple times, it is difficult for them to make significant educational progress.

(7) Children in foster care are frequently denied the ability to remain in the same school as a result of changes in their living situations.

(8) In addition, children in foster care who are required to change schools are frequently denied immediate enrollment in a new school, which results in detrimental disruptions to their education.

(9) Moreover, the enrolling school frequently does not have access to the child's complete and accurate education records, which often results in the child's placement in inappropriate classes and educational settings.

(10) When foster children change schools, they often have difficulties transferring credits from previous schools and meeting the new set of graduation requirements in their new school.

(11) In 2008, Congress enacted the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), which requires, among other things, child welfare agencies to ensure that a child in foster care remains in the same school after moving to a new placement or, when remaining in the same school is not in the child's best interest, is enrolled in a new school immediately, and that the child's education records are transferred promptly. While the Fostering Connections to Success and Increasing Adoptions Act of 2008 requires child welfare agencies to coordinate with local educational agencies, the local educational agencies must play a critical role in the process. Otherwise, the education provisions of the Act cannot be fully implemented.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) in order to successfully meet the needs of the 500,000 children in foster care in the United States, State educational agencies, local educational agencies, State child welfare agencies, and local child welfare agencies must work together at the Federal, State, and local level to—

(A) address the unique needs of this population; and

(B) ensure school stability, immediate enrollment, and access to appropriate services; and

(2) such efforts will significantly increase the secondary school graduation rates and improve educational outcomes for children in foster care.

**SEC. 3. PURPOSE.**

The purpose of this Act is to ensure that the educational needs of children in foster care are addressed in a seamless and complete manner by—

(1) requiring the State educational agency of a recipient State to work together with the State child welfare agency to ensure that the educational needs of each child in foster care in the State are being met;

(2) requiring local child welfare agencies and local educational agencies of a recipient State to work together to ensure that the educational needs of each child in foster care in the State are being met;

(3) ensuring that issues related to stability in education, school attendance, and the proper handling of information, including education records and health records, are coordinated between schools and child welfare agencies; and

(4) ensuring that a coordinated process is utilized to address the best interest and needs of the child with regard to school placements, school attendance, access to appropriate education services, and required supports, including the provision of transportation services to ensure school stability.

#### SEC. 4. DEFINITIONS.

In this Act:

(1) **CHILD IN FOSTER CARE.**—The term “child in foster care” means a child whose care and placement is the responsibility of the State or Tribal agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.; 670 et seq.), without regard to whether foster care maintenance payments are made under section 472 of the Social Security Act (42 U.S.C. 672) on behalf of the child.

(2) **COURT REPRESENTATIVE.**—The term “court representative” means an individual appointed by a court to represent a child in a juvenile court dependency proceeding.

(3) **EDUCATION DECISIONMAKER.**—The term “education decisionmaker” means—

(A) a parent of a child in foster care; or

(B) a person identified by the dependency court to make education decisions for a child in foster care who is someone other than the child’s parent.

(4) **EDUCATION RECORDS.**—The term “education records” means documents and other materials relating to a child’s enrollment and education, including transcripts, reports, plans, evaluations, and assessments maintained by a local educational agency.

(5) **ELEMENTARY SCHOOL.**—The term “elementary school” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) **ENROLLMENT.**—The term “enrollment” means attending classes in a public preschool program, an elementary school, or secondary school and participating fully in the activities of such school or program.

(7) **LOCAL CHILD WELFARE AGENCY.**—The term “local child welfare agency” means, with respect to a child in foster care, the public agency in the local political subdivision where the child resides, or the Indian tribe or tribal organization, that is responsible for the placement and care of the child.

(8) **LOCAL EDUCATIONAL AGENCY.**—The term “local educational agency” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) **PARENT.**—The term “parent” means a biological or adoptive parent or a legal guardian of a child, as determined under applicable State law.

(10) **PLACEMENT.**—The term “placement” means the current or proposed living situation for a child in foster care, which can include a group home or other congregate care setting.

(11) **PUBLIC AGENCY.**—The term “public agency” means any State or local government entity.

(12) **PUBLIC PRESCHOOL PROGRAM.**—The term “public preschool program” means a preschool program funded, administered, or overseen by a State educational agency, local educational agency, or other State agency.

(13) **RECIPIENT STATE.**—The term “recipient State” means a State that receives funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(14) **SCHOOL OF ORIGIN.**—The term “school of origin” means, with respect to a child in foster care, any of the following:

(A) The school in which the child was enrolled prior to entry into foster care.

(B) The school in which the child is enrolled when a change in foster care placement occurs or is proposed.

(C) The school the child attended when last permanently housed, as such term is used in section 722(g)(3)(G) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(3)(G)).

(15) **SCHOOL ATTENDANCE AREA.**—The term “school attendance area” has the meaning given the term in section 1113(a)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(2)(A)).

(16) **SCHOOL SELECTION DECISION.**—The term “school selection decision” means a school selection decision as described in section 101(b)(4).

(17) **SECONDARY SCHOOL.**—The term “secondary school” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801 et seq.).

(18) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

(19) **SPECIAL EDUCATION AND RELATED SERVICES.**—The terms “special education” and “related services” have the meaning given such terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(20) **STATE.**—The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(21) **STATE CHILD WELFARE AGENCY.**—The term “State child welfare agency” means the State agency responsible for administering the programs authorized under subpart 1 of part B and part E of title IV of the Social Security Act (42 U.S.C. 621 et seq.; 670 et seq.).

(22) **STATE EDUCATIONAL AGENCY.**—The term “State educational agency” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

#### SEC. 5. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall develop, issue, and publish in the Federal Register a notice of proposed rulemaking to implement the provisions of this title. The issuance, amendment, and repeal of any regulations promulgated under this title shall comply with section 553 of title 5, United States Code.

#### SEC. 6. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act, except that subtitle A, and the amendments made by such subtitle, shall apply with respect to recipient States that receive funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) on or after the date of enactment of this Act.

### TITLE I—EDUCATIONAL RIGHTS FOR CHILDREN IN FOSTER CARE

#### Subtitle A—Required Educational Rights, Protections, and Services for Children in Foster Care

##### SEC. 101. REQUIRED EDUCATIONAL RIGHTS, PROTECTIONS, AND SERVICES FOR CHILDREN IN FOSTER CARE.

(a) **RIGHTS OF CHILDREN IN FOSTER CARE.**—Each recipient State shall ensure that each child in foster care in the State has the following rights:

(1) **SCHOOL ATTENDANCE.**—

(A) **SCHOOL OF ORIGIN.**—A child in foster care shall have the right to enroll in, or continue to enroll in, any of the child’s schools

of origin when the child is placed in foster care and during all subsequent changes in placement (including when the child returns home, as required under subparagraph (B)), unless it is determined through the school selection decision process that it is in the child’s best interest to be immediately enrolled in a different school.

(B) **SCHOOL UPON PERMANENT PLACEMENT.**—In the case of a child in foster care for whom the child welfare case is closed as a result of the child returning home or achieving another permanency outcome during a school year—

(i) the child shall be entitled to complete the school year in the school that the child is attending unless the entity making the school selection decision determines that a change in schools is in the child’s best interest; and

(ii) necessary transportation to the current school shall be arranged and funded by the local educational agency in which the current school is located.

(2) **TREATMENT AS RESIDENT.**—A child in foster care who remains in a school of origin shall be treated by the local educational agency serving such school as if the child resides in the school district and is entitled to all school privileges.

(3) **IMMEDIATE ENROLLMENT.**—If it is determined through the school selection process that it is not in the best interest of a child in foster care to attend a school of origin, or if a school selection decision is not sought for the child, the child shall have the right to be immediately enrolled in a new school in the child’s school attendance area, regardless of the status of records normally required for enrollment such as previous academic records, medical or immunization records, proof of residency, or other documentation or requirements.

(4) **RECORDS.**—

(A) **IN GENERAL.**—The education records of a child in foster care shall be—

(i) maintained so that the records are available, in a timely fashion, when a child enters a new school or school district;

(ii) immediately sent to the enrolling school as complete as possible, even if the student owes fees or fines or was not withdrawn from the previous school in conformance with local withdrawal procedures; and

(iii) maintained in a manner consistent with section 444 of the General Education Provisions Act (commonly referred to as the “Family” (20 U.S.C. 1232g)).

(B) **RECORDS FOR ACADEMIC DECISIONS.**—The education records needed for academic placement decisions and decisions regarding the transfer of school course credits for a child in foster care shall be released immediately to an enrolling school by facsimile or other available electronic means.

(5) **EQUAL ACCESS.**—Each child in foster care shall have equal access to the same education and opportunities as other students attending the school or school district, including—

(A) having the same opportunities, access, and services needed to meet the challenging State student academic achievement standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)) that are provided to other students;

(B) receiving educational services and transportation services that are comparable to the services offered other children in the child’s school;

(C) having—

(i) equal access to the full range of educational offerings, including—

(I) services under title I of such Act (20 U.S.C. 6311 et seq.);

(II) publicly funded early childhood programs and public preschool programs;

(III) Early Head Start or Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.);

(IV) public charter and magnet schools;

(V) Advanced Placement courses and dual enrollment higher education courses;

(VI) career and technical education programs;

(VII) summer school; and

(VIII) extracurricular activities; and

(i) as appropriate, prioritization in the educational offerings described in clause (i) in accordance with Federal and State law;

(D) being integrated with other students in all schools or programs within a school that are operated, licensed, or funded by a public entity;

(E) attending the elementary school or secondary school that serves the child's school attendance area unless—

(i) the student has an individualized education program under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414) requiring placement in an alternative setting, in another public school in the same or another local educational agency, or in a private school;

(ii) it is in the child's best interest to enroll in a school of origin that is not the school that serves the child's school attendance area, based on the school selection decision for the child; or

(iii) the education decisionmaker consents to another appropriate school placement.

(6) TRANSPORTATION.—

(A) IN GENERAL.—A child in foster care shall be provided with free transportation to and from the child's school of origin or other school in which the child is enrolled, in accordance with this subsection, paragraphs (4)(H) and (5)(D) of subsection (b), and section 475(1)(G)(ii)(II) of the Social Security Act (42 U.S.C. 675(1)(G)(ii)(II)).

(B) CHILDREN WITH DISABILITIES.—In the case of a child in foster care that receives services under part A or C of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq., 1431 et seq.), nothing in this Act or section 475(G)(ii)(II) of the Social Security Act (42 U.S.C. 675(1)(G)(ii)(II)) shall relieve a local educational agency of the agency's responsibility to provide the child with transportation as part of such services.

(b) REQUIREMENTS OF EDUCATION SYSTEM FOR CHILDREN IN FOSTER CARE.—In order to provide each child in foster care with the rights described in subsection (a), each recipient State shall meet the following requirements:

(1) POLICY REVIEW AND REVISION.—

(A) IN GENERAL.—Not more than 120 days after the effective date of this Act, any State or local educational agency in the State that has a school attendance law or other law, regulation, practice, or policy that may prohibit enrollment in, or attendance at, a school of origin for a child in foster care or that may prohibit implementation of any other requirement of this title, shall undertake steps to revise such law, regulation, practice, or policy to ensure that children in foster care—

(i) are afforded the same free, appropriate public education as is provided to other children; and

(ii) receive the protections of this subtitle.

(B) NO DELAY.—Nothing in this subsection shall be construed to permit a State or local educational agency to delay implementation of this Act until such review and revision is completed.

(2) COORDINATOR.—

(A) IN GENERAL.—The State shall designate a coordinator within the State educational agency to be the lead staff member to implement this title.

(B) COLLABORATION.—The coordinator shall collaborate with representatives from the

State child welfare agency, the State's program supported under subtitle B of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), when appropriate, and with all other State and local agencies necessary to implement the requirements of this title and the provisions of parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq., 42 U.S.C. 670 et seq.) relating to the educational needs of children in foster care.

(C) SPECIAL RULE.—In the case of a State that receives a grant under section 111 in an amount that is more than the minimum allotment described in section 111(b)(1)(B), the coordinator under this paragraph for the State shall not be the same individual who is assigned the role of State Coordinator for purposes of the State's program supported under subtitle B of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432 et seq.).

(D) RESPONSIBILITIES.—The responsibilities of a coordinator described in subparagraph (A) shall include, at minimum—

(i) ensuring that the requirements of this title and clauses (ii)(II), (iii), and (iv) of section 475(1)(G) of the Social Security Act (42 U.S.C. 675(1)(G)) are carried out;

(ii) gathering and making public information on the problems children in foster care have in gaining access to public preschool programs and schools;

(iii) monitoring the progress of the State and local educational agencies in addressing any problems or difficulties in meeting the requirements of this title;

(iv) ensuring the success of the programs under this title;

(v) providing technical assistance to local educational agencies and local child welfare agencies on how to comply with this title;

(vi) collecting data related to the implementation of this title and the educational outcomes of children in foster care and reporting such information to the appropriate State officials and to the Secretary; and

(vii) ensuring effective implementation of a dispute resolution procedure, as described in paragraph (5), and a complaint management system, as described in paragraph (6).

(3) FOSTER CARE LIAISON.—

(A) IN GENERAL.—The State educational agency shall ensure that each local educational agency in the State designates a foster care liaison with sufficient capacity, resources, and time to fulfill the requirements of this title effectively.

(B) RESPONSIBILITIES.—The foster care liaison shall ensure, at minimum, that—

(i) each child in foster care served by the local educational agency is—

(I) identified for purposes of this title;

(II) enrolled in the appropriate public preschool program or elementary or secondary school, in accordance with any school selection decision made for the child; and

(iii) has a full and equal opportunity to succeed in the child's school program and receive educational services for which the child is eligible, including—

(aa) special education and related services and protections under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(bb) programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(cc) English as a Second Language programs, including programs under title III of such Act (20 U.S.C. 6801 et seq.); and

(dd) early childhood and preschool programs;

(ii) the parents and education decisionmaker of the child in foster care, and the child welfare agency representative, are informed of the opportunities available to the child under this title;

(iii) school personnel are adequately prepared to implement this title; and

(iv) the local educational agency serving the child works collaboratively with individuals designated by the local child welfare agency to ensure—

(I) that child welfare agency personnel are informed of the rights of children in foster care and responsibilities of the State and local agencies under this title;

(II) that a child in foster care in a school served by the local educational agency has school stability and is promptly enrolled in a school in accordance with any school selection decision made for the child;

(III) that the child is provided with special education evaluations and services, as needed, and if the child is a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), the arrangement for, and provision of, the transportation, records transfers, and special education and related services as required under such Act, including—

(aa) the timely conduct of evaluations as required by section 614(a) of such Act (20 U.S.C. 1414(a));

(bb) the prompt transmittal of records under section 614(d)(2)(C)(ii) of such Act (20 U.S.C. 1414(d)(2)(C)(ii)); and

(cc) when appropriate, the appointment of a surrogate parent for a child required under section 615(b)(2) or 639(a)(5) of such Act (20 U.S.C. 1415(b)(2), 1439(a)(5)); and

(IV) the appointment by the appropriate court of an education decisionmaker for the child for purposes of this title, as needed.

(4) SCHOOL SELECTION DECISION.—

(A) IN GENERAL.—Upon a request made in accordance with subparagraph (C), the appropriate entity described in subparagraph (B) shall make an individualized school selection decision on an expedited basis for a child in foster care regarding whether it is in the child's best interest to attend a school of origin or to be immediately enrolled in the appropriate school where the child resides.

(B) ENTITIES MAKING SCHOOL SELECTION DECISIONS.—The school selection decision shall be made by the local educational agency that serves the school of origin in which enrollment is sought for a child in foster care, unless the State determines the school selection decision shall be made solely by—

(i) the dependency court;

(ii) the State child welfare agency; or

(iii) the local child welfare agency.

(C) INITIATING A SCHOOL SELECTION DECISION.—

(i) IN GENERAL.—The local child welfare agency responsible for a child in foster care shall, after consultation with the child and with the education decisionmaker and parent of the child, initiate the school selection decision process under this paragraph if the agency believes that a child should remain or enroll in a school of origin.

(ii) TIMING.—A school selection decision may be requested for a child in foster care each time the child's placement is changed or a placement change for the child is proposed.

(iii) NOTIFICATION OF FOSTER CARE LIAISON.—The local child welfare agency shall notify the foster care liaison described in paragraph (3) for the local educational agency serving the school in which the agency wants the child to remain or enroll to initiate the school selection decision process.

(iv) EXCEPTION.—If the local child welfare agency has not initiated the school selection process, the child's education decisionmaker may do so by contacting the appropriate foster care liaison described in clause (iii).

(D) DEPENDENCY COURT DECISION.—Notwithstanding any other provision of this subsection, if the court with dependency jurisdiction over a child in foster care initiates or

makes a school selection decision for such child, or appoints another person to initiate or make a school selection decision, the court's determination shall be binding on all parties, the State educational agency, and the appropriate local educational agency.

(E) SOURCES OF INFORMATION; FACTORS.—

(i) SOURCES OF INFORMATION.—The entity making the school selection decision for a child in foster care shall consider information and factors provided by—

(I) the State child welfare agency, local child welfare agency, State educational agency, local educational agency, or other public agency; and

(II) individuals who have knowledge about the child's education, including the child and the parent, educational decisionmaker, foster parent, court representative, and teachers of the child.

(ii) INFORMATION AND FACTORS.—The information and factors described in clause (i) shall include—

(I) the harmful impact of school mobility on the child's academic progress, achievement, and social and emotional well-being;

(II) the age of the child;

(III) the impact the commute to school may have on the child's education or well-being;

(IV) personal safety issues, including safety as it relates to family violence;

(V) the child's need for special instruction, including special education and related services, and where those needs can best be met;

(VI) the length of stay in foster care, placement type, and permanency plan for the child;

(VII) the time remaining in the school year;

(VIII) the school placement of family members;

(IX) the number of previous school changes;

(X) the child's connection to the school of origin under consideration;

(XI) the extent to which the educational program of the school of origin is appropriate, meets the child's needs and interests, and nurtures the child's talents; and

(XII) the availability of special programs, academically rigorous courses, and extracurricular activities that are appropriate for the child.

(F) CONSIDERATIONS.—An entity making a school selection decision under this paragraph shall consider the wishes of the child.

(G) EXCLUDED FACTORS.—The cost of transportation to or from a school shall not be a consideration when making a school selection decision.

(H) TRANSPORTATION.—

(i) IN GENERAL.—The local educational agency serving the school of origin in which a child in foster care shall remain or enroll, based on the school selection decision for the child, shall collaborate with the local child welfare agency to ensure that the child is provided transportation to the school of origin in a cost effective manner and in accordance with section 475(1)(G)(ii)(II) of the Social Security Act (42 U.S.C. 675(1)(G)(ii)(II)).

(ii) COST OF TRANSPORTATION.—In carrying out clause (i), a local educational agency shall provide the transportation described in such clause for a child in foster care if—

(I) the local child welfare agency reimburses the local educational agency for the cost of such transportation, in accordance with section 475(1)(G)(ii)(II) of the Social Security Act (42 U.S.C. 675(1)(G)(ii)(II));

(II) the local educational agency agrees to pay for the cost of such transportation; or

(III) the local educational agency and the local child welfare agency agree to share the cost of such transportation.

(5) SCHOOL SELECTION DECISION DISPUTE RESOLUTION.—

(A) IN GENERAL.—The State educational agency, or another State agency designated by the State, shall develop and oversee a fair and impartial dispute resolution procedure to promptly resolve school selection decision disputes, except that such procedure shall not be applied to disputes regarding school selection decisions made by a court.

(B) COMPONENTS OF DISPUTE RESOLUTION.—The dispute resolution procedure described in subparagraph (A) shall include, at a minimum—

(i) a procedural safeguard system to resolve disputes and render prompt school selection decisions;

(ii) written notice of the school selection decision and basis for the decision to the—

(I) parent, education decisionmaker, and court representative of the child; and

(II) local child welfare agency serving the child;

(iii) a right to appeal a school selection decision, an impartial and prompt review of such decision, and a written determination of the administrative appeal; and

(iv) a right to initiate a dispute under this paragraph that is provided to—

(I) the parent, education decisionmaker, and court representative of the child; and

(II) a representative from the local child welfare agency or local educational agency serving the child.

(C) SCHOOL PLACEMENT DURING DISPUTE.—If a dispute arises over the school selection decision, the child shall remain in the child's current school until full resolution of the dispute, unless—

(i) the dependency court determines otherwise and selects a different school for the child; or

(ii) the State child welfare agency or local child welfare agency with responsibility for the child determines that the child's health or safety would be at risk if the child remained in such school prior to a determination made under subparagraph (A) and selects a different school for the child.

(D) TRANSPORTATION.—In the case of a dispute under this paragraph regarding a child in foster care, the local educational agency where the child is attending school pending the resolution of the dispute, as determined under subparagraph (C), shall collaborate with the local child welfare agency to ensure transportation is provided, as required under section 101(a)(6), for the child to such school, until the full resolution of the dispute in accordance with this paragraph.

(6) COMPLAINT MANAGEMENT SYSTEM.—Each State shall maintain a complaint management system by which individuals and organizations acting on behalf of a child in foster care can request that the State investigate and correct violations of this subtitle in a timely manner on behalf of a child in foster care or a group of children in foster care.

(7) SCHOOL READINESS FOR CHILDREN IN FOSTER CARE.—

(A) STATE AND LOCAL EDUCATIONAL AGENCIES.—Each State educational agency and local educational agency shall ensure that public preschool programs funded, administered, or overseen by such agency—

(i) provide preschool-aged children in foster care with the rights described in subsection (a), and comply with the requirements of this subsection with respect to such children, except that such programs shall not be required to enroll a child in foster care immediately in a public preschool program that is operating at full capacity when enrollment for the child is sought, unless otherwise required by State law;

(ii) identify and prioritize preschool-aged children in foster care for enrollment and increase such children's enrollment and attendance in the public preschool program, through activities such as—

(I) reserving spaces in public preschool programs for children in foster care;

(II) conducting targeted outreach to local child welfare agencies and foster care providers;

(III) waiving application deadlines;

(IV) providing ongoing professional development for staff regarding the needs of children in foster care and their families and strategies to serve such children and families; and

(V) developing capacity to serve all children in foster care in the area served by such agency; and

(iii) review the educational and related needs of children in foster care and their families in such agencies' service areas, in coordination with the State child welfare agency, the local child welfare agency, and the foster care liaison designated under paragraph (3), and develop policies and practices to meet identified needs.

(B) OTHER STATE AGENCIES.—In the case of public preschool programs that are not funded, administered, or overseen by the State educational agency or a local educational agency, the State agency that funds such public preschool programs shall—

(i) develop, review, and revise its policies and practices to remove barriers to the enrollment, attendance, retention, and success of children in foster care in public preschool programs funded, administered, or overseen by the agency;

(ii) provide preschool-aged children in foster care with the rights described in subsection (a), and comply with the requirements of this subsection with respect to such children, except that such programs—

(I) shall not be required to enroll a child in foster care immediately in a public preschool program that is operating at full capacity when enrollment is sought for the child, unless otherwise required by State law;

(II) shall not be subject to the dispute resolution procedures of the State educational agency or local educational agencies, but shall—

(aa) ensure that all of the dispute resolution procedures available through such programs and the State agency that funds, administers, or oversees such programs are accessible to the education decisionmaker, court representative of a child in foster care, and a representative from the local child welfare agency; and

(bb) provide such individuals with a written explanation of their dispute and appeal rights; and

(III) shall not be subject to the transportation requirements of paragraph (5)(D) and subsection (a)(6), but shall remove barriers to existing transportation services for children in foster care and shall, to the maximum extent practicable, arrange or provide transportation for children in foster care to attend public preschool programs, including the children's school of origin;

(iii) identify and prioritize children in foster care for enrollment and increase such children's enrollment and attendance in public preschool programs, including through activities described in subclauses (I) through (V) of subparagraph (A)(ii); and

(iv) review the educational and related needs of children in foster care and the children's families in the State, in coordination with the coordinator described in paragraph (2), and develop policies and practices to meet identified needs.

(C) SCHOOL OF ORIGIN.—For the purposes of applying this paragraph, a reference to a school shall be deemed to include a public preschool program.

(8) SHARING INFORMATION.—

(A) IN GENERAL.—The State educational agency and local educational agency shall

review and eliminate any barriers to information-sharing with State child welfare agencies and local child welfare agencies, while continuing to protect the privacy interests of children and families, as required by Federal or State law.

(B) IMMEDIATE AVAILABILITY.—To ensure a child in foster care's immediate enrollment in a new school (including a preschool program), all education records of the child shall be made available in accordance with subsection (a)(4). A school sending education records shall ensure that the records are as complete and accurate as possible.

(C) COMPLIANCE WITH FERPA.—Education records of a child in foster care shall be—

(i) maintained and provided to other schools in a manner consistent with section 444 of the General Education Provisions Act (commonly referred to as the "Family Educational Rights and Privacy Act of 1974") (20 U.S.C. 1232g); and

(ii) provided to the child welfare agency or other child welfare system advocates in a manner that complies with such section.

(D) EXPEDITED TRANSFER.—Each foster care liaison described in paragraph (3) and coordinator described in paragraph (2) within a State shall work to expedite the transfer of education records of children in foster care.

(9) TRANSFER OF CREDITS; DIPLOMA.—

(A) TRANSFER OF CREDITS.—The State shall have a system for ensuring that—

(i) a child in foster care who is changing schools can transfer school credits and receive partial credits for coursework satisfactorily completed while attending a prior school or educational program; and

(ii) a child in foster care is afforded opportunities to recover school credits lost due to placement instability while in foster care.

(B) ELIMINATING BARRIERS.—The State shall undertake steps to eliminate barriers to allowing a child in foster care who has experienced multiple school placements to receive a secondary school diploma either from one of the school districts in which the student was enrolled or through a State-issued secondary school diploma system.

(10) EQUAL ACCESS.—

(A) IN GENERAL.—The State and each local educational agency of the State shall take steps to eliminate barriers to access for children in foster care to academic, nonacademic, or extracurricular programs that are created by application or entrance deadlines and other admissions requirements that children in foster care cannot meet because of frequent school changes.

(B) NO FORCED PRIVATE PLACEMENT.—The State shall ensure that each group home or placement facility in the State in which a child in foster care may be placed does not explicitly or implicitly condition such placement on attendance at a private school owned or operated by an agency associated with the facility.

(C) NO SCHOOL SEGREGATION.—The State shall ensure that a child in foster care, including a child residing in a group home or placement facility—

(i) shall not be educated in a segregated setting due to the child's status as a child in foster care; and

(ii) shall have access to—

(I) a public elementary school or secondary school; or

(II) in the case of a child with an individualized education program under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414), an alternative setting, if required under such plan.

(11) COLLABORATION IN DEVELOPING CHILD-SPECIFIC CASE PLANS.—

(A) IN GENERAL.—Each local educational agency of the State shall collaborate, at the local child welfare agency's request, with the local child welfare agency with respect to

the following to ensure that educational issues for children in foster care are appropriately identified and addressed:

(i) The development of the following components of the case plan required for children in foster care:

(I) The written description of the programs and services which will help the child prepare for the transition from foster care to independent living required under subparagraph (D) of section 475(1) of the Social Security Act (42 U.S.C. 675(1)).

(II) The plan for ensuring the educational stability of the child while in foster care required under subparagraph (G) of section 475(1) of the Social Security Act (42 U.S.C. 675(1)).

(iii) The requirement under subparagraph (H) of section 475(5) of the Social Security Act (42 U.S.C. 675(5)) to provide a child in foster care with assistance and support in developing a transition plan for aging out of foster care to independent living.

(iii) The programs and activities, including vouchers for education and training, including postsecondary training and education, for youths who have aged out of foster care, carried out under the John H. Chafee Foster Care Independence Program established under section 477 of the Social Security Act (42 U.S.C. 677).

(iv) All other child welfare agency-based planning that relate to educational issues for a child in foster care or a child transitioning out of foster care to independent living.

(B) CONTENTS.—The local child welfare agency shall specify in the case plan required for children in foster care under parts B and E of title IV of the Social Security Act the local educational agency's role in providing guidance, information, and support to implement the education-related provisions of the plan.

(C) LOCAL EDUCATIONAL AGENCY ROLE.—Each local educational agency of the State shall—

(i) cooperate with the implementation of programs, activities, services, and vouchers described in subparagraph (A); and

(ii) ensure that such programs, activities, services, and vouchers are coordinated with any education plans developed by the local educational agency, including, when appropriate, any plan for transition services for a child in foster care that is included in the child's individualized education program, as required under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)).

(12) COLLECTING INFORMATION.—

(A) IN GENERAL.—The State shall collect valid and reliable information as needed to report annually to the Secretary on the State's progress in meeting the requirements of this title. Such report shall include, at a minimum—

(i) the number of children in foster care enrolled in school and in public preschool programs;

(ii) the number of such children who remained in the child's school of origin;

(iii) the number of such children who experienced enrollment delays;

(iv) State assessment scores disaggregated for children in foster care;

(v) secondary school graduation rates, including on-time graduation rates, for such children;

(vi) the number of such children who repeated grades; and

(vii) the number of such children who—

(I) are eligible for special education and related services; or

(II) receive services under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(B) INFORMATION SHARING.—The State educational agency and local educational agen-

cies shall collaborate with the State child welfare agency and local child welfare agencies to collect and share necessary information in order to generate such reports.

(c) COLLABORATION.—To carry out this section, each State educational agency and the local educational agencies of a recipient State shall collaborate with the State child welfare agency and local child welfare agencies of such State.

#### SEC. 102. REMEDIES; RULE OF CONSTRUCTION.

(a) JUDICIAL REMEDIES.—

(1) IN GENERAL.—Any party aggrieved by a finding or decision made under paragraph (5) or (6) of section 101(b), or who otherwise claims that a right provided under this Act has been violated, may bring a civil action in an appropriate district court of the United States.

(2) JURISDICTION.—The district courts of the United States shall have jurisdiction of actions brought under this title without regard to the amount in controversy.

(3) ATTORNEY'S FEES.—In any action or proceeding brought under paragraph (1), the court, in its discretion, may award reasonable attorney's fees and expert witness fees as part of costs to a prevailing party who is acting on behalf of a child in foster care.

(4) STATE SOVEREIGN IMMUNITY.—

(A) IN GENERAL.—A recipient State's receipt or use of funds under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a civil action brought under paragraph (1).

(B) EFFECTIVE DATE.—This paragraph shall apply with respect to violations that occur in whole or in part after the effective date of this Act.

(C) REMEDIES.—In a civil action against a State for a violation of this paragraph, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the civil action against any public entity other than a State.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under—

(1) the Constitution;

(2) the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11461 et seq.);

(3) the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-315), or the amendments made by such Act;

(4) section 444 of the General Education Provisions Act (commonly referred to as the "Family Educational Rights and Privacy Act of 1974") (20 U.S.C. 1232g);

(5) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); or

(6) any other Federal or State law protecting the rights of children in foster care.

#### SEC. 103. CONFORMING AMENDMENTS.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111 (20 U.S.C. 6311)—

(A) in subsection (b)(2), by adding after subparagraph (K) the following:

“(L) ACCOUNTABILITY FOR CHILDREN IN FOSTER CARE.—The accountability provisions under this Act shall ensure that children in foster care, as defined in section 4 of the Fostering Success in Education Act, are included in academic assessment, reporting, and accountability systems, in accordance with paragraph (3)(C)(xi).”;

(B) in subsection (c)—

(i) in paragraph (13), by striking “and” at the end;

(ii) in paragraph (14), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(15) the State and State educational agency will ensure that the requirements of section 101 of the Fostering Success in Education Act will be satisfied.”; and

(2) in section 1112(c)(1) (20 U.S.C. 6312(c)(1))—

(A) in subparagraph (N), by striking “and” at the end;

(B) in subparagraph (O), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(P) comply with the requirements of section 101 of the Fostering Success in Education Act that relate to the local educational agency.”.

**Subtitle B—State Foster Care and Education Plan Grants**

**SEC. 111. STATE FOSTER CARE AND EDUCATION PLAN REQUIREMENTS AND GRANTS.**

(a) **GENERAL AUTHORITY.**—From amounts appropriated to carry out this subtitle and not reserved under subsection (b)(2), the Secretary shall make grants to States, from allotments under subsection (b)(1), to enable the States to carry out activities, and award subgrants, in accordance with subsection (d).

(b) **ALLOTMENTS AND RESERVATION.**—

(1) **ALLOTMENTS.**—

(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C), the Secretary is authorized to make an allotment to each State with an approved State foster care and education plan under subsection (c) for a fiscal year in an amount that bears the same relation to the total amount available under this paragraph for a fiscal year as the number of children in foster care who reside in the State bears to the total number of children in foster care who reside in all States with approved State foster care and education plans.

(B) **MINIMUM ALLOTMENTS.**—The amount of a State's allotment under this paragraph for a fiscal year shall not be less than \$300,000.

(C) **RATABLE REDUCTIONS.**—In the case of a fiscal year for which the amounts available to carry out this subtitle are not sufficient to award grants to States in the amounts described in subparagraphs (A) and (B), the Secretary shall ratably reduce the amount of all such grants.

(2) **RESERVATIONS.**—

(A) **RESERVATION FOR TECHNICAL ASSISTANCE AND EVALUATION.**—Of the funds made available to carry out this section, the Secretary shall reserve 1 percent of such funds to provide—

(i) technical assistance to States that receive grants under this subtitle; and

(ii) rigorous evaluation of the activities funded with grants under this subtitle in accordance with section 113.

(B) **STUDENTS IN TERRITORIES.**—Of the funds made available to carry out this section, the Secretary shall reserve 0.10 percent of such funds to be allocated among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

(C) **INDIAN STUDENTS.**—Of the funds made available to carry out this section, the Secretary shall reserve 1.0 percent to provide assistance to the Secretary of the Interior for programs that are for Indian children in foster care who are served by schools funded by the Department of Interior and that are consistent with the purposes of the activities described in this subtitle.

(c) **STATE FOSTER CARE AND EDUCATION PLAN.**—

(1) **ELIGIBILITY REQUIREMENT.**—No State shall receive a grant under this subtitle unless the State educational agency has submitted to the Secretary, and the Secretary has approved under section 113(a)(1), a State

foster care and education plan (referred to in this section as the “plan”) that—

(A) includes the information described in paragraph (3); and

(B) describes the specific responsibilities and procedures undertaken by each applicable agency of the State to meet the requirements of subsections (e) and (f) and subtitle A.

(2) **APPROVAL, REVIEW, AND RESUBMISSION.**—

(A) **DEVELOPMENT AND APPROVAL.**—The plan for a State shall be—

(i) developed by the State educational agency, in collaboration with the State child welfare agency; and

(ii) approved by the chief executive officer of the State before submission to the Secretary.

(B) **ANNUAL REVIEW.**—Each State receiving a grant under this subtitle shall review the plan annually, in collaboration with the State child welfare agency and the State educational agency, to determine the State's compliance with the plan, including a review of the—

(i) information collected under section 101(b)(12); and

(ii) the State's progress in eliminating barriers identified under paragraph (3)(B).

(C) **RESUBMISSION.**—Each State receiving a grant under this subtitle shall resubmit the plan, with amendments as necessary, after collaboration with the State child welfare agency and approval by the chief State official in charge of the State's child welfare system, every 3 years for review and approval by the Secretary.

(3) **PLAN CONTENTS.**—The plan shall address how each right and requirement under section 101 will be achieved, including—

(A) the method by which the State will monitor local educational agencies and other local agencies with responsibility under this title to ensure compliance with this title;

(B) an analysis of the State and local barriers to meeting the requirements of this title, including the barriers described in paragraphs (8), (9)(B), and (10) of section 101(b), and specific steps taken to eliminate those barriers;

(C) a description of, and protocol for, how State foster care coordinators described in section 101(b)(2) and foster care liaisons described in section 101(b)(3) will work collaboratively with State child welfare agencies and local child welfare agencies to implement the provisions of this title;

(D) detailed procedures for making the school selection decisions for children in foster care in the State in accordance with section 101(b)(4);

(E) clear procedures regarding how transportation to maintain each child in foster care in the appropriate school will be provided, arranged, and funded;

(F) an explanation of how the State will—

(i) ensure transfers of school credits and partial credits for children in foster care who experience multiple school moves; and

(ii) eliminate barriers to allowing such children to obtain secondary school diplomas as required under section 101(b)(4);

(G) an explanation of how the State will put in place a procedural safeguard system that meets the requirements of section 101(b) and protects the rights of children in foster care, as described in section 101(a), and how such system will—

(i) operate;

(ii) resolve disputes about school stability, immediate enrollment, and eligibility for services under the title;

(iii) provide notice to children in foster care, and the parents, educational decision makers, and court representatives, of the rights of children under section 101(a) and the processes for obtaining a school selection

decision for the child and for resolving disputes under section 101(b); and

(iv) protect the child's rights under section 101(a) during the resolution of any disputes;

(H) a description of how the State has involved, and will continue to involve, individuals representing all critical stakeholders involved with children in foster care, including children in foster care, parents, education decisionmakers, foster parents and other caretakers, caseworkers, court representatives, and judges, in the development of the plan and when making decisions about policies and procedures to implement this title;

(I) a description of how training needs relating to children in foster care will be identified and addressed for—

(i) critical stakeholders in the State educational agency, local educational agencies, the State child welfare agency, and local child welfare agencies; and

(ii) other necessary parties involved with children in foster care;

(J) a description of how local educational agencies in the State, in collaboration with local child welfare agencies, will meet the requirements of subsection (f), section 101(b)(1), and other provisions in this title relating to local educational agencies;

(K) a description of services or policies needed for children in foster care to meet the same challenging student academic achievement standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)) to which other children are held, and a description of the steps that will be taken to create and implement those services or policies;

(L) a description of all efforts to promote efficient record maintenance and sharing to further the purposes of this title while protecting confidentiality rights under section 444 of the General Education Provisions Act (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”) (20 U.S.C. 1232g) and other laws;

(M) a description of how immediate enrollment for children in foster care, as required under section 101(a)(3), will be achieved, including how any record requirements in effect as of the date of the plan will be addressed so as to not delay enrollment;

(N) a description of the system that will ensure the timely transfer of education and health records of children in foster care and an explanation of how any delay in such transfer will not interfere with immediate enrollment; and

(O) procedures for periodically monitoring local educational agency compliance with the requirements of this title and for maintaining a complaint management system as required under section 101(b)(12).

(d) **USE OF FUNDS.**—A State receiving an allotment under this subtitle shall use—

(1) not more than 25 percent of the State's allotment to carry out the State plan under subsection (c), meet the requirements under subsections (e) and (f), and carry out activities, directly or through grants or contracts, to further the purposes of this title; and

(2) not less than 75 percent of the State's allotment to award subgrants under section 112.

(e) **STATE REQUIREMENTS.**—

(1) **STATE EDUCATIONAL AGENCY ROLE.**—

(A) **IN GENERAL.**—The State educational agency of a State receiving a grant under this subtitle shall be responsible for—

(i) the general administration and supervision of programs and activities receiving funds under this subtitle, including the activities described in paragraph (2) and subgrants awarded under section 112;

(ii) monitoring programs and activities used by the State to carry out this title, whether or not such programs or activities

are receiving assistance under this subtitle; and

(ii) ensuring that the State is in compliance with the requirements under this title.

(B) COLLABORATION.—A State educational agency shall collaborate with the State child welfare agency in carrying out the responsibilities under this paragraph.

(2) ACTIVITIES.—Each State receiving a grant under this subtitle shall carry out the following activities:

(A) STAKEHOLDER COUNCIL.—

(i) IN GENERAL.—The State educational agency shall establish a Stakeholder Council (referred to in this paragraph as the “Council”) that meets publicly on not less than a semiannual basis.

(ii) MEMBERSHIP.—The members of the Council shall include, at a minimum—

(I) a designee from the State educational agency;

(II) a designee from the State child welfare agency; and

(III) individuals representing local educational agencies, local child welfare agencies, juvenile courts, court representatives, court appointed special advocates, children in foster care, foster parents, and parents.

(iii) DUTIES.—The Council shall—

(I) review the State’s policies, practices, data, and other information regarding the implementation of this title;

(II) review and advise the State on the plan before the plan’s submission or resubmission;

(III) make recommendations regarding procedures and policies for implementing this title;

(IV) assess progress towards eliminating identified barriers to compliance that are described in subsection (c)(3)(B);

(V) prepare and submit an annual report to the State educational agency, the State child welfare agency, any other applicable State agency, and the Secretary on the status of implementation efforts, including an analysis of data collected; and

(VI) make recommendations regarding the next steps the State should take regarding implementation and submit such recommendations to the Secretary with each plan resubmission under subsection (c)(2)(C).

(B) MONITORING.—The State educational agency, in collaboration with the State child welfare agency, shall periodically monitor local educational agencies and other local agencies with responsibilities under this title to ensure compliance.

(f) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—Each local educational agency in a State receiving a grant under this subtitle shall meet the following requirements:

(1) IN GENERAL.—The local educational agency shall ensure, in coordination with the corresponding local child welfare agency, that children in foster care in the school district served by the local educational agency receive all of the rights described in section 101(a) by carrying out, at a minimum, all of the following:

(A) Ensuring that each child in foster care in the school district served by the local educational agency remains in a school of origin or is immediately enrolled in a new school, in accordance with the child’s best interest as required under section 101(a).

(B) Documenting that written notice has been provided to the parent, education decisionmaker, and court representative of the child and the local child welfare agency representative responsible for the child with regard to any decisions made by the local educational agency regarding the rights under this title of a child in foster care, including—

(i) an explanation of the basis for the decision;

(ii) the right to appeal the decision; and

(iii) the right of the child to remain in the child’s current school while a dispute is pending.

(C) Ensuring compliance with this title by all schools served by the local educational agency.

(D) Identifying and removing any barriers that exist in schools served by the local educational agency, including—

(i) barriers identified in the plan under subsection (b)(3)(B);

(ii) barriers to remaining or enrolling in a school of origin, or to enrolling promptly in a new school for a child in foster care if such enrollment is in the child’s best interest; or

(iii) other barriers impeding the rights of a child in foster care under this title.

(E) Ensuring that the schools served by the local educational agency promptly transfer the school credits and partial school credits of children in foster care, and provide children in foster care with access to credit recovery programs or services.

#### SEC. 112. SUBGRANTS.

(a) IN GENERAL.—The State educational agency shall, in accordance with section 111(b)(2), award subgrants, on a competitive basis, to public agencies, including local educational agencies and local child welfare agencies, or partnerships comprised of public agencies, to carry out the requirements of this title or clause (ii)(II), (iii), or (iv) of section 475(1)(G) of the Social Security Act (42 U.S.C. 675(1)(G)).

(b) APPLICATION.—A public agency, or a partnership of public agencies, desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

(c) AWARD BASIS.—

(1) IN GENERAL.—The State educational agency shall award subgrants under this section based on—

(A) the established need for attention to the education of children in foster care in the area served by the public agency or partnership of public agencies; and

(B) the quality of activities proposed to address such need by the agency or partnership in the application described in subsection (b).

(2) PRIORITY.—In awarding subgrants under this section, the State educational agency shall give priority to the following applicants:

(A) Local child welfare agencies that have entered into agreements with local educational agencies to share responsibilities for providing, arranging, and paying for the transportation of children in foster care to the children’s school of origin in a cost-effective manner.

(B) Local educational agencies that have entered into such agreements with local child welfare agencies.

(C) Partnerships that—

(i) include not less than 1 local child welfare agency and not less than 1 local educational agency; and

(ii) have entered into such agreements.

(d) USE OF FUNDS.—A public agency, or a partnership of public agencies, receiving a subgrant under this section shall use subgrant funds to assist the State educational agency providing the subgrant in meeting the State’s responsibilities under this title or clause (ii)(II), (iii), or (iv) of section 475(1)(G) of the Social Security Act (42 U.S.C. 675(1)(G)), which assistance may include—

(1) funding of foster care liaison positions, as described in section 101(b)(3), at the local educational agency;

(2) coordinating activities that support the purposes of this title between local edu-

cational agencies, local child welfare agencies, and other relevant agencies;

(3) expenditures for transportation costs;

(4) tutoring or other educational support services specifically targeted to children in foster care;

(5) expediting special education evaluations for children in foster care;

(6) pupil activities and services needed to promote school and preschool success for children in foster care;

(7) training for the staff of the State educational agency, the local educational agencies, the State child welfare agency, and the local child welfare agencies, and for children in foster care, such children’s families, and others involved with children in foster care, about—

(A) the unique educational needs of children in foster care;

(B) the benefits afforded under this title; and

(C) other issues that further the purposes of this title; and

(8) assisting in funding State-level education coordinators in the State child welfare agency and local education liaisons within the local child welfare agency to be specific points of contact on education issues.

#### SEC. 113. RESPONSIBILITIES OF THE SECRETARY.

(a) REVIEW OF STATE PLANS.—

(1) IN GENERAL.—The Secretary of Education, in collaboration with the Secretary of Health and Human Services, shall review the plan submitted or resubmitted by a State under section 111(c). If the plan meets the requirements of section 111 and is reasonably calculated to ensure that all children in foster care in the State receive all rights, benefits, and protections required by this title, the Secretary shall approve the plan.

(2) DISAPPROVAL.—

(A) IN GENERAL.—If a plan does not meet the requirements described in paragraph (1), the Secretary shall disapprove the plan and provide the State educational agency with specific findings as to what needs to be corrected for approval.

(B) REVIEW PROCESS.—The Secretary shall promulgate regulations establishing a system by which States whose plans are disapproved can appeal such disapproval.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide—

(1) training, support, and technical assistance to a State educational agency receiving a grant to assist the State educational agency in carrying out its responsibilities under this title; and

(2) training, support, and technical assistance to a State that has had the State’s plan described in section 111 disapproved.

(c) SUBMISSION AND DISTRIBUTION.—The Secretary shall—

(1) require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants; and

(2) award such grants not later than the expiration of the 120-day period beginning on such date.

(d) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under this subtitle and under section 101(b)(11), shall determine the extent to which State educational agencies are ensuring that each child in foster care has access to a free, appropriate public education.

(e) INFORMATION.—

(1) COORDINATION; ENFORCEMENT.—The Secretary shall coordinate and enforce the information collection requirements under this subtitle and section 101(b)(12).

(2) DATA COLLECTION AND DISSEMINATION.—The Secretary shall—

(A) directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding the education of children in foster care; and

(B) require each State receiving a grant under this subtitle to annually provide—

(i) the information described in section 101(b)(12)(A); and

(ii) such other data and information as the Secretary determines to be necessary and relevant to carry out this subtitle.

(f) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities regarding programs designed to meet the educational needs of elementary and secondary school students who are children in foster care.

(g) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate a report on the status of the education of children in foster care, which shall include information on—

(1) the educational outcomes of children in foster care; and

(2) the actions of the Secretary and the effectiveness of the programs supported under this title.

#### SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the subtitle, \$150,000,000 for each of the fiscal years 2011 through 2015.

### TITLE II—SOCIAL SECURITY ACT AMENDMENTS

#### SEC. 201. SOCIAL SECURITY ACT AMENDMENTS.

(a) EDUCATIONAL STABILITY FOR FOSTER CARE CHILDREN.—Section 475(1)(G) of the Social Security Act (42 U.S.C. 675(1)(G)) is amended—

(1) in clause (ii)—

(A) by striking “or” at the end of subclause (I) and inserting “and”; and

(B) by striking subclause (II), and inserting the following:

“(II) assurances that the State agency has coordinated with the appropriate local educational agency to ensure that the child remains in the school in which the child is enrolled at the time of placement including, when necessary, the State agency arranging for, providing, or paying the cost of the transportation necessary to enable the child to remain in the school.”; and

(2) by adding at the end the following:

“(iii) assurances by the State agency and the local educational agencies, if remaining in such school is not in the best interests of the child, to provide immediate and appropriate enrollment in a new school, with all of the educational records provided to the school; and

“(iv) assurances by the State agency and local child welfare agencies that steps have been undertaken to collaborate with the State and local educational agencies to eliminate barriers to the educational stability, school enrollment, and educational success of the child.”.

(b) STATE PLAN REQUIREMENT.—Section 471 of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) in paragraph (32), by striking “and” after the semicolon;

(2) in paragraph (33), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(34) provides that the State agency and local child welfare agencies will collaborate with the State and local educational agencies to collect the data and other information necessary to monitor implementation of the requirements of clauses (ii)(II), (iii), and (iv) of subparagraph (G) of section 475(1) and the provisions of section 101 of the Fostering Success in Education Act; and

“(35) provides that the State agency and local child welfare agencies have identified staff within the agencies to be the point people with the State and local educational agencies related to educational issues, including the implementation of the requirements of clauses (ii)(II), (iii), and (iv) of subparagraph (G) of section 475(1), as well as to coordinate with educational agency liaisons and coordinators to implement the provisions of section 101 of the Fostering Success in Education Act.”.

By Mr. SPECTER:

S. 2805. A bill to amend the Food and Nutrition Act of 2008 to increase the amount made available to purchase commodities for the emergency food assistance program in fiscal year 2010; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I seek recognition to introduce legislation to deal with the pressing problem of hunger in the United States. The report of the Economic Research Service of the Department of Agriculture on Monday, November 16—3 days ago—disclosed some startling facts about hunger in America. The report showed there are 49 million Americans who experienced hunger last year. Among that number, 17 million were children, and 500,000 of those children were under the age of 6, which is a critical stage in childhood development.

The hunger problem hit disproportionately higher for Hispanics at 27 percent higher and African Americans at 26 percent higher. It is hard to find a sufficiently tough word to describe it—scandalous, outrageous, criminal, repugnant—that in this land of plenty, we should find Americans who are hungry. It is unacceptable to have people hungry anywhere in the world, but right here in our own backyard for this situation to exist is beyond the pale.

Having read the article on the 16th, I contacted the Secretary of Agriculture, Tom Vilsack, discussed the issue with him, and I am now introducing legislation which will add \$250 million to the food banks to try to deal with this issue on an emergency basis. It would be my hope that this is the kind of legislation which could be passed very promptly—hopefully, before Christmas of this year during our current session—to take some immediate action to replenish the food banks so people in America are not hungry.

Mr. President, I ask unanimous consent that my full statement be printed in the RECORD.

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

#### SENATOR ARLEN SPECTER—STATEMENT ON THE INTRODUCTION OF LEGISLATION PROVIDING FOR EMERGENCY FOOD RELIEF

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation addressing our nation's hunger crisis. The United States Department of Agriculture just released its annual report on Household Food Security in the United States. This report finds that 49 million Americans, 17 million of whom are children, experienced food insecurity and hunger in 2008. Poverty is the underlying cause of this problem. While job creation policies to lift these Americans out of poverty are being implemented, Congress must provide immediate relief so that they have access to the nutrition necessary to live a healthful and productive life.

The USDA report contains alarming data on the struggles faced by too many American families. In 2008, 17 million households reported being food insecure, that is to say they lacked access to enough food for an active and healthy life. This is an increase from 13 million households in 2007. In my state of Pennsylvania, 11.2 percent of our 4,970,000 households reported being food insecure, and 4.2 percent reported very low food security, meaning they were unable to eat at various times over the year.

Of these 49 million Americans who reported hunger, 12 million adults and 5.2 million children reported periods of extreme hunger, possibly going days without eating. The data shows that black and Hispanic households experienced food insecurity at rates far higher than the national average at 26 percent and 27 percent respectively.

Among the 17 million children, nearly half a million under the age of 6 were hungry. This is a critical stage of childhood development that is being undermined by a lack of access to proper nutrition, which is necessary for learning and academic achievement.

Fortunately, Congress has taken steps to address this important issue, appropriating for fiscal year 2010 \$9.2 billion for the School Lunch Program and \$171 million for the Commodity Supplemental Food Program which provides nutrition assistance to mothers, children and the elderly. The economic stimulus package contained more than \$20 billion for nutrition assistance. Yet, this USDA study shows us that more is needed.

That is why I am introducing legislation to double spending on The Emergency Food Assistance Program, or TEFAP, from \$250 to \$500 million annually. Through TEFAP, the USDA makes commodity and food purchases and then distributes nutrition assistance to states based on need. The numbers show us there is great need.

According to Feeding America, which operates 205 food banks nationwide and 10 in the Commonwealth of Pennsylvania, 99 percent of their food banks experienced an increase in demand during the month of September 2009 and 91 percent of food banks reported unemployment as a critical factor driving the increase in emergency food assistance. Unfortunately 51 percent of these food banks had to turn someone away in the last year. By doubling TEFAP spending, Congress would significantly increase the amount of food being delivered to local food banks, ensuring that less Americans go hungry.

According to the Department of Agriculture, nearly 27 percent of the 356 billion pounds of available food in America is wasted each year. That is nearly 100 billion pounds of waste, when according the charity Feeding America only 5 billion pounds of food is needed to eliminate hunger. In a country with such a food abundance, it is criminal that children to go to bed hungry. Our country has a developed network of food assistance providers in place. Government agencies, community food banks, food pantries, soup kitchens, shelters and churches all stand ready to address the challenge of combating hunger. Let us provide them the resources they need. The legislation I am introducing today will do that and will stem the tide of hunger.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2805

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

#### SECTION 1. FINDINGS.

Congress finds that—

(1) more than 1 in 7 households in the United States struggled to find enough to eat during 2008;

(2) poverty is the primary cause of food insecurity and hunger in the United States;

(3) the annual report of the Economic Research Service of the Department of Agriculture on household food security in the United States found that in 2008, 17,000,000 households were food insecure, an increase from 13,000,000 households in 2007;

(4) the term “low food security” means people being unable to consistently get enough to eat and the term “very low food security” means people being hungry at various times over the year and being unable to eat because of lack of money to purchase food;

(5) the 17,000,000 food insecure households in the United States are home to 49,000,000 Americans, of whom—

(A) 17,000,000 are children, among whom nearly 500,000 in the developmentally critical years under the age of 6 are going hungry; and

(B) 12,000,000 adults and 5,200,000 children reported experiencing severe hunger, possibly going days without eating;

(6) good nutrition is necessary for learning and academic achievement; and

(7) Black and Hispanic households experienced food insecurity at far higher rates (25.7 percent in the case of Black households and 26.9 percent in the case of Hispanic households) than the national average.

#### SEC. 2. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

Section 27(a)(2) of the Food and Nutrition Act of 2009 (7 U.S.C. 2036(a)(2)) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) by redesignating subparagraph (C) as subparagraph (E);

(3) in subparagraph (E) (as so redesignated)—

(A) by striking “each of fiscal years 2010 through 2012” and inserting “fiscal year 2012”; and

(B) by striking “subparagraph (B)” and inserting “subparagraph (D)”; and

(4) by inserting after subparagraph (B) the following:

“(C) for fiscal year 2010, \$500,000,000;

“(D) for fiscal year 2011, \$250,000,000, as added in accordance with subparagraph (E); and”.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 355—EX- PRESSING THE SENSE OF THE SENATE THAT THE GOVERN- MENT OF THE ISLAMIC REPUB- LIC OF IRAN HAS SYSTEMATI- CALLY VIOLATED ITS OBLIGA- TIONS TO UPHOLD HUMAN RIGHTS PROVIDED FOR UNDER ITS CONSTITUTION AND INTER- NATIONAL LAW

Mr. LEVIN (for himself, Mr. McCAIN, Mr. CASEY, Mr. GRAHAM, Mr. LIEBERMAN, Mr. CORKER, and Mr. NELSON of Florida) submitted the following resolution; which was considered and agreed to:

S. RES. 355

Whereas the 1979 Constitution of the Islamic Republic of Iran supposedly guarantees certain human rights and fundamental freedoms, which encompass civil and political rights, along with economic, social, and cultural rights;

Whereas the Islamic Republic of Iran is a party to four major United Nations human rights treaties: the Convention on the Rights of the Child (which it ratified on July 13, 1994), the International Convention on the Elimination of All Forms of Racial Discrimination (which it ratified on August 29, 1968), and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both of which its ratified on June 24, 1975);

Whereas the Government of Iran has routinely violated the human rights of its citizens, including—

(1) torture and cruel, inhuman, or degrading treatment or punishment, including flogging, and amputations;

(2) high incidence and increase in the rate of executions carried out in the absence of internationally recognized safeguards, including public executions and executions of juvenile offenders;

(3) stoning as a method of execution and persons in prison who continue to face sentences of execution by stoning;

(4) arrests, violent repression, and sentencing of women exercising their right to peaceful assembly, a campaign of intimidation against women’s rights defenders, and continuing discrimination against women and girls;

(5) increasing discrimination and other human rights violations against persons belonging to religious, ethnic, linguistic, or other minorities;

(6) ongoing, systematic, and serious restrictions of freedom of peaceful assembly and association and freedom of opinion and expression, including the continuing closures of media outlets, arrests of journalists, and the censorship of expression in online forums such as blogs and websites; and

(7) severe limitations and restrictions on freedom of religion and belief, including arbitrary arrest, indefinite detention, and lengthy jail sentences for those exercising their right to freedom of religion or belief, including a provision in the proposed draft penal code that sets out a mandatory death sentence for apostasy, the abandoning of one’s faith;

Whereas, since March 9, 2007, Robert Levinson, a United States citizen, has been missing in the Islamic Republic of Iran, and the Government of Iran has provided little information on his whereabouts or assistance in ensuring his safe return to the United States;

Whereas Ja’far Kiani was publicly stoned to death in July 2007 in the Islamic Republic of Iran in contravention of an order from the Head of the Judiciary granting a temporary stay of execution;

Whereas, since May 2008, Reza Taghavi, a 71-year old Iranian-American, has been imprisoned without a trial or formal charges;

Whereas, on October 15, 2008, authorities in the Islamic Republic of Iran jailed Esha Momeni, a graduate student at California State University, Northridge, for her peaceful activities in connection with the women’s rights movement in the Islamic Republic of Iran, and refused to grant her permission to leave Iran for 10 months following her release from prison in November 2008;

Whereas Iranian-American journalist Roxana Saberi was jailed in January 2009 and sentenced in a closed-door, one-hour trial to eight years in prison for charges of espionage before her release in May 2009;

Whereas, on June 19, 2009, the United Nations High Commissioner for Human Rights expressed concerns about the increasing number of illegal arrests not in conformity with the law and the illegal use of excessive force in responding to protests following the June 12, 2009, elections, resulting in at least dozens of deaths and hundreds of injuries;

Whereas the Government of Iran closed the Center for Defenders of Human Rights, headed by Nobel Peace prize winner Shirin Ebadi, in December 2008, and the Association of Iranian Journalists in August 2009, the country’s largest independent association for journalists;

Whereas, on August 1, 2009, authorities in the Islamic Republic of Iran began a mass trial of over 100 individuals in connection with election protests, most of whom were held incommunicado for weeks, in solitary confinement, with little or no access to their lawyers and families, many of whom showed signs of torture and drugging;

Whereas, in early October 2009, the judiciary of the Islamic Republic of Iran sentenced four individuals to death after the disputed presidential election, without providing the individuals adequate access to legal representation during their trials;

Whereas the Supreme Leader of Iran, Ali Khamenei, issued a statement on October 28, 2009, effectively criminalizing dissent regarding the national election in the Islamic Republic of Iran this past June, further restricting the right to freedom of expression;

Whereas the Government of Iran does not allow independent nongovernmental associations and labor unions to perform their role in peacefully defending the rights of all persons;

Whereas, on November 4, 2009, security forces in the Islamic Republic of Iran used brutal force to disperse thousands of protesters, resulting in a number of injuries and arrests, in violation of international standards regarding the proportionate use of force against peaceful demonstrations;

Whereas the Government of Iran expelled students from universities, particularly over the past two years, in reprisal for their being critical of the government;

Whereas the Government of Iran has imposed restrictions on the travel of individuals, including artists and filmmakers since the recent elections, in reprisal for their political views or their criticism of the government, such as those presently imposed on human rights lawyer Abdolfattah Soltani,