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### The Role of the Federal Government in Education – Supporting a National Desire for Support for State and Local Education

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**THE ROLE OF THE FEDERAL GOVERNMENT IN EDUCATION –  
SUPPORTING A NATIONAL DESIRE FOR SUPPORT FOR STATE  
AND LOCAL EDUCATION**

BY RICHARD W. RILEY\*

INTRODUCTION

Throughout the history of this nation, education – what Aristotle called “the best provision for old age” and Plutarch “the very spring and root of honesty and virtue” — has played a central role in America’s development and prosperity and has been at the core of our system of values and morals. The individual benefits are clear: people with more education tend to live more productive lives than those with less education.<sup>1</sup> Beyond that, education –

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\* U.S. Secretary of Education, 1993-present. governor, South Carolina 1979-1987. The author would like to thank Alexander Wohl for his research and analysis and Terry Peterson, David Frank, Leslie Thornton, Judith Winston, Jamiene Studley, Theodore Sky and Steve Sniegoski for their helpful comments and suggestions.

1. Education contributes directly to an increase in prosperity and civic participation, and a decrease in welfare and crime. In 1995 the median average earnings for males with a bachelor’s degree or higher was 52 percent higher than for males with a high school diploma and 78 percent higher than for males who had not graduated from high school. For females, this earning gap was even more pronounced. In 1995 the median average earning for females with a bachelors degree or higher was 91 percent higher than for females with a high school diploma and 129 percent higher than for females who had not graduated from high school. Similarly, unemployment rates are lower for college graduates than for high school graduates, and the rates for both groups are much lower than for dropouts. For college graduates the unemployment rate in 1996 was 2 percent, while the rate for high school graduates was 5 percent, and was 9 percent for dropouts. In terms of the population living below the poverty level, 25 percent did not complete high school, 10 percent had a high school diploma, and 3 percent obtained a bachelors degree or higher in (1997). U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS, MARCH CURRENT POPULATION SURVEYS (1995). U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, OFFICE OF EMPLOYMENT AND UNEMPLOYMENT STATISTICS, CURRENT POPULATION SURVEY (1996). U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS, ANNUAL DEMOGRAPHIC SURVEY, MARCH SUPPLEMENT (1997).

In 1994, high school dropouts were more than twice as likely to receive income from Aid to Families with Dependent Children (AFDC) or public assistance as high school graduates who did not go on to college (14 percent compared to 6 percent). Less than one percent of persons with 16 years or more of schooling received public assistance. U.S. DEPARTMENT OF COMMERCE, BUREAUS OF THE CENSUS, MARCH CURRENT POPULATION SURVEYS (1994).

whether in the form of increased knowledge in a particular subject or simply the experience it provides to young people to help them become good citizens, or as a means of achieving any number of common goals – contributes enormously to the nation’s economic growth and well-being. As Thomas Jefferson wrote: “If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be.”<sup>2</sup>

A review of education policy in this nation must begin with the unique way that education is treated and viewed by Americans – as a local function, a state responsibility, and a national priority.

With its base in the work of individual teachers, parents, local school boards, and communities, the nation’s effort to strengthen education and build quality systems of teaching and learning has been focused primarily in local communities, neighborhoods and schools. The day-to-day administration and operation of schools have remained the work of local and private authorities. The overall authority for providing a free public education has been vested in the states.

At the same time, accompanying and supporting, but not preempting this core function of locally based control with state responsibility is a critical national governmental role in education that goes back to the founding of our republic. For more than two centuries, there has been an important federal role in education that supplements the efforts of local and state governments and individual schools and communities and addresses the understanding that education is a critical issue that affects the entire nation and the future of all its citizens together. It is a role that is based not only in history but also in necessity. It is appropriate and necessary for the national government of a country as large, diverse, and developed as ours to take on a variety of important educational responsibilities and supplement and support state and local officials and educators.

This multi-dimensional but mutually supportive approach to education policy among local, state, and national levels has existed since the earliest days of our democracy, and has been much debated. The founding fathers certainly

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Although only about 18 percent of the population have never finished high school, this group accounts for 47 percent of the state prison population and 52 percent of prisoners on death row. U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS, CURRENT POPULATION SURVEYS (1996). U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PROFILE OF JAIL INMATES (1996). U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, CAPITAL PUNISHMENT (1997).

Eighty percent of college graduates, 62 percent of high school graduates, but only 45 percent of high school dropouts, were registered to vote in 1996. Furthermore, 70 percent of college graduates, 49 percent of high school graduates, and 32 percent of high school dropouts reported that they voted in 1996. U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS, VOTING AND REGISTRATION IN THE ELECTION OF NOVEMBER (1996).

2. Thomas Jefferson, letter to Colonel Charles Yancey, January 6, 1816.

were of no like mind on the subject. Nevertheless, even as many were suspicious of a national governmental power, most American leaders believed in the strength of education, particularly insofar as it was integral to creating good citizens, and thus allowed this view to overcome their fear of federal control.

Thomas Jefferson, for example, who was an avowed states' rights advocate, recommended the application of federal funds "to the great purposes of public education, roads, rivers, canals, and other objects of public improvement."<sup>3</sup> Among his proposals were that faculty from the University of Geneva be brought to the United States under federal sponsorship.<sup>4</sup> George Washington advocated a national university to promote learning and virtue among potential statesmen.<sup>5</sup> And Benjamin Rush, one of the Revolutionary leaders, proposed a national system of education that he hoped would fulfill the needs of the new democracy. He believed, along with others like James Madison and John Adams, that the best security for the new nation lay in a proper form of education.<sup>6</sup>

Although the Constitution is silent about the subject of education, two specific provisions have provided the grounds for most of the ensuing debate over the respective roles of state and federal governments in education. The Tenth Amendment, which reserves "the powers not delegated to the United States . . . to the States," has been cited as support for the argument that schooling is solely a non-federal function. This might be an acceptable argument if not for Article I, Section 8 of the Constitution, the general welfare clause. That language states in relevant part that "The Congress shall have power: To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States." Over time, the

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3. DONALD WARREN, *TO ENFORCE EDUCATION* 26 (1974).

4. Stephen J. Sniegoski, *History of the U.S. Department of Education and its Forerunner*, unpublished manuscript, 4 (1998).

5. Albert Castel, *The Founding Fathers and the Vision of a National University*, 4 *HIST. OF EDUC. Q.* 280-99 (1964). Washington eloquently described the contribution of knowledge to an enlightened government under the Constitution: "To the security of a free constitution [knowledge] contributes in various ways – by convincing those who are intrusted with the public administration that every valuable end of government is best answered, by the enlightened confidence of the people and by teaching the people themselves to know and to value their own right; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burdens proceeding from a disregard to their convenience and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness – cherishing the first, avoiding the last – and uniting a speedy but temperate vigilance against encroachments, with an inviolable respect to the laws." RICHARDSON, *MESSAGES AND PAPERS OF THE PRESIDENT* 66 (1903 ed.).

6. ALLEN HANSEN, *LIBERALISM AND AMERICAN EDUCATION IN THE 18TH CENTURY* 48-63 (1965). Hansen also discusses Robert Coram's 1791 "Plan for the General Establishment of Schools throughout the United States," which was based on the essential relationship between education and the furtherance of democratic principles. *Id.* at 63-64.

representatives of the nation's citizens have done just that, with the general support of the Supreme Court in a number of areas, exercising this constitutional authority by appropriating funds to "provide for the general welfare."<sup>7</sup>

This debate has remained remarkably consistent, even as our nation and its education system has grown and matured. In the 19th century, for instance, as at least one study has pointed out, "opponents of state involvement in local education used arguments remarkably similar to those we hear today against federal involvement."<sup>8</sup>

This article is premised on our national understanding of the importance of a federal role in education, the goal of which is to supplement and support local and state efforts to improve education. In examining this federal role, this article will first discuss its history, as well as the practical need for federal involvement in education. It will then examine current national education policies and how they fulfill the national understanding of the federal role in education.

### I. THE HISTORY OF THE FEDERAL ROLE

Even before the founding fathers had drafted the Constitution of the United States there were federal policies that promoted education. Two land ordinances enacted by the Continental Congress in 1785 and 1787, in which Congress established rules for the sale of public land in the Northwest Territory (the later states of Ohio, Indiana, Illinois, Wisconsin, Michigan and part of Minnesota), included policies to support the enhancement of education in the new nation.<sup>9</sup> Based on a colonial precedent, the 1785 law reserved one square mile out of every 36 for the benefit of public schools. The second statute reaffirmed this goal, stating that "Religion, Morality, and Knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."<sup>10</sup> The land grant policy did not go into effect until Ohio became a state in 1803. Since then, all but three

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7. See, e.g., *United States v. Butler*, 297 U.S. 1, 65 (1936). Alexander Hamilton set out this broad reading of the scope of the general welfare authority in his Report on Manufactures. "It is, therefore, of necessity, left to the discretion of the National Legislature to pronounce upon the objects which concern the general welfare, and for which, under that description, an appropriation of money is requisite and proper. And there seems to be no room for doubt that whatever concerns the general interests of *learning*, of agriculture, of manufactures, and of commerce is within the sphere of the national councils, as far as regards an application of money." [Emphasis added].

8. Carl F. Kaestle & Marshall S. Smith, *The Federal Role in Elementary and Secondary Education, 1940-1980*, 52 HARV. EDUC. REV. 384, 386 (1982).

9. JAMES MONROE HUGHES & FREDERICK MARSHALL SCHULTZ, *EDUCATION IN AMERICA* 292-93 (1960). The primary purpose of these laws was to encourage the settlement and sale of western lands. *Id.*

10. Northwest Ordinance of 1787, Article 3.

states admitted to the union have received federal land grants for public schools,<sup>11</sup> demonstrating a clear understanding early in this nation's history that a quality education is a critical part of a developed and developing society. It is an understanding that continued to grow with the maturation of the nation.

During the 1830s, education reformers built a movement around the creation of common or public schools. This movement, led by educators like Horace Mann and Henry Barnard, was intended to strengthen and reinforce civic values and traditional and dominant "American" beliefs, rather than change them.<sup>12</sup> It was a time of "schools but no school systems," with reformers arguing for development of the latter and for the means of supporting them.<sup>13</sup>

The success of this movement led to the establishment of state education agencies designed to collect data and provide limited direction to local schools. This, in turn, created a drive to establish a federal agency that would help accomplish the same goal on a national level.<sup>14</sup> Such a federal agency was established in 1867.

The Civil War marked an important advance in the federal role in education and further emphasized the priority that Americans place on education generally, and more specifically the positive role that the government could play in achieving or enhancing that advancement. During the war itself, in 1862, Congress enacted the Morrill Act, which provided assistance to agricultural colleges.<sup>15</sup> It was the first major federal education program and part of "a culmination of a drive for greater democratization of higher education."<sup>16</sup> Pioneers participating in the movement westward wanted a practical education in agriculture and the "mechanic arts." As the chief sponsor of the law stated in prescient language that anticipated national needs and interests a century later: "The fundamental idea was to offer an opportunity in every state for a liberal and larger education to larger numbers, not merely those destined to sedentary professions, but to those much needing higher instruction for the world's business, for the industrial pursuits and the (practical) professions of life."<sup>17</sup>

Education was an important by-product of the war itself. Some abolitionists even described the conflict as a war over education because of the possibility that once slavery was abolished and slaves became citizens, they would be able to avail themselves of all the benefits of citizenry, most prominent among these being education. In addition, the best way to prepare freed slaves for

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11. HUGHES & SCHULTZ, *supra* note 9, at 293.

12. Sniegowski, *supra* note 4, at 6.

13. HARRY KURSH, THE UNITED STATES OFFICE OF EDUCATION – A CENTURY OF SERVICE (1965).

14. Sniegowski, *supra* note 4, at 7.

15. *See generally* Morrill Land Grant Act of July 2, 1862, ch. 130, 12 Stat. 503, 7 U.S.C. 301.

16. KURSH, *supra* note 13, at 9.

17. *Id.*

their social and civic responsibilities, as well as their benefits, was to provide them with education.<sup>18</sup> But there was also a belief among some in the North that greater educational opportunities would “secure white loyalty to the Union.”<sup>19</sup> These northerners believed that the best way to reconstruct the defeated South was through education. Thus, at the close of the war, the government conditioned the return of a number of Confederate States to the Union on their guarantee that they include a specific right to education in their *state* constitutions.<sup>20</sup>

At the same time, there was a growing belief in the need for a limited federal role or agency that would provide information and could induce states to improve their educational systems.<sup>21</sup> This movement led to the creation of a United States Office of Education in 1867, the primary purpose of which was:

“Collecting such statistics and facts as shall show the condition and progress of education in the several States and Territories, and of diffusing such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.”<sup>22</sup>

Due to a number of problems that included administrative obstacles, the Department lost some support and, in 1870, went from independent status to becoming a division of the Department of the Interior, in which capacity it stayed until 1939. Nonetheless, with a mission that included inducing improvement in the nation’s schools and playing a significant role in the reconstruction of the South, a federal role in education clearly had been staked.

The importance of education as a national issue accelerated in the 20th century. Congress passed the Smith-Hughes Act of 1917 to address the shortage of trained workers that had been revealed during World War I. The act, supported by both labor and business leaders, allowed the federal government to provide aid to public secondary schools for vocational education programs, and was supplemented by additional legislation five times over the next 50 years. During the Great Depression, numerous national laws were passed that either directly or indirectly aided education at the local level, from paying teachers with Federal Emergency Relief Funds to building schools with money from the Public Works Administration.<sup>23</sup>

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18. Sniegowski, *supra* note 4, at 7.

19. *Id.*

20. See NEAL KUMAR KATYAL, THE REPUBLICAN GUARANTEE OF EDUCATION 67-69, forthcoming (1999).

21. Sniegowski, *supra* note 4, at 8.

22. The Department of Education Act of 1867.

23. KAESTLE & SMITH, *supra* note 8, at 389.

Few examples better illustrate the power of the federal government to open the doors for education and encourage expanded learning opportunities than the GI Bill, passed in 1944.<sup>24</sup> With the creation of the GI Bill, the federal government strengthened its role as a means of providing greater access to education for all, with a strong emphasis on providing financial aid to help families pay for college. Under the bill, World War II veterans were eligible for education benefits for a maximum of 48 months, depending upon their length of service. The Veterans Administration paid the schools for tuition and living allowances. In a population of 15.4 million veterans, nearly 51 percent, or 7.8 million received education or training under the bill, 2.2 million of them at colleges and universities.<sup>25</sup>

During this post World War II period there was also limited federal involvement in elementary and secondary education, through funding for vocational education, school lunch programs, federal dependents, and Native American children.<sup>26</sup> This development advanced even further with passage of The Elementary and Secondary Education Act of 1965, which created the means for the federal government to provide financial assistance to local education agencies to assist in the education of children from low-income families.<sup>27</sup> The centerpiece of this legislation, known as Title I, still constitutes the primary federal investment in elementary and secondary education. For fiscal year 1999, more than \$8 billion was budgeted for Title I grants to Local Education Agencies.<sup>28</sup>

The Higher Education Act of 1965 is another example of the important and productive role the federal government plays in education. Created to continue and expand the efforts implicit in the National Defense Education Act of 1958 (designed to expand math and science education in the face of Soviet achievements in outer space), the Higher Education Act was part of the growing understanding of the importance of extending educational opportunities into college, through loans and outright grants.

As our society has become more aware of the needs of previously neglected portions of our population, the national role in making sure *all* Americans have equal educational opportunities has grown even further through laws such as The Individuals With Disabilities Act.<sup>29</sup>

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24. The Servicemen's Readjustment Act of 1944.

25. MILTON GREENBERG, *THE GI BILL – THE LAW THAT CHANGED AMERICA* 108 (1997).

26. KAESTLE & SMITH, *supra* note 8, at 389.

27. Pub. L. No. 81-874, § 201, as added by § 2 of Pub. L. No. 89-10.

28. For an extensive discussion of the federal role in elementary and secondary education and reform of the Elementary and Secondary Education Act see Richard W. Riley, *The Improving America's Schools Act and Elementary and Secondary Education*, 24 J. L. & EDUC. 513 (1995).

29. See Pub. L. No. 96-142, 89 Stat. 773 (1975).

There has grown – along with our nation’s size and sophistication – an understanding of the importance of a federal role in education. This role is largely implicit in our laws, but finds support in the general welfare clause of the Constitution that states that “Congress shall have to . . . provide for the general welfare of the United States.”

The Supreme Court has supported a broad Congressional power to provide financial assistance or funds for the “general welfare” of the people, as well as the corollary power to place conditions on the receipt of federal funds, including funds for education. At the same time, however, it is important to emphasize that this power is not a power to exercise federal control over educational curriculum. Indeed, the act creating the modern-day U.S. Department of Education reaffirms this, noting:

“No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by an educational institution or school system, except to the extent authorized by law.<sup>30</sup>

The federal government has continued to work constructively within the requirements of this authorization to help strengthen local schools and support the efforts of local communities to improve education. A number of current initiatives demonstrating this supportive work are discussed in Section III.

## II. THE IMPORTANCE OF A FEDERAL ROLE IN EDUCATION TODAY

Never has this nation been so confronted as it is today with the task of teaching so much to so many while reaching for new high standards. We live in a world where knowledge is exploding all around us – a time of new challenges – where the need for tools to prepare us for these challenges is extraordinary. In addition, student enrollments are at record levels and expected to increase for another ten years. Meeting our nation’s ambitious goals requires an effective partnership and constructive balance among the local, state, and federal players in education.

There are several specific ways in which the federal government should and does benefit education at the local and state levels. These can be grouped generally into five categories.

First, and most traditionally, the federal government is a clearinghouse of good ideas, facts and figures, and a catalyst for improving the education of the nation. In 1867, when Congress created the first United States Office of Edu-

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30. Department of Education Organization Act, Pub. L. No. 96-088, § 103(b), 93 Stat. 668, 670 (1979) (codified at 20 U.S.C. § 3403(b) (1988)).

cation the federal goal was to compile and collect statistics about education to induce positive change in learning across the nation.

The original goal is still being met today. In every state and community of the nation, educators and families are learning about effective ways of teaching and learning through U.S. Department of Education-sponsored research, evaluation, and technical assistance. Many effective innovations in education—for example the National Board for Professional Teaching Standards, which helps evaluate and raise standards for teachers, or the closed captioning for television to assist the hearing impaired—require long-term research and investment at a scale that almost no state or locality can afford.

In addition, through the Educational Resources Information Center (ERIC), as well as the Department's award-winning Internet Website and its 1-800 public information phone numbers, the Department is helping more American communities identify what works in education – and helping them learn about the most promising strategies for improving schools and children's performance that are being put into place in communities across the nation. The U.S. Department of Education receives approximately two million inquiries a year – and allows families and communities to draw on experiences in every state.

A second critical federal role in education is to help communities and schools raise academic achievement, meet the needs of their students, and enable all qualified students to get into college by increasing access to post-secondary education. This role has a dual objective, involving issues of both equity and excellence.

Historically, many low- or moderate-income students or students who are otherwise disadvantaged or are disabled have needed extra assistance and support to acquire the basics or pay for college. Often the communities and schools that serve these children have the least resources. As a recent General Accounting Office (GAO) study demonstrates, the U.S. Department of Education's funds are targeted to students of greatest need.<sup>31</sup> While states try to provide the foundation funding for public schools in equitable fashion, generally at any given time about one-third to one-half of schools are in state courts because their state funding system is inequitable.<sup>32</sup> Federal funds reduce some of the continuing inequities in local and state education funding, which is one reason that the GAO warned recently against creating unrestricted block grants to states from the federal government.<sup>33</sup>

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31. GAO Study, *School Finance: State and Federal Efforts to Target Poor Students*, HEHS 98-36 (Jan. 28, 1998).

32. See, e.g., Tamar Lewin, *Patchwork of School Financing Schemes Offers Few Answers and Much Conflict*, N.Y. TIMES at A23 (April 8, 1998).

33. See *supra* note 31.

To encourage excellence and high standards of learning, the Department delivers almost \$15.4 billion in highly targeted and structured funds to states and school districts to assist local elementary and secondary schools in providing a quality education to all children. It also provides about 70 percent of all student financial aid for college, about \$40 billion, to give students greater access to the best postsecondary education system in the world.

A number of additional benefits to local education agencies have come from efforts by President Clinton and the U.S. Department of Education to create more of a partnership than in the past with regard to federal grants and other assistance for education. This new partnership, which is premised on the idea of greater flexibility in exchange for increased accountability, has focused its efforts in four areas: (1) regulatory reform and flexibility; (2) reducing federal paperwork requirements; (3) improving audit procedures; and (4) improving service to states and school districts, particularly by providing technical assistance support and better access to information about federal education programs and activities.<sup>34</sup> The result has been a lowered regulatory burden, less paperwork and red tape, streamlined audit procedures, and improved access to information – all of which have significantly aided local education agencies' efforts to provide quality education to students.<sup>35</sup>

A third key role in education for the national government, which builds on its efforts to provide opportunities for learning, is to help prepare young people to achieve and succeed in college and careers, and to be fully competent to meet the increasingly technological demands of society and work.

The School-to-Work Opportunities Act,<sup>36</sup> for instance, provides seed money to help states and local communities prepare youth for higher education and careers and equip them to learn for a lifetime through partnerships of schools, businesses, and community leaders. All states received development grants in 1994 to create strategies to build school-to-work systems that meet the needs of their students and economies. Since then, all 50 states and the territories have received one-time five-year grants to launch these school-business-community partnerships.

Similarly, the federal government is playing an important role in helping students and schools have access to telecommunications, computers and other learning technologies, including the information superhighway and in broadening access to high-quality learning opportunities for adults using the Internet and other new technologies. The E-Rate (Education Rate), created under the

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34. See Department of Education White Paper *From Compliance to Cooperation - The Department of Education and the States*, forthcoming (1998) [hereinafter *Compliance*]. See also Riley, *supra* note 28, at 540 (discussing some of these improvements).

35. See *Id.*; See also Riley, *supra* note 28, at 540.

36. See generally The School to Work Opportunities Act of 1994, Pub. L. No. 103-239, 108 Stat. 568 (1994).

Telecommunications Act of 1996, for example, is helping to end the digital divide and assist local schools to fully integrate technology into teaching and learning. This role that is similar to those of earlier periods in history in meeting national needs, which included passage of legislation such as the Smith-Hughes Act of 1917<sup>37</sup> and the National Defense Act of 1958.<sup>38</sup>

The fourth important role that the federal government plays in education is to administer and enforce the federal statutes, regulations, and policies that ensure that students will not be denied access to education on the basis of race, color, national origin, ethnicity, gender, age or disability. The nation's civil rights laws protect more than 46.4 million students attending public elementary and secondary schools and more than 14 million students attending our colleges and universities. The laws also protect students *applying* to attend America's post-secondary education institutions. The U.S. Department of Education's Office for Civil Rights (OCR) provides information and other services to help federally funded educational institutions comply with the civil rights laws and to help their students and employees understand their rights under the laws.<sup>39</sup> The OCR also responds to complaints from the public and works to ensure compliance with the nation's civil rights laws through agency-initiated reviews.

This is a critical role for the federal government – and one that has a significant and continuing impact. Consider, for example, the education-based federal civil rights law known as Title IX,<sup>40</sup> which has been a prime force for closing the “gender gap” in high school and college athletics and in increasing participation by women and girls in math and science courses. As a result of this law and accompanying federal enforcement, the United States now leads the world in women's access to higher education and American women excel in larger numbers in athletics.<sup>41</sup>

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37. See Smith Hughes Vocational Education Act, Pub. L. No. 105-175, 39 Stat. 929 (1917); RICHARD W. RILEY & NORMA V. CANTU, U.S. DEPARTMENT OF EDUCATION, TITLE IX: 25 YEARS OF PROGRESS (1997).

38. See National Defense Act, Pub. L. No. 105-175, 39 Stat. 166 (1916).

39. The laws enforced by OCR are: Title VI of the Civil Rights Act, 42 U.S.C. §§ 2000a-2000h (1964) (prohibits discrimination on the basis of race, color, and national origin); Title IX of the Education Rehabilitation Act, 7 U.S.C. § 326a, 42 U.S.C. § 275a, 20 U.S.C. §§ 1651, 1652, 1654-1656, 1681-1688 (1972) (prohibits discrimination on the basis of sex); Rehabilitation Act, 29 U.S.C. § 794 (1973) (prohibits discrimination on the basis of disability); Age Discrimination Act, 42 U.S.C. §§ 6101-6106, 6106a, 6107 (1975) (prohibits age discrimination); and Americans with Disabilities Act, 42 U.S.C. §§ 12101-12102, 12111-12117, 12131-12134, 12141-12150, 12161-12165, 12181-12189, 12201-12213, 47 U.S.C. § 225 (1990) (prohibits discrimination on the basis of disability by public entities, regardless of whether they receive federal financial assistance).

40. See generally The Education Amendment of 1972, Pub. L. No. 92-318, 86 Stat. 235.

41. See U.S. Department of Education, “Title IX: 25 Years of Progress” 1997.

Finally, the national government has a distinctive opportunity to be a leader and national catalyst in the effort to improve education and make sure that all citizens have access to quality education.<sup>42</sup> The education of our citizens is critical to maintaining this nation's leadership role in the world as well as to increasing our productivity and creativity. Indeed, ensuring that our citizenry is well educated is a national security issue, affecting everything from our economy to our standing in the world. As Lyndon Johnson stated in 1965:

Education is the 'guardian genius of our democracy.' Nothing really means more to our future, not our military defenses, not our missiles or our bombers, not our production economy, not even our democratic systems of government. For all of these are worthless if we lack the brain power to support them and to sustain them.<sup>43</sup>

This leadership role has been a particularly important one during times of national crisis. Whether as a response to the Civil War, the Great Depression, a world war, or economic conditions, or through efforts such as Lyndon Johnson's "War on Poverty," education has always been a key part of the solution – and the federal role in this solution has been increasingly important. After the Soviet Union launched Sputnik, the first man-made satellite, on October 4, 1957, Congress responded by passing the National Defense Education Act of 1958,<sup>44</sup> which created a number of education-based initiatives, including a range of programs of assistance for mathematics and science education. President Eisenhower endorsed these proposals and others like them in an effort to "awaken America" and, "if necessary helping where it became the proper function of the Federal Government to bring about this thing."<sup>45</sup>

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42. A series of other justifications and variations of the federal role have been offered over time, including the following: "The states vary widely in their ability to support an adequate educational opportunity; and only the federal government can do this." See HAROLD CRESSMAN & HAROLD W. BENDA, *PUBLIC EDUCATION IN AMERICA* 91 (2nd ed. 1961). "Our population is now highly mobile, and many do not remain in the states where they have been educated. Therefore the quality of such education is a matter of national concern." *Id.*

43. President Lyndon B. Johnson, Recorded Remarks on the Message on Education (Jan. 12, 1965). President Johnson was not alone in this view. Throughout the 1950s, largely as a response to the perceived threat from the Soviet Union, politicians, educators, and military leaders like Admiral Hyman Rickover all supported an increased focus on education as an important part of building our national defense. See BARBARA BARKSDALE CLOWSE, *BRAINPOWER FOR THE COLD WAR: THE SPUTNIK CRISIS AND NATIONAL DEFENSE EDUCATION ACT OF 1958*, 5-39 (1981).

44. See generally National Defense Education Act, Pub. L. No. 85-864, 72 Stat. 1580 (1958).

45. See CLOWSE, *supra* note 43, at 14. Eisenhower also held a White House Conference on Education in 1955 and sponsored legislation in 1955, 1956, and 1957 that would have provided grants and loans for school construction to address the massive growth in student population resulting from the baby boom. *Id.* at 46. While acknowledging that education is primarily a local issue, Eisenhower stated that the federal government was responsible and "it must and will do its part." *Id.*

Coming out of the recession of the early 1980s, many education and political leaders saw clearly that local, state, and national economic growth in an increasingly international economy depended on greater educational development.<sup>46</sup> In 1983, a national commission appointed by then-Secretary of Education Terrel Bell warned in the historic report *A Nation at Risk*, that “the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people.”<sup>47</sup> The report called for action and the response included, for perhaps the first time in U.S. history, a combined effort by state and federal governments. Many governors took bold steps to improve education in their states, including Bill Clinton in Arkansas, Jim Hunt in North Carolina, Bob Graham in Florida, and Bill White in Texas. Governors also came together for an education summit with President Bush. Later, President Clinton put the goals of the summit into concrete policies by passing federal legislation, the Goals 2000: Educate America Act.<sup>48</sup>

Today, our nation continues to have an increasing demand for quality education that requires national leadership and involvement in education linked to state reform and commitment. Our national community faces unprecedented challenges. We have more children in our nation’s classrooms than ever before and each year schools become more crowded.<sup>49</sup> Population growth is unevenly distributed among states and within states, putting exceptional burdens on some communities—most often those with fewer means. Our children speak more than 100 languages, even as they are eager to learn English. They start kindergarten with high hopes, but too many come unprepared.

Reading scores are not where we want them to be. And while we do a very good job of teaching math and science in the early years, we begin to drift

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We should, among other things, have a system of a nationwide testing of high school students; a system of incentives for high-aptitude students to pursue scientific or professional studies; a program to stimulate good-quality teaching of mathematics and science; provision of more laboratory facilities; and measures, including fellowships, to increase the output of qualified teachers.

*Id.* (citing a national radio and TV address by President Eisenhower, November 13, 1957).

46. See, e.g., Terry K. Peterson, *School Reform in South Carolina: Implications for Wisconsin’s Reform Efforts*, EDUCATION ISSUES (1991).

47. NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION, *A NATION AT RISK: THE IMPERATIVE FOR EDUCATIONAL REFORM* 5 (1983).

48. The National Governors Association held a summit and, along with President George Bush, developed six national education goals. These ultimately became President Clinton’s Goals 2000: Educate America Act. See Riley, *supra* note 28, at 295 (discussing this legislation in detail).

49. See generally U.S. DEPARTMENT OF EDUCATION, *A BACK TO SCHOOL SPECIAL REPORT ON THE BABY BOOM ECHO: HERE COME THE TEENAGERS* (1997).

in the middle years and fall behind the international standard of excellence.<sup>50</sup> Too many of our students show up at college unprepared.

None of this is to say that we are not improving. Quite the opposite. American education has improved significantly over the last 15 years. Many reforms that have been put into place at the local and state levels and with federal assistance and cooperation are having positive effects. Students are taking tougher courses and participation in advanced placement programs has increased dramatically. Achievement is up, SAT and ACT college entrance scores have improved at almost unprecedented rates and SAT participation has risen significantly over the past decade for all ethnic groups. Reading scores, as measured by the National Assessment of Education Progress (NAEP), improved in each of the grades tested—4th, 8th, and 12th—for the first time in 30 years. Drop-out rates are down, and college enrollment is at record high levels.<sup>51</sup>

Unfortunately, we are not improving fast enough. For example, in the recent international study of math and science known as The Third International Math and Science Study (TIMSS), American students score well above the international average at the 4th grade, but well below average in the 12th grade.<sup>52</sup> And the rest of the world is not standing still. What is needed is an enduring national commitment to quality education and high standards. The only way to achieve this is with a sustained and substantive federal role in education that supports the work of state and local communities, and offers guidance, leadership, and direction.

### III. HOW A FEDERAL ROLE IN EDUCATION CAN HELP THE NATION MEET TODAY'S CRITICAL NEEDS

The improvement of education in local schools and communities continues to lie primarily with state and local education agencies and with schools, teachers, parents, principals, and students. At the same time, as the previous

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50. See NATIONAL CENTER FOR EDUCATION STATISTICS, U.S. DEPARTMENT OF EDUCATION, PURSUING EXCELLENCE: A STUDY OF U.S. FOURTH-GRADE MATHEMATICS AND SCIENCE ACHIEVEMENT IN AN INTERNATIONAL CONTEXT, NCES 97-255 (1997) [hereinafter *Fourth-Grade*]; NATIONAL CENTER FOR EDUCATION STATISTICS, U.S. DEPARTMENT OF EDUCATION, PURSUING EXCELLENCE: A STUDY OF U.S. EIGHTH-GRADE MATHEMATICS AND SCIENCE TEACHING, LEARNING, CURRICULUM, AND ACHIEVEMENT IN INTERNATIONAL CONTEXT, NCES 97-198 (1996) [hereinafter *Eighth-Grade*]; NATIONAL CENTER FOR EDUCATION STATISTICS, U.S. DEPARTMENT OF EDUCATION, PURSUING EXCELLENCE: A STUDY OF U.S. TWELFTH-GRADE MATHEMATICS AND SCIENCE ACHIEVEMENT IN INTERNATIONAL CONTEXT, NCES 97-198 [hereinafter *Twelfth-Grade*].

51. See U.S. DEPARTMENT OF EDUCATION ISSUE BRIEF, THE TRUE PICTURE OF AMERICAN EDUCATION (1997) (citing a series of reports and studies).

52. See *Fourth-Grade*, *supra* note 50; *Eighth-Grade*, *supra* note 50; *Twelfth-Grade*, *supra* note 50.

historical discussion indicates, and the increasingly important priority placed on education in our information-based world confirms, there is a vital and meaningful role for the national government as a partner, and as a source of leadership, information, and technical and financial assistance. Poll after poll demonstrates the priority that Americans place on education and their desire for state and national leaders to make it a central focus of their agenda.<sup>53</sup>

Since taking office, President Clinton has worked to meet this national desire for learning and training by emphasizing and expanding educational opportunities. President Clinton and Vice President Gore have formulated an ambitious education agenda built on the long historical role of a national involvement in education – one that supports and supplements the state and local role and works to help communities provide their citizens the best possible education and training.

The President outlined a bold “call to action” to spur a national crusade for educational excellence. This action plan includes real and shared priorities such as encouraging parent involvement in schools, seeking higher standards for students and teachers and increased accountability, eliminating social promotion, making schools safer, reducing class size, repairing and modernizing crumbling school buildings and building new ones, investing in after-school programs to get young people off the streets, helping families pay for college, and effectively getting technology into classrooms. The legislative initiatives offered by President Clinton and Vice President Gore described above are designed to help ensure that every American has the opportunity to use all the tools available to him or her illustrate the importance of a federal role in education that complements and enhances state and local activity.

#### *Raising Achievement in our Schools and Classrooms*

At the core of the federal role in education is a simple but vitally important concept: Our schools need to establish clear, meaningful and challenging

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53. Recent Harris polls have found that education continues to be one of the most important issues the public thinks the government should address; 17% of the public said education is one of the most important issues; 15% said crime/violence; 14% said welfare; 14% said the federal deficit; 14% said taxes; 11% said health care (not Medicare); and 10% said drugs (HARRIS, 1997). A 1997 Washington Post Poll asked the public what should be the top priority for the President and Congress in 1997, 30% of the public said improving the education system; 30% said funding Medicare and Social Security; 23% said balancing the budget; 14% said reducing taxes on the middle class; and 3% said changing the way elections are financed (WASHINGTON POST, 1997). When the public was asked to choose one of seven issues that needs the greatest attention from the federal government at the present time, 25% of the public said improving education; 18% said guaranteeing the financial stability of Social Security and Medicare; 14% said reducing crime; 12% said reducing the budget deficit; 10% said reducing taxes; 8% said strengthening the economy; 3% said reforming the way political campaigns are financed; and 9% said all of these issues equally (NBC/WSJ, 1997).

standards of achievement for what students should be expected to learn and achieve in the basics and core subjects. Extensive research confirms that students who are challenged to learn and who focus on high academic standards usually learn more.<sup>54</sup> Low standards and a watered-down curriculum lead to just the opposite result.

The good news is that this message is spreading, and with national leadership and focus combined with state action there is no longer much debate about this subject or the validity of these conclusions. Virtually every state in the union has, or is working toward adopting rigorous academic standards and challenging assessments. This is a fundamental change in the very structure of American education.

At the same time, however, it is important to recognize why the individual and varied efforts of fifty states are not enough. Ours is a nation where many people often move from community to community. Moreover, too often individual state assessments, evaluations, and standards of learning achievement not only differ widely from state to state and school to school, but also fail to stand up to the kind of strict scrutiny and rigorous, challenging measurements that are so crucial to educational excellence. A recent Southern Regional Education Board study found that in some states, more than 80 percent of the students meet state educational assessments, but 20 percent or fewer of these students make the grade when held up to higher standards of achievement based on excellence.<sup>55</sup>

Thus, even as the vital role of high standards and achievement increasingly is appreciated, it remains a challenge getting these standards into individual schools and classrooms. That is why President Clinton and Vice President Gore have developed a comprehensive strategy to support the effort to reach high standards and raise achievement.<sup>56</sup> It is a multi-part approach that includes targeting investments to disadvantaged children, with particular emphasis on the early years, improving teacher quality, and increasing school accountability so that our investments are used wisely and actually produce the desired results.

A number of leaders at the state and local levels are already doing what we are proposing: they are ending social promotion, requiring school report cards, identifying low-performing schools, improving discipline in schools and classrooms, and putting in place measurable ways to make change happen such as

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54. M. McLAUGHLIN, L. SHEPARD & J. O'DAY, *IMPROVING EDUCATION THROUGH STANDARDS-BASED REFORM* (Stanford Univ., The Nat'l Academy of Educ., Panel on Standards-Based Education Reform, 1995); J. O'DAY & M. SMITH, *Systemic Reform and Educational Opportunity in DESIGNING COHERENT EDUCATION POLICY* (S. Furman, ed. 1993).

55. U.S. DEPARTMENT OF EDUCATION STUDY COMPARING NATIONAL ASSESSMENT OF EDUCATION PERFORMANCE (NAEP) TESTS VERSUS STATE ASSESSMENTS (1996).

56. OFFICE OF MANAGEMENT & BUDGET, *BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2000*, 5 (1999).

basic skills exams at different grade levels. They are striking a careful balance between giving schools the increased support and flexibility they need to raise achievement levels and, at the same time, holding schools accountable when they do not measure up to clearly established goals. That is what the administration proposed in its 1999 reauthorization of the Elementary and Secondary Education Act.<sup>57</sup> It is also one part of a more comprehensive agenda that includes initiatives like reading class size in the early grades,<sup>58</sup> the Reading Excellence Act,<sup>59</sup> and the 21st Century Community Learning Centers After-school<sup>60</sup> initiative, each of which invest in the early years and expand learning opportunities to minimize the number of children at risk of retention in grade. It is an agenda designed to tell students that “performance counts,” and to encourage districts and schools to take aggressive action to help all students meet promotion standards on time.

This is not an “either/or” solution – more federal control versus less local control. If a state is putting its own accountability measures into place, they do not need to replace their measures with federal measures. But if a state does not have such requirements in place, then it makes sense for them to adopt proposals that provide real accountability and aid in the delivery of a quality education.

The promotion of high standards is an ideal opportunity to reap the benefits of national leadership and involvement in, and commitment to education. Indeed, that is why President Clinton proposed voluntary national (not federal) tests in fourth-grade reading and eighth-grade math. These tests would be designed to help teachers, parents, families, schools, and communities know how their students and children compare with their peers around the country and throughout the world. The nonpartisan National Assessment Governing Board presently is moving to develop these tests so that we, as a nation, can begin to pinpoint our shortfalls, address these deficits directly, and move forward with solutions.

These tests are designed to be tools with which local communities may fulfill their responsibility to help students achieve a quality education that is world-class. They will help parents know early enough if their children are mastering the critical basic skills they need to succeed in school and prepare for college. And, equally important, they will help to eliminate inequity in education because there will be a clear set of expectations and standards for all students.

These tests do not lead to a national curriculum. They will not promote any method of teaching or learning. And these tests will offer information to

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57. *Id.* at 64.

58. *Id.* at 65.

59. *Id.* at 65.

60. *Id.* at 65.

those local schools that avail themselves of the tests and to the communities that support those schools. If a student or school does poorly on these tests, the object will not be to push that student or school down, but to pull them up. The tests will identify students and schools that need help. Communities then need to offer extra support – after-school and summer tutoring, increased parent and community involvement, more focused teaching, or whatever it takes – to lift student achievement.

These tests are not duplicative of current tests, because, unlike the current NAEP and TIMSS Assessments, these new voluntary national tests would provide individual, not sample results, thereby giving critically important information to parents and teachers about how well their children perform against a rigorous standard, no matter what state they live in. Unlike any other tests, most, if not all, of the questions and answers would be made public soon after the test is given—providing useful and timely information to the students, teachers, and parents.

National tests represent one part of a comprehensive strategy at the federal level – which also includes efforts to increase accountability, end social promotion and improve teacher quality – that together will help raise standards of learning in schools and classrooms in communities across the nation.

*Helping Make Sure Our Students Learn the Basics – Building Block Subjects Like Mathematics and Reading*

One of the ways in which national leadership in education can play a key role is by focusing attention on basic subject areas at critical points that are essential to future success. Two of the most essential of these are mathematics and reading. A child who doesn't learn to read by the third grade is likely to be less interested in reading about science, history and literature, and more likely to drop out and be at risk for a lifetime of diminished success in school and employment.

Similarly, a child who doesn't have a strong foundation in math is less likely to take more advanced math and science courses in high school and be prepared to enter and succeed in college and meet the increasing competition in the work world. Almost 90 percent of new jobs today require *more* than a high school level of literacy and math skills. An entry level worker, according to industry-wide standards, needs to be able to apply formulas from algebra and physics to properly wire the electrical circuits of a car. That is why it is so important that we make sure that all students master the traditional basics of arithmetic early on, as well as the more challenging courses that will prepare them to take chemistry, physics, trigonometry, and calculus in high school and college.

Through research and demonstration projects, the U.S. Department of Education has been working at the national level to help states, communities and individual schools recognize the benefits to their students of rigorous teaching

in mathematics. Our research shows, for instance, that young people who take gateway courses like algebra I by the eighth grade and geometry by the ninth grade go on to college at much higher rates than those who do not - 83-36%. The difference is particularly stark for low-income students. These students are almost three times as likely to attend college if they do take a rigorous series of courses early (71 percent versus 27 percent).<sup>61</sup>

Unfortunately, while we give our children a good early foundation in the basics, math and science education often gets “stuck in a rut” in the middle grades. We run in place and allow many of our students to “check out” of rigorous math and science courses in high school.<sup>62</sup>

Clearly, the major burden for addressing these issues and overcoming the challenge rests on local schools, communities, and states. I have seen a number of communities throughout the nation develop exciting ways to address these problems. One group of 20 school districts near Chicago, called The First in the World Consortium, for instance – nurtured by U.S. Department of Education funding and support - has taken comprehensive and successful steps toward achieving significantly better results. Their students recently took the TIMSS test and their students placed among the best in the world in 12th grade in both math and science. The consortium accomplished this by involving parents, teachers, students, and entire communities in developing a rigorous curriculum and high-quality teaching and testing. Over 70 percent of their high school seniors have taken advanced math and physics courses. Half took algebra by the eighth grade. These represent far higher rates of participation than in typical schools across America.<sup>63</sup>

But there is also a clear federal role here. It is one of identifying these challenges, but also of working in an appropriate and supplemental manner to support communities in their efforts to solve them. That is why the president’s most recent budget proposal includes an investment in “America Counts,” – an initiative coordinated by the U.S. Department of Education and the National Science Foundation – to strengthen the teaching of mathematics in middle schools. This effort will include community volunteer tutoring programs to work with K-12 students in mathematics.

The President’s “America Reads Challenge” has similar qualities. America Reads supports reading in the school, home, and community in several ways: by supporting parents in fostering a love of reading at home; by recruit-

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61. U.S. DEPARTMENT OF EDUCATION, MATHEMATICS EQUALS OPPORTUNITY (A White Paper Prepared for U.S. Secretary of Education Richard W. Riley October 20, 1997).

62. This conclusion is supported by data from the results of the Third International Math and Science Study. *See supra* note 50.

63. Education Department Internal Memorandum on The First in the World Consortium and 12th Grade TIMSS Performance, based on conversations with Superintendents in the Consortium. (Paper on file with the author). *See* Jo Thomas, *Questions of Excellence In Consortium Ranking*, N.Y. TIMES, April 22, 1998, at A29.

ing colleges to enlist students in work-study jobs to tutor children; by encouraging teachers to utilize best practices and professional development in reading; by mobilizing volunteers to give students extra help after school and during the summer; by engaging business to involve employees and offer incentives to young readers; and by uniting communities to form strong partnerships to promote child literacy. Through a grass roots campaign America Reads marshals the strength of communities.

Last year, building on the goals of America Reads, a bipartisan majority in Congress passed The Reading Excellence Act.<sup>64</sup> The purpose of this law was threefold: (1) to provide readiness skills and support needed in early childhood; (2) to teach every child to read by the end of the third grade; and (3) to improve the instructional practices of teachers and other staff in elementary schools.

These are some of the ways in which a federal role in education can be appropriate and beneficial to local schools and communities without being intrusive or controlling.

#### *Continuing to Support Expanded Access to College*

One of the primary federal responsibilities and accomplishments in American education is the provision of loans, grants, and other financial assistance to help families pay for college and give students increased opportunities to attend college. President Clinton and Vice President Gore understand this and have sought and achieved increases in Pell Grants and other federal assistance for college. They know that in this information age it is crucial that every American have the financial support to attend at least two years of college. That is why the President proposed, and Congress passed, two important laws that changed the tax code in preparation for the 21<sup>st</sup> century and expanded the educational opportunities required to meet the new challenges.

First is the \$1,500 Hope tax credit, which helps make the first two years of college or vocational school universally available. Students receive a 100% tax credit for the first \$1,000 of tuition and required fees and a 50% credit on the second \$1,000. Second, is the Lifetime Learning Tax Credit, which is targeted to help adults who want to go back to school, change careers, or take courses to upgrade their skills, and college juniors, seniors, graduates and professional degree students.<sup>65</sup> A family will receive a 20% tax credit for the first \$5,000 of tuition and required fees paid each year through 2002, and for the first \$10,000 thereafter.

These two ideas are as significant to today's students as the GI Bill was to returning veterans after World War II. And they have been supplemented by increased Federal Work Study – by \$253 million since 1993 to help nearly

64. The Reading Excellence Act of 1998, H.R. 2614, 105th Cong., 2nd Sess (1998).

65. Taxpayer Relief Act of 1997, P.L. No. 105-34 (1997).

900,000 students work their way through college—and by increases in Pell grants for low income students – the heart of student financial aid – to \$3,125. The President is proposing an additional increase this year.

*Encouraging Students to ‘Gear Up’ for College*

In early 1998, President Clinton proposed the *High Hopes for College* initiative.<sup>66</sup> This was an effort to encourage colleges nationwide to develop partnerships with middle and high schools in low-income communities to help raise students’ expectations of success and ensure that they are well prepared for college. The new GEAR UP<sup>67</sup> initiative (Gaining Early Awareness and Readiness for Undergraduate Programs) builds on the High Hopes effort and expands support for state early college awareness programs through partnership grants. GEAR UP supports early college awareness activities at both the local and state levels. The 1999 budget calls for \$120 million in competitive grants to states and partnerships among colleges and universities, high-poverty middle and junior high schools, businesses, families, and community and parent organizations. By combining early intervention in a student’s academic career with strengthened academic programs, mentors, after-school and summer help, improved teacher training, help in college planning, greater parental involvement, and high expectations, we can strengthen schools and increase the opportunities for more students to be prepared for, and attend college. It is an important example of how national leadership in education can help local communities make a positive difference.

Across the country, the kinds of programs that GEAR UP will support and help generate are already in place helping young people. The Community Mentor Program (CMP) at St. Edward’s University in Austin, Texas, for example, addresses the needs of minority youth at both the elementary and college levels. CMP seeks to promote student retention, academic achievement, career exploration and community service for both St. Edward’s student mentors and for more than 500 Austin Independent School District elementary school children. The program has demonstrated improved academic performance and classroom behavior for children mentored in it, and a higher graduation rate for CMP mentors compared to other students at the university. Other programs, like Project GRAD in Houston and the Berkeley Pledge in the San Francisco-Oakland area, also help make powerful connections between low-income students and their parents and communities through development of a rigorous K-12 curriculum and increased access to college. The GEAR UP

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66. Remarks Announcing the High Hopes for College Initiative, 34 WEEKLY COM. PRES. DOC. 199 (Feb. 4, 1998).

67. Statement on Signing the Higher Education Amendments of 1998, 34 WEEKLY COMP. PRES. DOC. 1995 (Oct. 7, 1998).

initiative proposed by President Clinton and Vice President Gore will allow more communities to develop these positive, locally based efforts.

The federal government's important and unique ability to work to the direct benefit of students can be seen in Direct Student Loans, a program developed by President Clinton. The Student Loan Reform Act, passed by Congress and signed into law by President Clinton,<sup>68</sup> created the William D. Ford Direct Loan program, which supports post-secondary education while significantly simplifying the loan application process, reducing costs to students and taxpayers, and adding needed competition to the student loan program.

#### *Supporting Families and Children in the Earliest Years of Learning*

At the same time that we as a nation need to support and encourage rigorous learning in the elementary, secondary, and post-secondary years of school, we are becoming ever more aware of the importance of paying close attention and giving significant support to education and development during the earliest years of childhood. New research on the development of the brain tells us that children develop much of their learning capacity during their first three years of life. Every mother and father, every grandparent and all caring adults need to know that they can have an enormous influence in these early years in shaping a young child's future.

In response to this important research on brain development and parental involvement, President Clinton and Vice President Gore have proposed the single largest national commitment to child care in the history of this nation, including strengthening early childhood opportunities and professional development for early childhood educators through Title I of the Elementary and Secondary Education Act (ESEA).

This effort will supplement some of the wonderful work already going on in this area in states and communities across the nation. For example, North Carolina Governor Jim Hunt established "Smart Start," a pre-school learning program and Illinois Governor Jim Edgar decided to double his state's funding for early childhood education. Another successful program, Parents as Teachers (PAT), was started in Missouri in 1981 for parents with infants. It continues to be a public school system-operated program in every Missouri district and has served half a million Missouri families. Children who have been in the PAT program demonstrate increased levels of achievement during their school years. The program, which has been replicated in 43 states, features group meetings for parents, regular monitoring of children's health and developmental status, and referral to social service and other agencies when necessary.

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68. Student Loan Reform Act of 1993, Subtitle A of the Omnibus Reconciliation Act, P.L. No. 103-66 (1993).

Although locally based, PAT programs have federal government support and involvement through funding by the Education Department, through the Title I program, the Even Start program, and Title IV of the Parental Information and Resource Centers of the Goals 2000: Educate America Act,<sup>69</sup> and the legislation specifically cites local programs as examples for other communities to emulate.

Another way in which the U.S. Department of Education addresses the critical need for early childhood development and parent involvement in education is through its natural role as a national leader. For instance, the Department has helped start The Partnership for Family Involvement in Education. This Partnership consists of more than 5,000 local, state, and national organizations – from PTAs to employers, schools, and religious groups – all working to encourage greater family involvement in children's lives, at home and in school.

#### *Helping Local Communities Enhance Learning with After-School Community Centers*

What happens during the school day is just part of the solution for building quality educational opportunities. A significant majority of children's time is spent outside the classroom. Thus, what goes on in a child's life before and after school is critical to helping our young people develop as good students and good citizens.

President Clinton and Vice President Gore's historic after-school initiative – the 21st Century Community Learning Centers Program<sup>70</sup> – has begun supporting rural and inner-city schools in nearly every state, working in partnership with local community organizations, to address the educational needs of their community in the periods after school, on weekends and during summers. These Centers provide academic enrichment and homework help; music, art, supervised sports, and cultural activities; community service opportunities; nutrition and health services; access to technology and telecommunications; and activities to promote parent involvement and lifelong learning that can directly and indirectly benefit their children.

Statistics show that the after-school period – before parents and other family members get home – is the period of greatest risk for young people, particularly those between the ages of 12 and 17. Recent data collected by the

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69. For an examination of the entire Goals 2000: Educate America Act see Richard W. Riley, *Redefining the Federal Role in Education*, 23 J.L. & EDUC. 295 (1994).

70. See generally C.S. Mott Foundation, *Poll Finds Overwhelming Support for Afterschool Enrichment Programs to Keep Kids Safe and Smart* (visited Mar. 4, 1999), <[http://www.mott.org/special\\_reports/sr\\_press\\_release.htm](http://www.mott.org/special_reports/sr_press_release.htm)> [hereinafter *Mott*], and 21st Century Community Learning Centers, *After-School, Weekend and Summer Programs for Youth* (visited March 4, 1999), <<http://165.224.220.66/offices/OERI/21stCCLC/>>.

C.S. Mott Foundation document clearly a strong public commitment to make high-quality, supervised after-school programs available to all children who need or want them.<sup>71</sup> The demand for these programs was reaffirmed in 1998, when close to 2,000 communities applied for funds to establish 21st Century Community Learning Centers.<sup>72</sup> By the summer of 1999, we will have provided \$200 million for after-school, summer and weekend programs in 2,000 schools. These schools are working in collaboration with youth development agencies, community-based organizations, local businesses, colleges and universities, and museums and libraries to ensure that children have access to a wide range of educational and recreational services. Given the demonstrated need and desire for these critical services and the success of this initiative, the President has requested that Congress triple the budget for the program, to \$600 million.

### *Reducing Class Size and Modernizing Our School Buildings*

All across our nation today we are facing a significant and growing problem. Too many of our schools are vastly overcrowded, and many others are run down and crumbling around our children's heads. Last year, our schools set a new national enrollment record – a record we are going to be breaking for nearly the next ten years.<sup>73</sup>

When schools and classrooms are overcrowded and unsafe, students can't concentrate on learning – so they don't learn as much. These conditions send the wrong message to our children – that we don't give their education the priority it deserves. This is yet another area where the federal government can and should play an important role in helping communities solve problems.

President Clinton and Vice President Gore have developed a practical and creative approach to help the nation and local communities refocus on what matters and cultivate improved education. They have proposed a \$25 billion school construction initiative to help spur that development across the nation by offering federal tax credits to pay interest on certain types of bonds to build and renovate public schools. This initiative would provide valuable federal support while maintaining local autonomy—making local and state tax dollars go further by reducing the interest they pay on their school bonds. It simply reduces the cost of, and creates incentives for local investment in much needed school construction.

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71. See generally *Mott*, *supra* note 69.

72. See generally *President Clinton Announces New 21st Century Community Learning Centers* (visited Mar. 4, 1999), <<http://www.ed.gov/PressReleases/06-1998/21grntl.html>>.

73. U.S. DEPARTMENT OF EDUCATION WHITE PAPER, A BACK TO SCHOOL SPECIAL REPORT ON THE BABY BOOM ECHO – HERE COME THE TEENAGERS, August 21, 1997; U.S. DEPARTMENT OF EDUCATION WHITE PAPER, A BACK TO SCHOOL SPECIAL REPORT – THE BABY BOOM ECHO, August 21, 1996.

As local communities and as a nation, we have the energy and the ability to address this facilities problem. Right now, all across the nation, there exist many places where a school is in a state of disrepair, while not far away there is a state-of-the-art prison. As the philosopher Plato stated: "That which is honored in a country is that which will be cultivated there." If we focus on building beautiful prisons, we will have no trouble filling those buildings. But if we focus on building quality schools, we will have a much better chance of producing quality students who can become productive citizens. National leadership will help advance this effort.

A second and interrelated part of the President and Vice President's proposal is a plan to help local communities reduce average class size to 18 in grades one through three. Studies show what parents and teachers already know: that children – especially young children – learn more and teacher teach more effectively in small classes.<sup>74</sup> And follow-up studies have shown that these achievement gains continued after the students returned to regular-size classes after third grade.<sup>75</sup> Teachers have reported that they preferred small classes in order to better identify student needs, provide more individual attention, and cover more material effectively.

Last year Congress passed the first installment of the Clinton Administration's proposal to invest \$12 billion over seven years and reduce class size all across America by helping participating states and school districts to hire 100,000 new highly qualified teachers. This investment will also supply additional funding and support for local communities to adopt rigorous teacher training and testing so that all students can master the basics. I am hopeful that Congress will finish the job and make the long-term investment that is necessary in this critical area.

Lowering class size is a critical current national need felt in communities across this nation. It does not encroach on the traditional and primary state and local role in education but enhances it. It does not dictate how teachers are hired or how they should teach, but creates opportunities for communities to hire new, well-qualified teachers who can raise standards of learning for all children.

#### *Helping Local Schools Bring the Best in Learning Technology to Classrooms*

President Clinton and Vice President Gore have worked hard to provide local communities – rich and poor, urban and rural – with one of the greatest

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74. See U.S. DEPARTMENT OF EDUCATION, REDUCING CLASS SIZE: WHAT DO WE KNOW (1998), citing Frederick Mosteller, *The Tennessee Study of Class Size in the Early School Grades*, 5 FUTURE OF CHILDREN 113-127 (1995).

75. See U.S. DEPARTMENT OF EDUCATION, REDUCING CLASS SIZE: WHAT DO WE KNOW (1998), citing BARBARA NYE, ET AL., THE LASTING BENEFITS STUDY, EIGHTH GRADE TECHNICAL REPORT (Tenn. St. Univ., Center of Excellence for Research in Basic Skills, 1988).

opportunities of learning since the invention of the blackboard – the vast world of learning technologies. The U.S. government is working to supplement local efforts to achieve these goals. Currently, about one-quarter of all funds spent on technology in K-12 schools in this country are federal funds.<sup>76</sup>

These efforts include an investment of \$425 million for the Technology Literacy Challenge Fund in 1999, funds that will help states and local districts meet the administration's four goals on education technology. These goals are connecting every classroom to the Internet by the year 2000, increasing the number of modern, multimedia computers in the classroom, expanding the availability of high-quality education software and content, and ensuring that teachers have the kind of access and training they need to use these tools well.

The President's 1999 budget also included \$115 million for Technology Innovation Challenge grants, a competitive grant program to build partnership among local school districts, universities, businesses, libraries, software designers, and others.

Finally, in another recent example of how critical a federal role in education can be, the President and Vice President took the lead in securing the E-rate (Education-rate) to connect schools and libraries to the Internet. The E-Rate provides \$1.925 billion in discounts of between 20 and 90 percent on telecommunications services, internal connections, and Internet access, with the deepest discounts going to the poorest urban and rural schools which need it most. In this way, we are helping at the federal level to ensure that no one at the local level will be denied the opportunities to use these new learning technologies. Early signs indicate that there has been, and will continue to be, a dramatic increase in schools and classrooms connected to the Internet.

### CONCLUSION

It is said that necessity is the mother of invention. We have always had a genuine need in this nation for education. Out of that need, the federal government – with the public's support – has steadily built and sustained a federal role in education that contributes to the well-being of this nation while maintaining state and local control. This commitment has demonstrated significant results. Yet more needs to be done.

Today, we stand at the dawn of a new Age of Education – a critical time in our nation's history when the opportunities for broadening horizons, expanding learning and building a secure future are greater than ever before. These unbounded opportunities are equaled by the challenge to make sure that every person has access to them. The federal government plays an important part in helping families, states, and localities meet this challenge.

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76. See MCKINSEY & COMPANY FOR THE NAT'L INFORMATION ADVISORY COUNCIL, *CONNECTING K-12 SCHOOLS TO THE INFORMATION SUPERHIGHWAY* (1995).