

IMPACT AID REAUTHORIZATION ACT OF 2000

FEBRUARY 29, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Education and the Workforce, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3616]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3616) to reauthorize the impact aid program under the Elementary and Secondary Education Act of 1965, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Impact Aid Reauthorization Act of 2000”.

SEC. 2. PURPOSE.

Section 8001 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting after “educational services to federally connected children” the following: “in a manner that promotes control by local educational agencies with little or no Federal or State involvement”; and

(B) by inserting after “certain activities of the Federal Government” the following: “, such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 514 of the Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C. App. 574),”;

(2) in paragraph (4), by adding “or” at the end;

(3) by striking paragraph (5);

(4) by redesignating paragraph (6) as paragraph (5); and

(5) in paragraph (5) (as redesignated), by inserting before the period at the end the following: “and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property”.

SEC. 3. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

(a) **FISCAL YEAR REQUIREMENT.**—Section 8002(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(a)) is amended in the matter preceding paragraph (1) by striking “1999” and inserting “2005”.

(b) **AMOUNT.**—

(1) **INSUFFICIENT FUNDS.**—Section 8002(b)(1)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(b)(1)(B)) is amended by striking “shall ratably reduce the payment to each eligible local educational agency” and inserting “shall calculate the payment for each eligible local educational agency in accordance with subsection (h)”.

(2) **MAXIMUM AMOUNT.**—Section 8002(b)(1)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(b)(1)(C)) is amended by adding at the end before the period the following: “, or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater”.

(c) **PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.**—Section 8002(h) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(h)) is amended to read as follows:

“(h) **PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.**—For any fiscal year for which the amount appropriated under section 8014(a) is insufficient to pay to each local educational agency the full amount determined under subsection (b), the Secretary shall make payments to each local educational agency under this section as follows:

“(1) **FOUNDATION PAYMENTS FOR PRE-1995 RECIPIENTS.**—

“(A) **IN GENERAL.**—The Secretary shall first make a foundation payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved and was eligible to receive a payment under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of the enactment of the Improving America’s Schools Act of 1994) for any of the fiscal years 1989 through 1994.

“(B) **AMOUNT.**—The amount of a payment under subparagraph (A) for a local educational agency shall be equal to 37 percent of the payment amount the local educational agency was eligible to receive under section 2 of the Act of September 30, 1950, for fiscal year 1994 (or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994, the payment that local educational agency was eligible to receive under such section 2 for the most recent fiscal year preceding 1994).

“(C) **INSUFFICIENT APPROPRIATIONS.**—If the amount appropriated under section 8014(a) is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

“(2) **PAYMENTS FOR 1995 RECIPIENTS.**—

“(A) **IN GENERAL.**—From any amounts remaining after making payments under paragraph (1) for the fiscal year involved, the Secretary shall make a payment to each eligible local educational agency that received a payment under this section for fiscal year 1995.

“(B) **AMOUNT.**—The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

“(i) Calculate the difference between the amount appropriated to carry out this section for fiscal year 1995 and the total amount of foundation payments made under paragraph (1) for the fiscal year.

“(ii) Determine the percentage share for each local educational agency that received a payment under this section for fiscal year 1995 by dividing the assessed value of the Federal property of the local educational agency for fiscal year 1995 determined in accordance with subsection (b)(3), by the total national assessed value of the Federal property of all such local educational agencies for fiscal year 1995, as so determined.

“(iii) Multiply the percentage share described in clause (ii) for the local educational agency by the amount determined under clause (i).

“(3) SUBSECTION (i) RECIPIENTS.—From any funds remaining after making payments under paragraphs (1) and (2) for the fiscal year involved, the Secretary shall make payments in accordance with subsection (i).

“(4) REMAINING FUNDS.—From any funds remaining after making payments under paragraphs (1), (2), and (3) for the fiscal year involved—

“(A) the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) for the fiscal year involved in an amount that bears the same relation to 25 percent of the remainder as the amount the local educational agency received under paragraph (1) for the fiscal year involved bears to the amount all local educational agencies received under paragraph (1) for the fiscal year involved; and

“(B) the Secretary shall make a payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved in an amount that bears the same relation to 75 percent of the remainder as a percentage share determined for the local educational agency (in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii)) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that for the purpose of calculating a local educational agency’s assessed value of the Federal property, data from the most current fiscal year shall be used.”.

(d) SPECIAL PAYMENTS.—

(1) IN GENERAL.—Section 8002(i)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(i)(1)) is amended to read as follows:

“(1) IN GENERAL.—For any fiscal year beginning with fiscal year 2000 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996 and for which subsection (b)(1)(B) applies, the Secretary shall use the remainder described in subsection (h)(3) for the fiscal year involved (not to exceed the amount equal to the difference between (A) the amount appropriated to carry out this section for fiscal year 1997 and (B) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency described in paragraph (2).”.

(2) CONFORMING AMENDMENT.—The heading of section 8002(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(i)) is amended by striking “PRIORITY” and inserting SPECIAL”.

(e) ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION.—Section 8002(j)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(j)(2)) is amended—

(1) by striking “(A) A local educational agency” and inserting “A local educational agency”;

(2) by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively; and

(3) in subparagraph (C) (as redesignated), by adding at the end before the semicolon the following: “and such agency does not currently have a military installation located within its geographic boundaries”.

(f) DATA; PRELIMINARY AND FINAL PAYMENTS.—Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following:

“(1) DATA; PRELIMINARY AND FINAL PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) not later than 30 days following the application deadline under section 8005(c) for a fiscal year, require any local educational agency that applied for a payment under subsection (b) for the fiscal year to submit such data as may be necessary in order to compute the payment;

“(B) as soon as possible after the beginning of any fiscal year, but no later than 60 days after the enactment of an Act making appropriations to carry out this title for the fiscal year, provide a preliminary payment under subsection (b) for any local educational agency that applied for a payment under subsection (b) for the fiscal year and was eligible for such a payment for the preceding fiscal year, in the amount of 60 percent of the payment for the previous year; and

“(C) provide a final payment under subsection (b) for any eligible local educational agency not later than 12 months after the application deadline established under section 8005(c), except that any local educational agency

failing to submit all of the data required under subparagraph (A) shall be denied such payment for the fiscal year for which the application is made unless funds from a source other than the Act described in subparagraph (B) are made available to provide such payment.

“(2) ELIGIBILITY FOR PAYMENTS IN SUBSEQUENT YEARS.—The denial of a payment under subsection (b) to a local educational agency for a fiscal year pursuant to this subsection shall not affect the eligibility of the local educational agency for a final payment under subsection (b) for a subsequent fiscal year.”.

SEC. 4. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

(a) MILITARY INSTALLATION HOUSING UNDERGOING RENOVATION OR REBUILDING.—

(1) IN GENERAL.—Section 8003(a)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended—

(A) in the heading, by striking “UNDERGOING RENOVATION” and inserting “UNDERGOING RENOVATION OR REBUILDING”;

(B) by striking “For purposes” and inserting the following:

“(A) IN GENERAL.—For purposes”;

(C) in subparagraph (A) (as designated by subparagraph (B)), by inserting “or rebuilding” after “undergoing renovation”; and

(D) by adding at the end the following:

“(B) LIMITATIONS.—(i)(I) Except as provided in subclause (II), children described in paragraph (1)(D)(i) may be deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A) for a period not to exceed 2 fiscal years.

“(II) If the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that the expected completion date of the renovation or rebuilding of the housing has been delayed by not less than 1 year, then—

“(aa) in the case of a determination made by the Secretary in the 1st fiscal year described in subclause (I), the time period described such subclause shall be extended by the Secretary for an additional 2 years; and

“(bb) in the case of a determination made by the Secretary in the 2nd fiscal year described in subclause (I), the time period described such subclause shall be extended by the Secretary for an additional 1 year.

“(ii) The number of children described in paragraph (1)(D)(i) who are deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A) for any fiscal year may not exceed the maximum number of children who are expected to occupy that housing upon completion of the renovation or rebuilding.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to payments to a local educational agency for fiscal years beginning before, on, or after the date of the enactment of this Act.

(b) MILITARY ‘BUILD TO LEASE’ PROGRAM HOUSING.—Section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by adding at the end the following:

“(5) MILITARY ‘BUILD TO LEASE’ PROGRAM HOUSING.—

“(A) IN GENERAL.—For purposes of computing the amount of payment for a local educational agency for children identified under paragraph (1), the Secretary shall consider children residing in housing initially acquired or constructed under the former section 2828(g) of title 10, United States Code (commonly known as the ‘Build to Lease’ program), as added by section 801 of the Military Construction Authorization Act, 1984, to be children described under paragraph (1)(B) if the property described is within the fenced security perimeter of the military facility upon which such housing is situated.

“(B) ADDITIONAL REQUIREMENTS.—If the property described in subparagraph (A) is not owned by the Federal Government, is subject to taxation by a State or political subdivision of a State, and thereby generates revenues for a local educational agency that is applying to receive a payment under this section, then the Secretary—

“(i) shall require the local educational agency to provide certification from an appropriate official of the Department of Defense that the property is being used to provide military housing; and

“(ii) shall reduce the amount of the payment under this section by an amount equal to the amount of revenue from such taxation received

in the second preceding fiscal year by such local educational agency, unless the amount of such revenue was taken into account by the State for such second preceding fiscal year and already resulted in a reduction in the amount of State aid paid to such local educational agency.”.

SEC. 5. MAXIMUM AMOUNT OF BASIC SUPPORT PAYMENTS.

Section 8003(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)) is amended by adding at the end the following:

“(D) INCREASE IN LOCAL CONTRIBUTION RATE DUE TO UNUSUAL GEOGRAPHIC FACTORS.—If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subparagraph (C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency under subparagraph (C)(iii) by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.”.

SEC. 6. BASIC SUPPORT PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—Section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) BASIC SUPPORT PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

“(A) IN GENERAL.—(i) From the amount appropriated under section 8014(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible heavily impacted local educational agencies with children described in subsection (a).

“(ii) A local educational agency that receives a basic support payment under this paragraph for a fiscal year shall not be eligible to receive a basic support payment under paragraph (1) for that fiscal year.

“(B) ELIGIBILITY FOR CONTINUING HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

“(i) FISCAL YEAR 2001.—A heavily impacted local educational agency is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2001 with respect to a number of children determined under subsection (a)(1) only if the agency received an additional assistance payment under subsection (f) (as such subsection was in effect on the day before the date of the enactment of the Impact Aid Reauthorization Act of 2000) for fiscal year 2000.

“(ii) FISCAL YEAR 2002 AND SUBSEQUENT FISCAL YEARS.—A heavily impacted local educational agency described in clause (i) is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2002 and any subsequent fiscal year with respect to a number of children determined under subsection (a)(1) only if the agency—

“(I) received a basic support payment under subparagraph (A) for fiscal year 2001; and

“(II)(aa) is a local educational agency whose boundaries are the same as a Federal military installation;

“(bb) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which is not less than 35 percent, has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located or the average per-pupil expenditure of all States (whichever average per-pupil expenditure is greater), except that a local educational agency with a total student enrollment of less than 350 students shall be deemed to have satisfied such per-pupil expenditure requirement, and has a tax rate for general fund purposes which is at

least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

“(cc) has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are federally connected children described in subsection (a)(1) and not less than 6,000 of such federally connected children are children described in subparagraphs (A) and (B) of subsection (a)(1).

“(iii) RESUMPTION OF ELIGIBILITY.—A heavily impacted local educational agency described in clause (i) or (ii) that becomes ineligible under either such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency meets the requirements of item (aa), (bb), or (cc) of clause (ii)(II) for that subsequent fiscal year.

“(C) ELIGIBILITY FOR NEW HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

“(i) IN GENERAL.—A heavily impacted local educational agency that did not receive an additional assistance payment under subsection (f) (as such subsection was in effect on the day before the date of the enactment of the Impact Aid Reauthorization Act of 2000) for fiscal year 2000 is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2002 and any subsequent fiscal year with respect to a number of children determined under subsection (a)(1) only if the agency—

“(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which (aa) is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection or (bb) is not less than 40 percent if such agency does not receive a payment on behalf of such children;

“(II)(aa) is a local educational agency whose boundaries are the same as a Federal military installation; or

“(bb) is a local educational agency that has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; and

“(III)(aa) for a local educational agency that has a total student enrollment of 350 or more students, the agency has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located; or

“(bb) for a local educational agency that has a total student enrollment of less than 350 students, the agency has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable agency in the State in which the agency is located.

“(ii) RESUMPTION OF ELIGIBILITY.—A heavily impacted local educational agency described in clause (i) that becomes ineligible under such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency meets the requirements of subclauses (I), (II), and (III) of clause (i) for that subsequent fiscal year.

“(iii) APPLICATION.—With respect to the first fiscal year for which a heavily impacted local educational agency described in clause (i) applies for a basic support payment under subparagraph (A), or with respect to the first fiscal year for which a heavily impacted local educational agency applies for a basic support payment under subparagraph (A) after becoming ineligible under clause (i) for 1 or more preceding fiscal years, the agency shall apply for such payment at least 1 year prior to the start of that first fiscal year.

“(D) MAXIMUM AMOUNT FOR REGULAR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—(i) Except as provided in subparagraph (E), the maximum amount that a heavily impacted local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) (subject to clause (ii)), multiplied by the greater of—

“(I) four-fifths of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made; or

“(II) four-fifths of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made.

“(ii)(I) For a local educational agency with respect to which 35 percent or more of the total student enrollment of the schools of the agency are children described in subparagraph (D) or (E) (or a combination thereof) of subsection (a)(1), the Secretary shall calculate the weighted student units of such children for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 0.55.

“(II) For a local educational agency that has an enrollment of 100 or fewer federally connected children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.75.

“(III) For a local educational agency that has an enrollment of more than 100 but not more than 750 children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.25.

“(E) MAXIMUM AMOUNT FOR LARGE HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—(i)(I) Subject to clause (ii), the maximum amount that a heavily impacted local educational agency described in subclause (II) is eligible to receive under this paragraph for any fiscal year shall be determined in accordance with the formula described in paragraph (1)(C).

“(II) A heavily impacted local educational agency described in this subclause is a local educational agency that has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are federally connected children described in subsection (a)(1) and not less than 6,000 of such federally connected children are children described in subparagraphs (A) and (B) of subsection (a)(1).

“(ii) For purposes of calculating the maximum amount described in clause (i), the factor used in determining the weighted student units under subsection (a)(2) with respect to children described in subparagraphs (A) and (B) of subsection (a)(1) shall be 1.35.

“(F) DATA.—For purposes of providing assistance under this paragraph, the Secretary shall use student, revenue, expenditure, and tax data from the third fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this paragraph.”.

(b) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)), as redesignated, is amended—

(1) in subparagraph (A), by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”;

(2) in subparagraph (B)—

(A) in the heading, by inserting after “PAYMENTS” the following: “IN LIEU OF PAYMENTS UNDER PARAGRAPH (1)”;

(B) in the matter preceding subclause (I) of clause (i), by inserting after ““threshold payment”” the following: “in lieu of basic support payments under paragraph (1)”;

(C) in clause (ii), by striking “paragraph (1)” and inserting “clause (i)”;

and

(D) by adding at the end the following:

“(iv) In the case of a local educational agency that has a total student enrollment of fewer than 1,000 students and that has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located, the total percentage used to calculate threshold payments under clause (i) shall not be less than 40 percent.”;

(3) by redesignating subparagraph (C) as subparagraph (D);

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

“(C) LEARNING OPPORTUNITY THRESHOLD PAYMENTS IN LIEU OF PAYMENTS UNDER PARAGRAPH (2).—For fiscal years described in subparagraph (A), the learning opportunity threshold payment in lieu of basic support payments under paragraph (2) shall be equal to the amount obtained under subparagraph (D) or (E) of paragraph (2), as the case may be.”; and

(5) in subparagraph (D) (as redesignated), by striking “computation made under subparagraph (B)” and inserting “computations made under subparagraphs (B) and (C)”.

(c) CONFORMING AMENDMENTS.—(1) Section 8002(b)(1)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(b)(1)(C)) is amended by striking “section 8003(b)(1)(C)” and inserting “paragraph (1)(C) of section 8003(b) or subparagraph (D) or (E) of paragraph (2) of such section, as the case may be”.

(2) Section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) is amended—

(A) in subsection (a)(1), by striking “subsection (b), (d), or (f)” and inserting “subsection (b) or (d)”;

(B) in subsection (b)—

(i) in paragraph (1)(C), in the matter preceding clause (i), by striking “this subsection” and inserting “this paragraph”; and

(ii) in paragraph (4) (as redesignated)—

(I) in subparagraph (A), by striking “paragraphs (1)(B), (1)(C), and (2) of this subsection” and inserting “subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) through (D) of paragraph (2), as the case may be, paragraph (3) of this subsection”; and

(II) in subparagraph (B)—

(aa) by inserting after “paragraph (1)(C)” the following: “or subparagraph (D) or (E) of paragraph (2), as the case may be,”; and

(bb) by striking “paragraph (2)(B)” and inserting “subparagraph (B) or (C) of paragraph (3)”;

(C) in subsection (c)(1), by striking “paragraph (2) and subsection (f)” and inserting “subsection (b)(2) and paragraph (2)”;

(D) by striking subsection (f); and

(E) in subsection (i), by striking “sections 8002 and 8003(b)” and inserting “section 8002 and subsection (b) of this section”.

SEC. 7. BASIC SUPPORT PAYMENTS FOR LOCAL EDUCATIONAL AGENCIES AFFECTED BY REMOVAL OF FEDERAL PROPERTY.

Section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)), as amended by this Act, is further amended by adding at the end the following:

“(5) LOCAL EDUCATIONAL AGENCIES AFFECTED BY REMOVAL OF FEDERAL PROPERTY.—

“(A) IN GENERAL.—In computing the amount of a basic support payment under this subsection for a fiscal year for a local educational agency described in subparagraph (B), the Secretary shall meet the additional requirements described in subparagraph (C).

“(B) LOCAL EDUCATIONAL AGENCY DESCRIBED.—A local educational agency described in this subparagraph is a local educational agency with respect to which Federal property (i) located within the boundaries of the agency, and (ii) on which 1 or more children reside who are receiving a free public education at a school of the agency, is transferred by the Federal Government to another entity in any fiscal year beginning on or after the date of the enactment of the Impact Aid Reauthorization Act of 2000 so that the property is subject to taxation by the State or a political subdivision of the State.

“(C) ADDITIONAL REQUIREMENTS.—The additional requirements described in this subparagraph are the following:

“(i) For each fiscal year beginning after the date on which the Federal property is transferred, a child described in subparagraph (B) who continues to reside on such property and who continues to receive a free public education at a school of the agency shall be deemed to be a child who resides on Federal property for purposes of computing under the applicable subparagraph of subsection (a)(1) the amount that the agency is eligible to receive under this subsection.

“(ii)(I) For the third fiscal year beginning after the date on which the Federal property is transferred, and for each fiscal year thereafter, the Secretary shall, after computing the amount that the agency is otherwise eligible to receive under this subsection for the fiscal year involved, deduct from such amount an amount equal to the revenue received by the agency for the immediately preceding fiscal year as a result of the taxable status of the former Federal property.

“(II) For purposes of determining the amount of revenue to be deducted in accordance with subclause (I), the local educational agency—

“(aa) shall provide for a review and certification of such amount by an appropriate local tax authority; and

“(bb) shall submit to the Secretary a report containing the amount certified under item (aa).”.

SEC. 8. ADDITIONAL PAYMENTS FOR LOCAL EDUCATIONAL AGENCIES WITH HIGH CONCENTRATIONS OF CHILDREN WITH SEVERE DISABILITIES.

(a) **REPEAL.**—Subsection (g) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(g)) is repealed.

(b) **CONFORMING AMENDMENTS.**—(1) Section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) is amended by redesignating subsections (h) and (i) as subsections (f) and (g), respectively.

(2) Section 426 of the General Education Provisions Act (20 U.S.C. 1228) is amended by striking “subsections (d) and (g) of section 8003 of such Act” and inserting “section 8003(d) of such Act”.

SEC. 9. APPLICATION FOR PAYMENTS UNDER SECTIONS 8002 AND 8003.

Section 8005(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7705(d)) is amended—

(1) in paragraph (2), by inserting after “not more than 60 days after a deadline established under subsection (c)” the following: “, or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be,”; and

(2) in paragraph (3) to read as follows:

“(3) **LATE APPLICATIONS.**—

“(A) **NOTICE.**—The Secretary shall, as soon as practicable after the deadline established under subsection (c), provide to each local educational agency that applied for a payment under section 8002 or 8003 for the prior fiscal year, and with respect to which the Secretary has not received an application for a payment under either such section (as the case may be) for the fiscal year in question, written notice of the failure to comply with the deadline and instruction to ensure that the application is filed not later than 60 days after the date on which the Secretary sends the notice.

“(B) **ACCEPTANCE AND APPROVAL OF LATE APPLICATIONS.**—The Secretary shall not accept or approve any application of a local educational agency that is filed more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to subparagraph (A).”.

SEC. 10. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.

Section 8006 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7706) is repealed.

SEC. 11. CONSTRUCTION.

(a) **IN GENERAL.**—Section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) is amended to read as follows:

“SEC. 8007. CONSTRUCTION.

“(a) **CONSTRUCTION PAYMENTS AUTHORIZED.**—

“(1) **IN GENERAL.**—From 70 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary shall make payments in accordance with this subsection to each local educational agency that receives a basic support payment under section 8003(b) for that fiscal year.

“(2) **ADDITIONAL REQUIREMENTS.**—A local educational agency that receives a basic support payment under section 8003(b)(1) shall also meet at least 1 of the following requirements:

“(A) The number of children determined under section 8003(a)(1)(C) for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

“(B) The number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

“(3) **AMOUNT OF PAYMENTS.**—

“(A) **LOCAL EDUCATIONAL AGENCIES IMPACTED BY MILITARY DEPENDENT CHILDREN.**—The amount of a payment to each local educational agency described in this subsection that is impacted by military dependent children for a fiscal year shall be equal to—

“(i)(II) 35 percent of the amount appropriated under section 8014(e) for such fiscal year; divided by

“(II) the total number of weighted student units of children described in subparagraphs (B) and (D)(i) of section 8003(a)(1) for all local educational agencies described in this subsection (as calculated under section 8003(a)(2)), including the number of weighted student units of such children attending a school facility described in section 8008(a) if the Secretary does not provide assistance for the school facility under that section for the prior fiscal year; multiplied by

“(ii) the total number of such weighted student units for the agency.

“(B) LOCAL EDUCATIONAL AGENCIES IMPACTED BY CHILDREN WHO RESIDE ON INDIAN LANDS.—The amount of a payment to each local educational agency described in this subsection that is impacted by children who reside on Indian lands for a fiscal year shall be equal to—

“(i)(I) 35 percent of the amount appropriated under section 8014(e) for such fiscal year; divided by

“(II) the total number of weighted student units of children described in section 8003(a)(1)(C) for all local educational agencies described in this subsection (as calculated under section 8003(a)(2)); multiplied by

“(ii) the total number of such weighted student units for the agency.

“(4) USE OF FUNDS.—Any local educational agency that receives funds under this subsection shall use such funds for construction, as defined in section 8013(3).

“(b) SCHOOL FACILITY MODERNIZATION GRANTS AUTHORIZED.—

“(1) IN GENERAL.—From 30 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary shall award grants in accordance with this subsection to eligible local educational agencies to enable the local educational agencies to carry out modernization of school facilities.

“(2) ELIGIBILITY REQUIREMENTS.—A local educational agency is eligible to receive funds under this subsection only if—

“(A) such agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, such agency’s fiscal agent) has no capacity to issue bonds or is at such agency’s limit in bonded indebtedness for the purposes of generating funds for capital expenditures; and

“(B)(i) such agency received assistance under section 8002(a) for the fiscal year and has an assessed value of taxable property per student in the school district that is less than the average of the assessed value of taxable property per student in the State in which the local educational agency is located; or

“(ii) such agency received assistance under subsection (a) for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

“(3) AWARD CRITERIA.—In awarding grants under this subsection the Secretary shall consider 1 or more of the following factors:

“(A) The extent to which the local educational agency lacks the fiscal capacity to undertake the modernization project without Federal assistance.

“(B) The extent to which property in the local educational agency is non-taxable due to the presence of the Federal Government.

“(C) The extent to which the local educational agency serves high numbers or percentages of children described in subparagraphs (A), (B), (C), and (D) of section 8003(a)(1).

“(D) The need for modernization to meet—

“(i) the threat that the condition of the school facility poses to the safety and well-being of students;

“(ii) overcrowding conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment; and

“(iii) facility needs resulting from actions of the Federal Government.

“(E) The age of the school facility to be modernized.

“(4) OTHER AWARD PROVISIONS.—

“(A) FEDERAL SHARE.—The Federal funds provided under this subsection to a local educational agency described in subparagraph (C) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection. A local educational agency may use in-kind contributions to meet the matching requirement of the preceding sentence.

“(B) MAXIMUM GRANT.—A local educational agency described in subparagraph (C) may not receive a grant under this subsection in an amount that exceeds \$3,000,000 during any 5-year period.

“(C) LOCAL EDUCATIONAL AGENCY DESCRIBED.—A local educational agency described in this subparagraph is a local educational agency that has the authority to issue bonds but is at such agency’s limit in bonded indebtedness for the purposes of generating funds for capital expenditures.

“(5) APPLICATIONS.—A local educational agency that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain—

“(A) documentation certifying such agency’s lack of bonding capacity;

“(B) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 8003(a)(1) in average daily attendance in each school facility;

“(C) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located;

“(D) a description of any school facility deficiency that poses a health or safety hazard to the occupants of the school facility and a description of how that deficiency will be repaired;

“(E) a description of the modernization to be supported with funds provided under this subsection;

“(F) a cost estimate of the proposed modernization; and

“(G) such other information and assurances as the Secretary may reasonably require.

“(6) EMERGENCY GRANTS.—

“(A) APPLICATIONS.—Each local educational agency described in paragraph (2)(B)(ii) that desires a grant under this subsection shall include in the application submitted under paragraph (5) a signed statement from an appropriate local official certifying that a health or safety deficiency exists.

“(B) PRIORITY.—If the Secretary receives more than 1 application from local educational agencies described in paragraph (2)(B)(ii) for grants under this subsection for any fiscal year, the Secretary shall give priority to local educational agencies based on the severity of the emergency, as determined by the Secretary, and when the application was received.

“(C) CONSIDERATION FOR FOLLOWING YEAR.—A local educational agency described in paragraph (2)(B)(ii) that applies for a grant under this subsection for any fiscal year and does not receive the grant shall have the application for the grant considered for the following fiscal year, subject to the priority described in subparagraph (B).”

(b) DEFINITION.—Section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713) is amended by adding at the end the following:

“(13) MODERNIZATION.—The term ‘modernization’ means repair, renovation, alteration, or construction, including—

“(A) the concurrent installation of equipment; and

“(B) the complete or partial replacement of an existing school facility, but only if such replacement is less expensive and more cost-effective than repair, renovation, or alteration of the school facility.”

SEC. 12. FEDERAL ADMINISTRATION.

Section 8010(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7710(c)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(3) in paragraph (2)(D) (as redesignated), by striking “section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America’s Schools Act of 1994) or”.

SEC. 13. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE HEARINGS.—

(1) IN GENERAL.—Section 8011(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7711) is amended by adding at the end before the period the following: “if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing not later than 60 days after the date of the action of the Secretary under this title”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to an action of the Secretary under title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) initiated on or after the date of the enactment of this Act.

(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—Section 8011(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7711(b)(1)) is amended by striking “60 days” and inserting “30 working days (as determined by the local educational agency or State)”.

SEC. 14. DEFINITIONS.

Section 8013(5)(A)(iii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(5)(A)(iii)) is amended—

(1) in subclause (I), by striking “or” at the end; and

(2) by adding at the end the following:

“(III) affordable housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996; or”.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—Section 8014(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(a)) is amended by striking “\$16,750,000 for fiscal year 1995” and inserting “\$32,000,000 for fiscal year 2000”.

(b) BASIC PAYMENTS.—Section 8014(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(b)) is amended—

(1) by striking “subsections (b) and (f) of section 8003” and inserting “section 8003(b)”;

(2) by striking “\$775,000,000 for fiscal year 1995” and inserting “\$809,400,000 for fiscal year 2000”; and

(3) by striking “, of which 6 percent” and all that follows and inserting a period.

(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—Section 8014(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(c)) is amended by striking “\$45,000,000 for fiscal year 1995” and inserting “\$50,000,000 for fiscal year 2000”.

(d) PAYMENTS FOR INCREASES IN MILITARY CHILDREN.—Subsection (d) of section 8014 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714) is repealed.

(e) CONSTRUCTION.—Section 8014(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(e)) is amended by striking “\$25,000,000 for fiscal year 1995” and inserting “\$10,052,000 for fiscal year 2000”.

(f) FACILITIES MAINTENANCE.—Section 8014(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(f)) is amended by striking “\$2,000,000 for fiscal year 1995” and inserting “\$5,000,000 for fiscal year 2000”.

(g) ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION.—Section 8014(g) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(g)) is amended—

(1) in the heading, by striking “FEDERAL PROPERTY LOCAL EDUCATIONAL AGENCIES” and inserting “LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION”; and

(2) by striking “such sums as are necessary beginning in fiscal year 1998 and for each succeeding fiscal year” and inserting “\$1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the four succeeding fiscal years”.

SEC. 16. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on October 1, 2000, or the date of the enactment of this Act, whichever occurs later.

COMMITTEE ACTION

The Subcommittee on Early Childhood, Youth and Families held one hearing in Washington, DC on Impact Aid on March 17, 1999. The Subcommittee received testimony from two panels of witnesses. Panel 1: The Honorable Randy “Duke” Cunningham, Representative of the 51st District, California, U.S. House of Representatives; The Honorable Earl Pomeroy, At-Large Representative, South Dakota, U.S. House of Representatives; The Honorable Lee Terry, Representative of the 2nd District, Nebraska, U.S. House of Representatives; and The Honorable Chet Edwards, Representative of the 11th District, Texas, U.S. House of Representatives. Panel 2: Dr. Wayne Lett, Superintendent, Newport News

Public School System, Newport News, Virginia; Dr. Richard Carson, Superintendent, North Hanover Township Board of Education, McGuire AFB, New Jersey; Mr. Chuck Squier, Superintendent, Santee School District, Niobrara, Nebraska; and Mr. Dennis Jarrett, Director of Finance, York County School Board, Yorktown, Virginia.

Introduction of the Impact Aid Reauthorization Act of 2000

On February 10, 2000, Mr. Robin Hayes (R-NC) introduced H.R. 3616, the Impact Aid Reauthorization Act of 2000.

Legislative action

On February 16, 2000, the Committee on Education and the Workforce assembled to consider H.R. 3616, the Impact Aid Reauthorization Act of 2000. An amendment in the nature of a substitute, offered by Chairman Goodling, was adopted by voice vote, and the bill was favorably reported by the Committee on Education and the Workforce by a voice vote.

PURPOSE

The purpose of this legislation is to reauthorize and improve the Impact Aid program so it can continue to provide important financial assistance to local educational agencies affected by the removal of property from local tax rolls.

SUMMARY

H.R. 3616 provides several essential changes to the Impact Aid program to ensure assistance to local educational agencies is provided in a fair and equitable manner. It adjusts the funding formula for payments for federal property removed from the tax rolls, incorporates payments for heavily impacted local educational agencies into the basic payment structure, addresses issues related to the privatization of military housing, modifies the construction program, and provides for local educational agencies to be notified if they miss the deadline for filing applications for payments. The bill also provides for the needs of small, poor districts by establishing a funding floor for qualifying local educational agencies.

COMMITTEE VIEWS

BACKGROUND AND NEED FOR LEGISLATION

Over the years, the Impact Aid program has been the subject of much debate and numerous legislative proposals and amendments. This section provides a brief history of the Impact Aid program.

As originally enacted in 1950, the Impact Aid program was authorized for three years to provide federal financial assistance under four circumstances: (1) local educational agencies in which the federal government had acquired (after 1938) substantial real property that, as a result of the federal acquisition, became tax-exempt, thus reducing the local tax base; (2) local educational agencies providing a free public education for substantial numbers of federally connected students; (3) local educational agencies adversely affected by sudden and substantial increases in enrollments

by federally connected students; and (4) payments to other federal agencies for the operation of schools for federally connected students where local educational agencies could not provide a free public education for them—usually schools on military bases.

While the basic structure and purpose of the Impact Aid program has remained intact since its enactment in 1950, the program has been frequently amended. The effect of these amendments, with certain exceptions, has been to increase the number of local educational agencies receiving Impact Aid payments and the amounts of those payments. Over the 20 years (1953 through 1973) that followed the initial 3-year authorization of Impact Aid, Congress revised the original legislation to permit children of parents in the uniformed services and Indian children to be considered as “federally connected.” The definition of what constitutes “federal property” was also expanded to include low-rent public housing property. These amendments increased the number of students that could be counted for the purpose of calculating Impact Aid payments.

As a result of declining appropriations during the 1980’s the appropriations committees tried to target dollars to those local educational agencies that were highly dependent on Impact Aid dollars to run their schools. Although these amendments did provide some relief to highly impacted local educational agencies, it did so by adding a variety of new subcategories (Super A, Subsuper A, Regular A, Super B, and Regular B) to the program, only to make Impact Aid more complex. Funds were to be allocated to local educational agencies based on their percentage of federally connected students enrolled—with different amounts being allocated based on whether or not students were considered category “a” children or category “b” children. Because of the drop off in funding, the Impact Aid program became more susceptible to the parochial interests of the program, which, in turn, made the program more complex. The need for program reform was becoming more noticed by the authorizing committees.

Amendments to Impact Aid made during the reauthorization of the Elementary and Secondary Education Act in 1988 addressed some of these concerns; however, serious problems continued until the reforms brought about as a part of the Improving America’s Schools Act of 1994 were made. The most significant changes enacted at this time affected how local educational agencies were compensated for so-called “federally connected” children. A major change was the recognition that the program was not going to be fully funded, and that a more rationale formula must be adopted to better allocate the dollars available to those school districts that had a greater dependence on Impact Aid dollars to run their schools. Prior law based payments on the ratio of “federally connected children” to total enrollment in school districts. During the 1994 amendments this provision was modified to include the ratio of Impact Aid payments to a local educational agency’s total current expenditures. As a result, districts with a higher percentage of federally connected children and with higher percentages of Impact Aid funds would receive a larger percentage of their full payment.

Although Impact Aid represents a federal commitment to local educational agencies impacted by the presence of the federal government, the lack of full funding had created a variety of different funding steps that tried to factor in “need.” It did so with little attention actually given to a local educational agency’s dependence on Impact Aid funding to carry on the day-to-day operations of running a school. The 1994 changes to the Impact Aid law created a new system that recognized that some local educational agencies depended more on Impact Aid than others. For the first time a true “need” component was placed in the law.

Another key revision was the general elimination of payments for the children of civilian employees who either lived or worked on federal property. Support for these children was limited to local educational agencies that enrolled at least 2,000 of such children and such children represented at least 15 percent of the local educational agency’s total enrollment. That change represented a bipartisan plan intended to better target Impact Aid dollars to those local educational agencies with the greatest need.

The Improving America’s Schools Act also modified provisions dealing with payments for federal property. Prior to the 1994 amendments, payments were made based on the current assessed value of property of the same use and condition as the federal property was at the time of purchase. This provision was modified to base payments on the actual assessed value of the taxable property adjacent to the federal property as determined by the local tax assessor.

Since the 1994 amendments, the program has been working as intended and has received significant increases in appropriations. However, the Committee has been made aware of several areas where further modifications are necessary and addresses these concerns. —

VIEWS

The changes to the Impact Aid statute being proposed by the House Education and Workforce Committee make refinements to the 1994 reauthorization bill.

Payments relating to Federal acquisition of real property—

In 1994, the formula by which a local educational agency’s maximum payment was to be determined was changed to reflect the actual assessed value of the taxable property immediately adjacent to the federal property. The law continued the provision basing eligibility on property purchased by the federal government on or after January 1, 1939 that at the time of purchase had a total value equal to at least 10% of the total assessed value of all the taxable property within the boundaries of the taxing authority of the local educational agency. However, the method for determining the amount of the payment received by the local educational agency was modified.

Under the pre-1994 changes, a local educational agency’s maximum payment was calculated by determining the assessed value of property within the taxing boundaries of the agency that is similar to the type of property originally purchased by the federal government. For example, if the property was considered as agricul-

tural property by the taxing authority at the time of purchase, the assessment of the federal property must be the same as the current assessment of similar agricultural property within the taxing boundaries of the local educational agency. Under this system of determining assessments, the total amount of the national assessment for all the eligible property in 1994 was approximately \$28 million. The amount appropriated in fiscal year 1994 paid approximately 250 eligible local educational agencies 61% of their maximum payment.

The 1994 changes created a new system for determining a local educational agency's maximum payment. Rather than using land comparable to the type of land the property was at the time of purchase by the federal government, the Department of Education would now appraise the value of the taxable property adjacent to the federal land, called the "highest and best" method. This new method appraised the federal land based on the value of the taxable land adjacent to the federal land. For example, if an industrial park or a shopping mall now resided next to the federal property, the Department of Education would determine (based on data provided by the local tax assessor) the maximum payment of the federal land as based on the assessed value of the industrial park or shopping mall. At that time, the Committee felt this approach better measured the loss of property tax to the local educational agency as determined by what had happened to the property adjacent to the federal property since the original date of purchase. When the new method was authorized in 1994, however, it increased the total amount of funds needed to fully fund the estimated 250 eligible local educational agencies to an amount of approximately \$300 million. However, the amount appropriated for this line item did not increase at the same rate. In fiscal year 2000, the Section 8002 program received \$32 million, just a little over 10% of the amount needed.

The Committee recognized that problems were occurring in that a majority of the eligible rural local educational agencies would not see the assessed value of their federal property increase to the same degree as many urban local educational agencies. As a result, urban local educational agencies would absorb most of the money while the rural local educational agencies would see significantly lower payments. To address this problem the original 1994 legislation provided for a three-year hold harmless that was then extended throughout the period of the authorization in technical amendments passed in 1997. The hold harmless provided that those school districts eligible for federal property payments would be provided a payment based on the amount of their fiscal year 1994 payment, which, due to insufficient appropriations, represented 61 percent of their fiscal year maximum payment. The hold harmless established a three-year phase down covering fiscal years 1995–1997. The fiscal year 1995 payment was based on 85 percent of the fiscal year 1994 payment, with each of the following two fiscal years continuing to apply the 85 percent factor to the amount received in the previous fiscal year. The fiscal year 1998 payment and subsequent years was then set at the amount received by each school district in fiscal year 1997.

In order to maintain a funding balance between the rural and urban school districts, the Committee bill establishes a funding floor for all local educational agencies at 37 percent of a local educational agency's fiscal year 1994 maximum payment. Thirty-seven percent was established as the funding floor because it represents each local educational agency's actual payment as a percentage of their 1994 maximum payment when computing the three-year phase-down contained in the hold harmless. The Committee felt that this funding level, which is comparable to the amount received in fiscal year 1997, would be fair and equitable to all school districts funded under this section. All federal property school districts—both rural and urban—would receive, at a minimum, an amount equal to their percentage of what they would have received in fiscal year 1994 as reduced by the three-year hold harmless. The bill directs the Secretary of Education to make payments as provided under the funding floor (foundation payment) established by the bill before any other payments are made.

Following payment of the funding floor, the Committee bill would allocate the remaining dollars, not to exceed the amount appropriated in fiscal year 1996, as per the formula adopted in the 1994 amendments. This insures that those school districts benefiting by the 1994 changes in determining the value of the federal property will receive additional dollars to reflect the increased value of their federal property.

After the initial allocation of payments, the Committee bill would direct the Secretary to allocate: (1) 25 percent of the funds appropriated above the amount appropriated in fiscal year 1997 to all districts receiving a foundation payment. The allocation would be pro-rated based on the same percentage of funds that each district received under the foundation payment. This will ensure that the rural districts continue to see an increase in their federal property payments as the appropriations for the program grow and (2) 75 percent of the funds appropriated above the fiscal year 1997 level under the highest and best formula contained in current law. This ensures that those school districts with increased property assessments (primarily urban districts) receive a greater portion of the new money to reflect the higher property values in their area.

This provision is designed to insure that predominantly rural local educational agencies will continue to receive foundation payments based on what they received in fiscal year 1994 as well as a small portion of their "highest and best" payment. At the same time the urban local educational agencies favored under the revised "highest and best" formula will receive their foundation payment in addition to a payment under the "highest and best" formula that reflects the increased assessments of their federal property under the 1994 change to the law.

In order to receive funding under this revised provision of law, all eligible local educational agencies must be eligible for funding in the year they are applying.

Preliminary payments for federal property

H.R. 3616 adds a new subsection (1) that provides a preliminary payment to Section 8002 eligible local educational agencies. It requires that such local educational agencies receive a preliminary

payment equal to 60% of the amount received from the previous fiscal year no later than 60 days following the passage of the applicable appropriations bill. Final payment is to be made no later than 12 months following the close of the application deadline (normally January 31). The new provision also requires that any data to be submitted to the Department of Education from a local educational agency must be filed no later than 30 days following the close of the application deadline, i.e. tax rates, assessment data, etc. The Committee expects that the Department will not hold up final payments because data has not been received from eligible school districts. In addition, H.R. 3616 provides that any applicant not complying with the new data submission requirement shall be denied their final payment from funds appropriated under the applicable appropriations bill. Denial of a payment in one year, however, would not affect the local educational agency's future eligibility for Section 8002 funding.

Renovation and rebuilding

Current law provides that children who move off base during the renovation of on-base housing continue to be considered as on-base children for purposes of calculating Impact Aid payments. H.R. 3616 extends this provision to cover children who move off base during periods when the housing in which they reside is demolished and new housing is built on the military base. However, this new provision only allows these children to be considered as on-base children for a period of two years. In addition, only the number of children expected to reoccupy base housing are permitted to be counted as on-base children for purposes of calculating Impact Aid payments. The Committee further understands that when students are relocated for the purposes of renovation or demolition, it is often not evident how many students will be returned to base housing. Therefore, if the estimated number of students cannot be determined by the Department of Defense at the certification date, the Committee's intent is for the number of students last reported in the units in question to be used for reporting purposes by a local educational agency until accurate information is available.

The Committee believes that local educational agencies should not be faced with fluctuating federal support for the children of military personnel due to efforts by the Department of Defense to improve military housing. The Committee believes this provision will benefit both schools and the children of military personnel. The bill also contains language that would forgive all school districts whose interpretation of renovation prior to the enactment of this legislation may result in an overpayment as determined by the Department of Education. The Committee does not wish to have any school district face the potential of having future Impact Aid payments withheld due to the local educational agency's interpretation of base renovation prior to fiscal year 2000.

Military "build to lease" program

H.R. 3616 addresses an unusual situation affecting the Travis Independent School District in California. A Department of Defense program referred to as a "build to lease" program impacts this district. Unlike other military bases that participated in such a pro-

gram, the Travis Air Force Base developed a program that took private property upon which military housing was constructed, and then expanded the parameters of the base to take in the housing complex. For example, the only access to the complex is through the main gate to the base and all fire and safety services are provided by the military police, etc. It did not, however, put the land into federal ownership. Under this provision, the children residing in such housing would be considered as on-base students and counted as such when calculating the Impact Aid payment for the local educational agency. However, any tax revenue received by the local educational agency would then be subtracted from the Impact Aid payment provided to the Travis Independent School District. This language codifies the language currently in both the fiscal year 1999 and fiscal year 2000 appropriations bills.

Payments for small school districts

The Committee is aware of the difficulty faced by many small local educational agencies that have seen their Impact Aid payments reduced because of a dramatic decrease in the number of eligible children. In order to provide assistance to these small, often poor local educational agencies, the Committee bill would provide them with a funding floor of forty percent of the Impact Aid payment they would have received if the program were fully funded.

Basic support payments for heavily impacted local educational agencies

The Committee believes it is vital that heavily impacted school districts receive compensation in a timely manner. That is the purpose of the second major change from the existing statute. Although there is no change to the intent of this provision (formerly Section 8003(f) in existing law), H.R. 3616 would move the supplemental program for heavily impacted districts in current law into the basic support program. This concept has been tested in both the fiscal year 1999 and fiscal year 2000 appropriations bills and has been extremely successful.

The purpose of this change is to expedite the supplemental payments received by heavily impacted school districts. H.R. 3616 would change both the method by which the supplemental payments are calculated and paid out. Under the existing statute, local educational agencies that are eligible (in FY 2000 there were 28 local educational agencies eligible) are provided a supplemental payment. This payment is based on a formula that requires the Department of Education to collect a variety of data from the state educational agency including tax data, per pupil spending, available revenue, and comparable data from other local educational agencies in the state. As a result, supplemental payments are made as long as 18 to 24 months following the fiscal year in which an appropriation was initially made.

Although the initial requirements for eligibility remain the same as in current law, the Committee bill would require that newly eligible local educational agencies receive funding under this subsection in the year following the year in which they are deemed eligible. Conversely, if a local educational agency should be denied eli-

gibility, their payment would cease the year following their loss of eligibility.

The Committee bill changes the process by which the payment for a heavily impacted school district will be calculated. The method in current law provides an additional payment to eligible local educational agencies that would increase the local educational agency's per pupil spending to the state average per pupil expenditure or to the average per pupil spending of other non-impacted local educational agencies within the state that are similar in size and grade span. The committee bill provides that only federally impacted children are used in the computation of their payment.—

The Committee bill contains a new payment formula by simply adjusting upward the weights of federal students as used in the basic weight computation contained in current law. This will provide for an easier method for the Department of Education to calculate payments and will expedite the payment process.

The only exception to this calculation process is for eligible local educational agencies with less than 350 students in total enrollment. Because smaller local educational agencies have a higher per pupil expenditure, the weight adjustment approach will not adequately measure the additional dollars needed to operate the school. Thus, the Committee bill provides that these local educational agencies can calculate their payment based on the per pupil spending of non-federally connected local educational agencies in their state that are less than 350 students and are similar in grade span.

The net effect of this change is that, while some local educational agencies (currently in the program) would see (or actually have seen through the pilot project) their supplemental payments drop somewhat from what they received in the past, payments will be expedited. For example, under the pilot project of this proposal tested in both the fiscal year 1999 and 2000 appropriations bills, 70% of the fiscal year 1999 payments were paid out within four and one-half months following passage of the fiscal year 1999 appropriations bill and the Department of Education expects to pay out 85% of the total fiscal year 2000 appropriations before March 1, 2000. Local educational agencies affected by this provision were willing to see a reduction in their Impact Aid payment in order to receive funding in a more timely fashion. Since the new method for calculating payments went into effect two years ago, the Committee has not heard complaints from any of the local educational agencies affected by this provision.

Basic support payments for local educational agencies affected by removal of federal property

This is a new provision that primarily addresses actions taking place relative to the development of housing for military personnel. However, it is possible that similar situations could take place with respect to children residing on Indian lands. For several years, the Committee has received testimony from local educational agencies concerned about the potential impact of efforts by the Department of Defense to build additional housing for military personnel. They are primarily concerned that housing built as part of a public/pri-

vate partnership will reduce Impact Aid payments to local school districts for the children of military personnel.

The Committee bill addresses instances in which property under federal ownership that is located within the boundaries of the local educational agency is transferred, by an action of the federal government, to another entity and becomes subject to taxation. H.R. 3616 amends current law to permit the local educational agency to continue to count the children residing on such property as on-federal property dependent children. However, the Department of Education, when calculating the local educational agency's payment, would reduce such payment by whatever amount of revenue the local educational agency received from taxes assessed and collected on such property. Because it will require at least two years for the property to provide taxable revenue to the taxing authority, the Committee bill provides for a two-year transition period during which such children would maintain their on-federal property status for payment purposes. Payments would not be reduced until the third year.

The Committee takes this action due to its concern that the development of base housing by the Department of Defense through the use of private developers provides the potential for current on-base housing to be deeded over to a private developer. In such instances, property would become taxable. Thus far, the federal land upon which new on-base housing is being constructed through private developers has remained under federal ownership. This provision will address a concern on the part of local educational agencies located near military bases. It would ensure that local educational agencies would not suffer financially as a result of such transfers should they occur at some future date.

The Committee notes that any tax revenue collected off of such property would not be comparable to revenue collected from off-base housing, as the residence pool for on-base private housing would be limited for the most part to military personnel. The assessed value of on-base "private property" for example, would not increase over time, but would at best remain level.

It is the belief of the Committee that this provision provides a fair resolution to what could become a difficult problem in future years for school districts providing an education to the children of military personnel.

Late applications for impact aid assistance

H.R. 3616 includes a provision intended to address the numerous amendments contained in yearly appropriations bills to provide that late applications for Impact Aid payments are to be considered as being timely filed. Current law establishes very clear timelines for the submission of applications for Impact Aid. In recent years, local educational agencies have missed this deadline for a variety of reasons. Section 8005 of Impact Aid is amended to direct the Department of Education to notify, in writing, every Impact Aid applicant that does not submit an application by the date due (normally January 31) that their application has not been received. This provision would apply only to those local educational agencies that applied in the previous year. Applicants receiving such notification would then have sixty days to submit their application. After sixty

days, local educational agencies would no longer be eligible for Impact Aid payments for that fiscal year. The 10 percent late filing penalty would still apply to those applications received after the original filing deadline. The Committee believes that local educational agencies will no longer have an excuse for submitting applications after established deadlines once this provision is enacted into law.

School Construction

The Committee is concerned that a federal presence may not only impact tax revenues and expenses of local school districts, but in some cases can reduce or eliminate the ability of local educational agencies to issue bonds, which are often used for the construction or renovation of school facilities. The Committee bill maintains the current section 8007, now identified as subsection (a) "Construction Payments", and provides that 70% of the funds appropriated for Impact Aid construction be reserved for this purpose. The only substantive change from current law to this subsection is that local educational agencies that provide an educational program in facilities owned by the Department of Education (Section 8008) would be allowed to count children enrolled in those facilities for purposes of computing their payment under Section 8007(a). However, they will only be able to count such students in a year following a year in which they did not receive funding from the Department of Education under Section 8008. This will help ensure that such schools receive an equitable share of funding, without double dipping and depleting resources available for similar schools.

In addition, the Committee bill creates a new subsection (b) "School Facility Modernization Grants" that will provide modernization (construction, renovation and repair) funds to local educational agencies that lack bonding capacity or that enroll children in a facility with hazardous conditions that threaten the health and safety of students or school personnel.

Of the funds appropriated for construction, 30% would be reserved for these schools. Entities that would be eligible for this money would only include local educational agencies that lack bonding authority for construction due to a federal presence, or have limited bonding authority and have exhausted it. However, local educational agencies with some bonding authority will be required to match federal funds received on a one-to-one basis, and would not qualify for a grant in excess of three million dollars. Further, in addition to lacking bonding authority, an interested local educational agency will have to show that it is either eligible for impact aid payments under section 8002 (federal property districts) and has an assessed value of taxable property per student that is less than the average of the assessed value of taxable property per student in the state in which the local educational agency is located, or that it is eligible to receive funds under subsection (a), and has facilities with conditions which present a health or safety hazard to students. This will ensure that money awarded under this subsection serves those with the greatest need.

In creating this new authorized use of construction funds, it is the intent of the Committee that payments made under the existing construction authority are made on a timely basis. The Com-

mittee recognizes that the current construction payments are calculated on a formula basis, while the new authority will require the Secretary to make payments based on an application process. The Committee put these two authorities under separate subsections in order to ensure that the new application process under subsection (b) does not slow down the payment of formula grants under subsection (a).

Administrative hearings and judicial review

The Committee bill makes only minor changes to current law. It clarifies the time line by which a local educational agency may request a hearing resulting in an action by the Secretary. The bill also changes from 60 days to 30 days the time allowed a local educational agency to appeal a decision of the Secretary to the court of appeals.

In both instances, H.R. 3616 would expedite the time involved in a local educational agency's appeal to the Secretary and the subsequent action on the part of the Secretary to render a decision. Continued delays in such proceedings sometimes hold up for as much as five years the Department of Education's ability to process final payments. The Committee includes this provision at the request of local educational agencies that wish to expedite the Department's payment system while still allowing due process to grieved local educational agencies.

Changes to definitions

Minor changes have been made to the definition section of the statute to update changes made in Indian housing legislation since the last reauthorization. There is no policy change involved. The changes are only intended to conform existing Indian housing legislation (the Native American Housing Assistance and Self-Determination Act of 1996) to the Impact Aid law.

While this is the only change to the definition section of current law, the Committee would like to clarify its intention with respect to the calculation of the amount of revenue available for general fund purposes that the Department uses to determine the eligibility of a local educational agency for any program authorized under the Impact Aid Program. The Committee believes that only those funds not encumbered by contract for expenditure in any fiscal year should be considered as available to the local educational agency for general fund expenditure. The Committee notes that in past instances the Department of Education has considered funds in the general fund of a local educational agency to be available even if a portion of those funds have been obligated by contract for expenditure in the following fiscal year.

In addition, the Committee wishes to point out that the language currently in Department of Education regulations defining the process used to determine the amount of revenue generated from local sources when computing a local educational agency's local contribution rate follows the intent of the law and the Committee would urge that no changes be made to such regulation.

The Committee bill not only continues to address the needs of the 1,600 federally impacted local educational agencies that receive funding under the Impact Aid program, but also refines and im-

proves the current Impact Aid law so that the federal obligation first recognized by Congress in 1950 continues into the 21st century.

SECTION-BY-SECTION ANALYSIS

Section 1 states the short title as the “Impact Aid Reauthorization Act of 2000”.

Section 2 amends and establishes the purpose.

Section 3 describes payments relating to federal acquisition of real property.

Section 3(a) extends authorization through 2005.

Section 3(b) establishes the amount of payments.

Section 3(c) is amended to read as follows “Section 8002(h) establishes payments with respect to fiscal years in which insufficient funds are appropriated.”

Section 3(d) establishes special payments.

Section 3(e) establishes additional assistance for certain local educational agencies impacted by federal property acquisition.

Section 3(f) establishes application deadline and payment requirements.

Section 4 establishes payments for eligible federally connected children.

Section 4(a) addresses the issue of military installation housing undergoing renovation or rebuilding.

Section 4(b) addresses military ‘build to lease’ program housing.

Section 5 establishes the maximum amount of basic support payments.

Section 6 establishes basic payments for heavily impacted local educational agencies (LEAs).

Section 6(a) changes the current section 8003(f) to section 8003(b)(2) determining eligibility for heavily impacted local educational agencies.

Section 6(b) addresses payments with respect to fiscal years in which insufficient funds are appropriated.

Section 6(c) establishes conforming amendments.

Section 7 establishes basic support payments for local educational agencies affected by removal of federal property.

Section 8 establishes additional payments for local educational agencies with high concentrations of children with severe disabilities.

Section 8(a) repeals subsection (g) of section 8003 of the Elementary and Secondary Education Act of 1965.

Section 8(b) establishes conforming amendments.

Section 9 establishes the application for payments under sections 8002 and 8003.

Section 10 establishes payments for sudden and substantial increases in attendance of military dependents.

Section 11 establishes the construction program.

Section 11(a) authorizes the construction program and amends Section 8007 of the Elementary and Secondary Education Act of 1965.

“Section 8007(a) authorizes construction payments and establishes eligibility.”

“Section 8007(b) authorizes school facility modernization grants.”

Section 11(b) add the definition of ‘modernization’.
 Section 12 establishes the federal administration.
 Section 13 establishes administrative hearings and judicial review.
 Section 14 establishes definitions.
 Section 15 establishes the authorization of appropriations.
 Section 15(a) establishes the payments for federal acquisitions of real property.
 Section 15(b) establishes basic payments.
 Section 15(c) establishes payments for children with disabilities.
 Section 15(d) establishes payments for increases in military children.
 Section 15(e) establishes appropriations for construction.
 Section 15(f) establishes appropriations for facilities maintenance.
 Section 15(g) establishes additional assistance for certain local educational agencies impacted by federal property acquisitions.
 Section 16 establishes the effective date as October 1, 2000.

EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill, H.R. 3616, the “Impact Aid Reauthorization Act of 2000,” reauthorizes and improves the Impact Aid program so it can continue to provide important financial assistance to local educational agencies affected by the removal of property from local tax rolls. The bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. H.R. 3616 reauthorizes and improves the Impact Aid program so it can continue to provide important financial assistance to local educational agencies affected by the removal of property from local tax rolls. As such, the bill does not contain any unfunded mandates.

ROLL CALL VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 BILL H.R. 3616 DATE February 16, 2000

AMENDMENT NUMBER 3 DEFEATED 16-26

SPONSOR/AMENDMENT Mr. Tancredo / amendment to eliminate Impact Aid payments for the children of civilian employees whose parents work but do not live on federal property

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mrs. ROUKEMA				X
Mr. BALLENGER	X			
Mr. BARRETT		X		
Mr. BOEHNER	X			
Mr. HOEKSTRA	X			
Mr. McKEON	X			
Mr. CASTLE		X		
Mr. JOHNSON				X
Mr. TALENT	X			
Mr. GREENWOOD	X			
Mr. GRAHAM				X
Mr. SOUDER	X			
Mr. McINTOSH	X			
Mr. NORWOOD		X		
Mr. PAUL	X			
Mr. SCHAEFFER	X			
Mr. UPTON	X			
Mr. DEAL		X		
Mr. HILLEARY		X		
Mr. EHLERS	X			
Mr. SALMON				X
Mr. TANCREDI	X			
Mr. FLETCHER		X		
Mr. DEMINT	X			
Mr. ISAKSON		X		
Mr. CLAY				X
Mr. MILLER		X		
Mr. KILDEE		X		
Mr. MARTINEZ				X
Mr. OWENS		X		
Mr. PAYNE		X		
Mrs. MINK		X		
Mr. ANDREWS		X		
Mr. ROEMER		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. ROMERO-BARCELO		X		
Mr. FATTAH				X
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KIND		X		
Ms. SANCHEZ		X		
Mr. FORD		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
TOTALS	16	26		7

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of Rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3616 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 28, 2000.

Hon. WILLIAM F. GOODLING,
*Chairman, Committee on Education and the Workforce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3616, the Impact Aid Reauthorization Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Audra Millen (for federal costs) and Susan Sieg (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3616—Impact Aid Reauthorization Act of 2000

Summary: H.R. 3616 would reauthorize and revise the Impact Aid Program under the Elementary and Secondary Education Act of 1965 (ESEA). Under current law, the authorization expires in 2000; H.R. 3616 would extend the authorization through 2004. Under the General Education Provisions Act (GEPA), programs funded by the Department of Education receive an automatic one-year authorization extension. Therefore, the bill would effectively reauthorize the program through 2005. In addition, the bill would establish a minimum payment level for small school districts, introduce a school modernization initiative within the current construction program, and modify certain payment formulas and procedures. It would also repeal two currently unfunded programs that authorize additional payments for disabled students and districts that experience significant increases in federally connected students.

CBO estimates that authorizations under the bill would total \$4.8 billion (with adjustments for inflation) or (\$4.6 billion (without such adjustments) over the 2001–2005 period. Assuming appropria-

tions of those amounts, CBO estimates that additional outlays over the five-year period would total \$4.7 billion (with adjustments for inflation) or \$4.4 billion (without adjustments for inflation). These estimates assume a continuation of current funding levels and do not reflect the cost of providing the full payments that would be required under the formulas specified in the ESEA. If full funding of the formulas has been assumed, the estimated costs would be roughly twice the amount that CBO estimates for the bill. Enacting H.R. 3616 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 3616 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Enactment of the bill would benefit state and local governments, and any costs to them would be incurred voluntarily as conditions of federal aid.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3616 is shown in Table 1. The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 3616

[By fiscal year, in million of dollars]

	2000	2001	2002	2003	2004	2005
Spending Under Current Law:						
Budget Authority	906	0	0	0	0	0
Estimated Outlays	900	93	21	1	0	0
Without Adjustments for Inflation						
Proposed Changes:						
Estimated Authorization Level	2	914	914	914	914	914
Estimated Outlays	1	817	891	913	914	914
Spending Under H.R. 3616:						
Estimated Authorization Level	908	914	914	914	914	914
Estimated Outlays	901	910	911	913	914	914
With Adjustments for Inflation						
Total Proposed Changes:						
Estimated Authorization Level	2	929	944	960	977	993
Estimated Outlays	1	831	919	957	974	991
Spending Under H.R. 3616:						
Estimated Authorization Level	908	929	944	960	977	993
Estimated Outlays	900	924	939	957	974	991

None: Components may not sum to totals because of rounding.

Basis of estimate

H.R. 3616 would reauthorize and revise the Impact Aid Program under Title VII of ESEA. The current authorization for Impact Aid expires at the end of 2000 under GEPA. The bill would reauthorize funding for 2000 through 2004; however, programmatic changes would not take effect until 2001. Under GEPA, the program would automatically be authorized for an additional year; therefore, CBO estimates costs through 2005. In general, the bill would set authorization levels for 2000 equal to actual appropriations and would authorize the appropriation of such sums as necessary for the subsequent years, when the programmatic changes would become effective.

For 2000, the bill would authorize appropriations totaling \$908 million, \$1.5 million more than has been appropriated to date. CBO assumes spending levels for 2001 through 2005 will remain consistent with the 2000 amount except when the bill introduces structural changes that would require additional funding. Spending is projected two different ways: (1) assuming that funding each year is identical to the 2000 authorization, adjusted for program changes, and (2) adjusting the 2000 authorizations for both program changes and projected inflation. With adjustments for inflation, CBO estimates the authorizations would total \$929 million for 2001 and would grow to \$993 million by 2005. Table 2 shows CBO's estimates of projected spending for each program, including adjustments for inflation.

The Impact Aid Program provides assistance to Local Education Agencies (LEAs) that are hindered in their ability to generate local revenues for education by their proximity to federal property. The program provides formula grants to cover a portion of per-pupil education costs, as well as grants to support construction and maintenance needs. H.R. 3616 would continue the program's authorization, introduce minor revisions, and repeal two provisions.

Payments Relating to Federal Acquisition of Real Property

Under subsection 8002(b) of ESEA, grants are made to LEAs to compensate for the loss of local property taxes because of the tax-exempt status of certain federal property. The maximum amount an LEA is eligible to receive is calculated as the assessed value of the property times the appropriate tax rate, less any revenue collected as a result of activities conducted on such federal property. The amount LEAs receive is subject to a hold-harmless provision and is ratably reduced if full funding is not provided. Approximately 100 of the LEAs receiving payments under this section are also eligible for basic support payments under section 8003. Payments under section 8003 compensate LEAs that educate children whose parents' residence or work location partially or fully exempt them from paying local taxes. Under current law, the total payment an LEA receives under both programs cannot exceed its maximum allowable payment as defined by section 8003.

TABLE 2. ESTIMATED BUDGETARY EFFECTS OF H.R. 3616, WITH ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority	906	0	0	0	0	0
Estimated Outlays	900	93	21	1	0	0
Proposed Changes:						
Payments for Federal Acquisition of Property:						
Payments to LEAs:						
Estimated Authorization Level	0	33	33	34	34	35
Estimated Outlays	0	29	32	34	34	35
Additional Payments:						
Estimated Authorization Level	2	2	2	2	2	2
Estimated Outlays	1	2	2	2	2	2
Payments for Federally Connected Children:						
Basic Support and Heavily Impacted Districts:						
Estimated Authorization Level	0	823	836	851	865	880

TABLE 2. ESTIMATED BUDGETARY EFFECTS OF H.R. 3616, WITH ADJUSTMENTS FOR INFLATION—
Continued
[By fiscal year, in millions of dollars]

	2000	2001	2002	2003	2004	2005
Estimated Outlays	0	741	818	849	864	878
40 Percent LOT floor for Small LEAs:						
Estimated Authorization Level	0	6	6	6	6	6
Estimated Outlays	0	5	6	6	6	6
Payments for Children with Disabilities:						
Estimated Authorization Level	0	51	52	53	53	54
Estimated Outlays	0	46	51	52	53	54
Construction Grants:						
Formula Construction:						
Estimated Authorization Level	0	7	7	7	8	8
Estimated Outlays	0	6	7	7	8	8
School Renovation:						
Estimated Authorization Level	0	3	3	3	3	3
Estimated Outlays	0	0	1	3	3	3
Facilities Maintenance:						
Estimated Authorization Level	0	5	5	5	5	5
Estimated Outlays	0	1	2	4	5	5
Total Proposed Changes:						
Estimated Authorization Level	2	929	944	960	977	993
Estimated Outlays	1	831	919	957	974	991
Total Spending Under H.R. 3616:						
Estimated Authorization Level	908	929	944	960	977	993
Estimated Outlays	901	924	939	957	974	991

Note: Components may not sum to totals because of rounding.

Information from the Department of Education indicates that full funding of section 8002 payments would cost over \$300 million. The cap on total payments specified in section 8003 would reduce this to approximately \$250 million. However, actual funding in 2000 was \$32 million.

The discrepancy between full funding and actual funding increased significantly as a result of changes made in 1994. Before 1994, the property valuation base was the assessed value of similar property. In 1994 the valuation base was changed to a “highest and best” method, under which the value was determined based on property values of adjacent land. In areas with significant growth in property values, the calculation of maximum payments and therefore the basis for allocating actual payments grew comparably. In contrast, areas with little or no growth in property values did not experience such an increase in payments.

The Impact Aid Technical Amendments Act of 1996 (Public Law 104–195) addressed this problem by establishing a payment floor equal to 37 percent of an LEAs 1994 maximum allowable payment. H.R. 3616 would continue this floor, but would revise the procedure for allocating appropriations in excess of the amount required to cover the floor payments. Remaining funds would be allocated based on a combination of the hold-harmless provision and consideration of the “highest and best” assessment. CBO estimates no cost as a result of this revision.

H.R. 3616 would also change the caps on total payments for LEAs that also receive basic support payments under section 8003. The bill would cap total payments at the higher of the maximum amount an LEA is eligible to receive under section 8002 or 8003. The potential costs of this change would be substantial if full fund-

ing were to be provided, as many districts have maximum 8002 payments that are much greater than their 8003 maximums. Assuming continuation of past funding trends, however, CBO estimates any increased payments to be negligible.

For payments under section 8002, H.R. 3616 would authorize \$32 million in 2000 and such sums as necessary for the 2001–2005 period. CBO’s estimate assumes that total funding for the 2001–2005 period would be \$168 million (assuming adjustments for inflation) or \$160 million (without such adjustments).

Additional assistance for LEAs impacted by the acquisition of real property

H.R. 3616 would also continue to authorize additional payments for certain LEAs under subsection 8002(j), a previously unfunded provision. Payments under this section would support LEAs that qualify for payments under subsections 8002(b) and 8003(b) and have unique circumstances that increase the costs imposed by the existence of federally owned property.

The bill would authorize \$1.5 million for 2000 and such sums as may be necessary for fiscal years 2001 to 2005. Assuming an enactment date and additional appropriations in fiscal year 2000, CBO estimates that this provision would increase budget authority by \$1.5 million and outlays by \$600,000 in 2000. CBO’s estimate assumes funding of about \$8 million over the 2001–2005 period.

Payments for eligible federally connected children

Payments under section 8003 compensate LEAs that educate children whose parents’ residence or work location partially or fully exempts them from local taxes. Under subsection 8003(b), eligible LEAs are entitled to compensation based on the product of a weighted count of eligible students and the amount of per-pupil spending that is generated through local tax revenue. If funding levels are insufficient to provide all LEAs with this calculated amount, payments are multiplied by a calculated percentage to compute the learning opportunity threshold (LOT) payment. This percent is the sum of the LEAs percentage of federally connected students and the ratio of its maximum allowable payment to its total expenditures. This percentage cannot exceed 100 percent. If funding levels are still insufficient, these LOT payments are subject to further ratable reductions.

Based on information from the Department of Education, CBO estimates full funding for 1999 would have been \$1.4 billion. But the program has never been fully funded and, in 1999, the appropriation was \$704 million.

Under subsection 8003(f), certain LEAs are eligible for an additional payment if they have a particularly large percentage of federally connected children. These payments are based on a formula, but subject to appropriations. Payments are ratably reduced when funding is insufficient to cover the costs calculated by the formula. Information from the Department of Education indicates that full funding for 1999 would have been more than \$76 million, compared with the actual appropriation of \$70 million.

H.R. 3616 adds several provisions relating to basic support payments under section 8003. First, it would continue an existing

practice of allowing students temporarily living off military bases during renovations to retain their previous classification. Second, it would codify language included in previous appropriations bills to reduce payments in cases where property is leased by the federal government. As each of these provisions represents current practice, CBO estimates no additional costs for these provisions.

A third provision would require a LOT minimum of 40 percent for any LEA with fewer than 1000 students that currently spends less per pupil than the average LEA in the state or substate area. CBO estimates this would affect over 300 LEAs (out of a total of 1400) and increase annual costs by \$6 million.

Finally, H.R. 3616 would continue a pilot program, authorized in the 1999 and 2000 appropriation acts, that expedites the disbursement of 8003(f) payments and coordinates 8003(b) and 8003(f) payments for LEAs that receive both. To reflect this change, H.R. 3616 would consolidate the two line items into a single authorized amount of \$809 million for 2000. This amount equals the combined fiscal year 2000 appropriations for the two programs. Taking into consideration the additional costs of the 40 percent LOT floor, CBO estimates the total cost of these payments to be \$829 million in 2001 (with adjustments for inflation) or \$815 million (without the adjustments). Over the 2001–2005 period, the estimate assumes funding of \$4.3 billion (with adjustment for inflation) or \$4.1 billion (without such adjustments).

Payments for children with disabilities

Under subsection 8003(d), special payments are made to compensate LEAs that educate a significant number of students with disabilities for the additional costs of educating those students. Districts receive a prorated amount of the appropriation based on the number of eligible children they serve. H.R. 3616 would authorize \$50 million for 2000. CBO's estimate assumes funding of \$263 million (assuming adjustments for inflation) or \$250 million (without such adjustments) over the 2001–2005 period.

Construction

Under section 8008 of ESEA, funds are made available to support school construction or renovation projects for certain LEAs. Only LEAs eligible for basic support payments qualify for payments under this section. In addition, they must qualify for payments under 8003(j) or have at least 50 percent of their students residing on Indian lands or have parents in the uniformed services. Available funds are allocated based on the number of federally connected students. Of the \$10 million provided for construction programs in 2000, just over \$3 million was earmarked for specific LEAs with special construction needs.

H.R. 3616 would permanently set aside 30 percent of funds appropriated under section 8007 for a new school modernization initiative. LEAs with significant repair needs would be eligible to compete for grants if they had no remaining capacity to issue bonds or their facilities posed health or safety threats to their students. Recipients would be required to use nonfederal funds to cover half of any project costs. Remaining funds would continue to be allocated on a formula basis to qualifying schools, although 50 percent

of the funds would be required to go to schools that educate a large number of children residing on Indian land.

H.R. 3616 would authorize \$10 million for 2000 for the construction grants and school modernization initiative under section 8007. CBO estimates the application and matching requirements of the school modernization component would cause spending to occur more slowly than for the current construction grants. CBO estimates that first-year outlays of the estimated \$3 million set aside for the school modernization initiative would be \$300,000. The remaining \$7 million of the construction money is still expected to spend at its current rate, resulting in first year outlays of \$6 million.

For the construction program and the school modernization initiative, CBO's estimate assumes funding of \$53 million (with adjustments for inflation) or \$50 million (without such adjustments) over the 2001–2005 period.

Facilities maintenance

Section 8008 funds are used to maintain schools that are owned by the Department of Education. LEAs that serve a significant number of federally connected children are allowed to use these facilities, but the department is responsible for costs of renovations and repairs. Although it is the goal of the department to eventually transfer ownership of these facilities to the LEAs, CBO does not expect the timing of these transfers to decrease funding for 2001.

H.R. 3616 would authorize \$5 million in 2000 for funding under section 8008. Over the 2001–2005 period, CBO's estimate assumes funding of \$26 million (assuming adjustments for inflation) and \$25 million (without such adjustments).

Repeal of unfunded authorizations

H.R. 3616 would repeal sections 8003(g) and 8006, both of which were not funded in 2000. Section 8003(g) authorized additional payments for LEAs with disabled students. Section 8006 authorized payments to support sudden and substantial increases in the number of federally connected students.

Estimated impact on State, local, and tribal governments: H.R. 3616 contains no intergovernmental mandates as defined in UMRA. The bill would reauthorize formula grants to local educational agencies affected by the presence of federal property within their districts. Any cost of state or local governments arising from application for or participation in the grant program would be incurred voluntarily.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Audra Millen. Impact on State, local, and tribal governments: Susan Sieg.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

STATEMENT OF OVERSIGHT FINDINGS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect of the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has re-

ceived no report of oversight findings and recommendations from the Committee on Government Reform on the subject of H.R. 3616.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee believes that the amendments made by this bill to the Elementary and Secondary Education Act are within Congress's authority under Article I, section 8, clause 1 of the Constitution.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3616. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

* * * * *

TITLE VIII—IMPACT AID

SEC. 8001. PURPOSE.

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children *in a manner that promotes control by local educational agencies with little or no Federal or State involvement*, because certain activities of the Federal Government, *such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574)*, place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

(1) * * *

* * * * *

(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property; or

[(5) experience sudden and substantial increases or decreases in enrollments because of military realignments; or]

[(6)] (5) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands *and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property.*

SEC. 8002. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

(a) IN GENERAL.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, [1999] 2005—

(1) * * *

* * * * *

(b) AMOUNT.—

(1) IN GENERAL.—(A) * * *

* * * * *

(B) If funds appropriated under section 8014(a) are insufficient to pay the amount determined under subparagraph (A), the Secretary [shall ratably reduce the payment to each eligible local educational agency] *shall calculate the payment for each eligible local educational agency in accordance with subsection (h).*

(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 8003(b), exceeds the maximum amount that such agency is eligible to receive for such fiscal year under [section 8003(b)(1)(C)] *paragraph (1)(C) of section 8003(b) or subparagraph (D) or (E) of paragraph (2) of such section, as the case may be, or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater.*

* * * * *

[(h) HOLD-HARMLESS AMOUNTS.—

[(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay under subsection (b) to a local educational agency that is otherwise eligible for a payment under this section—

[(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994;

[(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b); and

[(C) for fiscal year 1997 and each succeeding fiscal year through fiscal year 2000 shall not be less than 85 percent

of the amount such agency received for fiscal year 1996 under subsection (b).

[(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

[(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

[(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

[(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.】

(h) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—For any fiscal year for which the amount appropriated under section 8014(a) is insufficient to pay to each local educational agency the full amount determined under subsection (b), the Secretary shall make payments to each local educational agency under this section as follows:

(1) FOUNDATION PAYMENTS FOR PRE-1995 RECIPIENTS.—

(A) IN GENERAL.—The Secretary shall first make a foundation payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved and was eligible to receive a payment under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994) for any of the fiscal years 1989 through 1994.

(B) AMOUNT.—The amount of a payment under subparagraph (A) for a local educational agency shall be equal to 37 percent of the payment amount the local educational agency was eligible to receive under section 2 of the Act of September 30, 1950, for fiscal year 1994 (or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994, the payment that local educational agency was eligible to receive under such section 2 for the most recent fiscal year preceding 1994).

(C) INSUFFICIENT APPROPRIATIONS.—If the amount appropriated under section 8014(a) is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(2) PAYMENTS FOR 1995 RECIPIENTS.—

(A) *IN GENERAL.*—From any amounts remaining after making payments under paragraph (1) for the fiscal year involved, the Secretary shall make a payment to each eligible local educational agency that received a payment under this section for fiscal year 1995.

(B) *AMOUNT.*—The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

(i) Calculate the difference between the amount appropriated to carry out this section for fiscal year 1995 and the total amount of foundation payments made under paragraph (1) for the fiscal year.

(ii) Determine the percentage share for each local educational agency that received a payment under this section for fiscal year 1995 by dividing the assessed value of the Federal property of the local educational agency for fiscal year 1995 determined in accordance with subsection (b)(3), by the total national assessed value of the Federal property of all such local educational agencies for fiscal year 1995, as so determined.

(iii) Multiply the percentage share described in clause (ii) for the local educational agency by the amount determined under clause (i).

(3) *SUBSECTION (i) RECIPIENTS.*—From any funds remaining after making payments under paragraphs (1) and (2) for the fiscal year involved, the Secretary shall make payments in accordance with subsection (i).

(4) *REMAINING FUNDS.*—From any funds remaining after making payments under paragraphs (1), (2), and (3) for the fiscal year involved—

(A) the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) for the fiscal year involved in an amount that bears the same relation to 25 percent of the remainder as the amount the local educational agency received under paragraph (1) for the fiscal year involved bears to the amount all local educational agencies received under paragraph (1) for the fiscal year involved; and

(B) the Secretary shall make a payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved in an amount that bears the same relation to 75 percent of the remainder as a percentage share determined for the local educational agency (in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii)) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that for the purpose of calculating a local educational agency's assessed value of the Federal property, data from the most current fiscal year shall be used.

(i) **[PRIORITY] SPECIAL PAYMENTS.**—

[(1) IN GENERAL.—Notwithstanding subsection (b)(1)(B), and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

[(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency described in paragraph (2); and

[(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section.]

(1) *IN GENERAL.—For any fiscal year beginning with fiscal year 2000 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996 and for which subsection (b)(1)(B) applies, the Secretary shall use the remainder described in subsection (h)(3) for the fiscal year involved (not to exceed the amount equal to the difference between (A) the amount appropriated to carry out this section for fiscal year 1997 and (B) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency described in paragraph (2).*

* * * * *

(j) **ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION.—**

(1) * * *

(2) **ELIGIBILITY.—**[(A) A local educational agency] *A local educational agency* is eligible to receive additional assistance under this subsection only if such agency—

[(i)] (A) received a payment under both this section and section 8003(b) for fiscal year 1996 and is eligible to receive payments under those sections for the year of application;

[(ii)] (B) provided a free public education to children described under sections 8003(a)(1)(A), (B), or (D);

[(iii)] (C) had a military installation located within the geographic boundaries of the local educational agency that was closed as a result of base closure or realignment *and such agency does not currently have a military installation located within its geographic boundaries*;

[(iv)] (D) remains responsible for the free public education of children residing in housing located on Federal property within the boundaries of the closed military installation but whose parents are on active duty in the uniformed services and assigned to a military activity located within the boundaries of an adjoining local educational agency; and

[(v)] (E) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

* * * * *

(l) DATA; PRELIMINARY AND FINAL PAYMENTS.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days following the application deadline under section 8005(c) for a fiscal year, require any local educational agency that applied for a payment under subsection (b) for the fiscal year to submit such data as may be necessary in order to compute the payment;

(B) as soon as possible after the beginning of any fiscal year, but no later than 60 days after the enactment of an Act making appropriations to carry out this title for the fiscal year, provide a preliminary payment under subsection (b) for any local educational agency that applied for a payment under subsection (b) for the fiscal year and was eligible for such a payment for the preceding fiscal year, in the amount of 60 percent of the payment for the previous year; and

(C) provide a final payment under subsection (b) for any eligible local educational agency not later than 12 months after the application deadline established under section 8005(c), except that any local educational agency failing to submit all of the data required under subparagraph (A) shall be denied such payment for the fiscal year for which the application is made unless funds from a source other than the Act described in subparagraph (B) are made available to provide such payment.

(2) ELIGIBILITY FOR PAYMENTS IN SUBSEQUENT YEARS.—The denial of a payment under subsection (b) to a local educational agency for a fiscal year pursuant to this subsection shall not affect the eligibility of the local educational agency for a final payment under subsection (b) for a subsequent fiscal year.

SEC. 8003. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

(a) COMPUTATION OF PAYMENT.—

(1) IN GENERAL.—For the purpose of computing the amount that a local educational agency is eligible to receive under [(subsection (b), (d), or (f))] subsection (b) or (d) for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

(A) * * *

* * * * *

(4) MILITARY INSTALLATION HOUSING [UNDERGOING RENOVATION] UNDERGOING RENOVATION OR REBUILDING.—[For purposes]

(A) IN GENERAL.—For purposes of computing the amount of a payment for a local educational agency for children de-

scribed in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that such children would have resided in housing on Federal property in accordance with paragraph (1)(B) except that such housing was undergoing renovation or rebuilding on the date for which the Secretary determines the number of children under paragraph (1).

(B) LIMITATIONS.—(i)(I) Except as provided in subclause (II), children described in paragraph (1)(D)(i) may be deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A) for a period not to exceed 2 fiscal years.

(II) If the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that the expected completion date of the renovation or rebuilding of the housing has been delayed by not less than 1 year, then—

(aa) in the case of a determination made by the Secretary in the 1st fiscal year described in subclause (I), the time period described such subclause shall be extended by the Secretary for an additional 2 years; and

(bb) in the case of a determination made by the Secretary in the 2nd fiscal year described in subclause (I), the time period described such subclause shall be extended by the Secretary for an additional 1 year.

(ii) The number of children described in paragraph (1)(D)(i) who are deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A) for any fiscal year may not exceed the maximum number of children who are expected to occupy that housing upon completion of the renovation or rebuilding.

(5) MILITARY “BUILD TO LEASE” PROGRAM HOUSING.—

(A) IN GENERAL.—For purposes of computing the amount of payment for a local educational agency for children identified under paragraph (1), the Secretary shall consider children residing in housing initially acquired or constructed under the former section 2828(g) of title 10, United States Code (commonly known as the “Build to Lease” program), as added by section 801 of the Military Construction Authorization Act, 1984, to be children described under paragraph (1)(B) if the property described is within the fenced security perimeter of the military facility upon which such housing is situated.

(B) ADDITIONAL REQUIREMENTS.—If the property described in subparagraph (A) is not owned by the Federal Government, is subject to taxation by a State or political subdivision of a State, and thereby generates revenues for

a local educational agency that is applying to receive a payment under this section, then the Secretary—

(i) shall require the local educational agency to provide certification from an appropriate official of the Department of Defense that the property is being used to provide military housing; and

(ii) shall reduce the amount of the payment under this section by an amount equal to the amount of revenue from such taxation received in the second preceding fiscal year by such local educational agency, unless the amount of such revenue was taken into account by the State for such second preceding fiscal year and already resulted in a reduction in the amount of State aid paid to such local educational agency.

(b) BASIC SUPPORT PAYMENTS AND PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

(1) BASIC SUPPORT PAYMENTS.—

(A) * * *

* * * * *

(C) MAXIMUM AMOUNT.—The maximum amount that a local educational agency is eligible to receive under this [subsection] paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2), multiplied by the greater of—

* * * * *

(D) INCREASE IN LOCAL CONTRIBUTION RATE DUE TO UNUSUAL GEOGRAPHIC FACTORS.—If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subparagraph (C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency under subparagraph (C)(iii) by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

(2) BASIC SUPPORT PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—(i) From the amount appropriated under section 8014(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible heavily impacted local educational agencies with children described in subsection (a).

(ii) A local educational agency that receives a basic support payment under this paragraph for a fiscal year shall not be eligible to receive a basic support payment under paragraph (1) for that fiscal year.

(B) *ELIGIBILITY FOR CONTINUING HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.*—

(i) *FISCAL YEAR 2001.*—A heavily impacted local educational agency is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2001 with respect to a number of children determined under subsection (a)(1) only if the agency received an additional assistance payment under subsection (f) (as such subsection was in effect on the day before the date of the enactment of the Impact Aid Reauthorization Act of 2000) for fiscal year 2000.

(ii) *FISCAL YEAR 2002 AND SUBSEQUENT FISCAL YEARS.*—A heavily impacted local educational agency described in clause (i) is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2002 and any subsequent fiscal year with respect to a number of children determined under subsection (a)(1) only if the agency—

(I) received a basic support payment under subparagraph (A) for fiscal year 2001; and

(II)(aa) is a local educational agency whose boundaries are the same as a Federal military installation;

(bb) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which is not less than 35 percent, has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located or the average per-pupil expenditure of all States (whichever average per-pupil expenditure is greater), except that a local educational agency with a total student enrollment of less than 350 students shall be deemed to have satisfied such per-pupil expenditure requirement, and has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

(cc) has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are federally connected children described in subsection (a)(1) and not less than 6,000 of such federally connected children are children described in subparagraphs (A) and (B) of subsection (a)(1).

(iii) *RESUMPTION OF ELIGIBILITY.*—A heavily impacted local educational agency described in clause (i) or (ii) that becomes ineligible under either such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a sub-

sequent fiscal year only if the agency meets the requirements of item (aa), (bb), or (cc) of clause (ii)(II) for that subsequent fiscal year.

(C) ELIGIBILITY FOR NEW HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

(i) IN GENERAL.—A heavily impacted local educational agency that did not receive an additional assistance payment under subsection (f) (as such subsection was in effect on the day before the date of the enactment of the Impact Aid Reauthorization Act of 2000) for fiscal year 2000 is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2002 and any subsequent fiscal year with respect to a number of children determined under subsection (a)(1) only if the agency—

(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which (aa) is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection or (bb) is not less than 40 percent if such agency does not receive a payment on behalf of such children;

(II)(aa) is a local educational agency whose boundaries are the same as a Federal military installation; or

(bb) is a local educational agency that has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; and

(III)(aa) for a local educational agency that has a total student enrollment of 350 or more students, the agency has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located; or

(bb) for a local educational agency that has a total student enrollment of less than 350 students, the agency has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable agency in the State in which the agency is located.

(ii) RESUMPTION OF ELIGIBILITY.—A heavily impacted local educational agency described in clause (i) that becomes ineligible under such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency meets the requirements of subclauses (I), (II), and (III) of clause (i) for that subsequent fiscal year.

(iii) APPLICATION.—With respect to the first fiscal year for which a heavily impacted local educational agency described in clause (i) applies for a basic sup-

port payment under subparagraph (A), or with respect to the first fiscal year for which a heavily impacted local educational agency applies for a basic support payment under subparagraph (A) after becoming ineligible under clause (i) for 1 or more preceding fiscal years, the agency shall apply for such payment at least 1 year prior to the start of that first fiscal year.

(D) **MAXIMUM AMOUNT FOR REGULAR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.**—(i) Except as provided in subparagraph (E), the maximum amount that a heavily impacted local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) (subject to clause (ii)), multiplied by the greater of—

(I) four-fifths of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made; or

(II) four-fifths of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made.

(ii)(I) For a local educational agency with respect to which 35 percent or more of the total student enrollment of the schools of the agency are children described in subparagraph (D) or (E) (or a combination thereof) of subsection (a)(1), the Secretary shall calculate the weighted student units of such children for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 0.55.

(II) For a local educational agency that has an enrollment of 100 or fewer federally connected children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.75.

(III) For a local educational agency that has an enrollment of more than 100 but not more than 750 children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.25.

(E) **MAXIMUM AMOUNT FOR LARGE HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.**—(i)(I) Subject to clause (ii), the maximum amount that a heavily impacted local educational agency described in subclause (II) is eligible to receive under this paragraph for any fiscal year shall be determined in accordance with the formula described in paragraph (1)(C).

(II) A heavily impacted local educational agency described in this subclause is a local educational agency that has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are federally connected children described in subsection (a)(1) and not less than 6,000 of such federally connected children are chil-

dren described in subparagraphs (A) and (B) of subsection (a)(1).

(ii) For purposes of calculating the maximum amount described in clause (i), the factor used in determining the weighted student units under subsection (a)(2) with respect to children described in subparagraphs (A) and (B) of subsection (a)(1) shall be 1.35.

(F) DATA.—For purposes of providing assistance under this paragraph, the Secretary shall use student, revenue, expenditure, and tax data from the third fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this paragraph.

[(2)] (3) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section 8014(b) are insufficient to pay to each local educational agency the full amount computed under [paragraph (1)] paragraphs (1) and (2), the Secretary shall make payments in accordance with this paragraph.

(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS IN LIEU OF PAYMENTS UNDER PARAGRAPH (1).—(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this title referred to as the “threshold payment”) in lieu of basic support payments under paragraph (1) by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

*(I) * * **

** * * * **

(ii) Such total percentage used to calculate threshold payments under [paragraph (1)] clause (i) shall not exceed 100.

** * * * **

(iv) In the case of a local educational agency that has a total student enrollment of fewer than 1,000 students and that has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located, the total percentage used to calculate threshold payments under clause (i) shall not be less than 40 percent.

(C) LEARNING OPPORTUNITY THRESHOLD PAYMENTS IN LIEU OF PAYMENTS UNDER PARAGRAPH (2).—For fiscal years described in subparagraph (A), the learning opportunity threshold payment in lieu of basic support payments under paragraph (2) shall be equal to the amount obtained under subparagraph (D) or (E) of paragraph (2), as the case may be.

[(C)] (D) RATABLE DISTRIBUTION.—For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the [computation made under subparagraph (B)] *computations made under subparagraphs (B) and (C).*

[(3)] (4) STATES WITH ONLY ONE LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of [paragraphs (1)(B), (1)(C), and (2) of this subsection] *subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) through (D) of paragraph (2), as the case may be, paragraph (3) of this subsection, and subsection (e), consider each administrative school district in the State to be a separate local educational agency.*

(B) COMPUTATION OF MAXIMUM AMOUNT OF BASIC SUPPORT PAYMENT AND THRESHOLD PAYMENT.—In computing the maximum payment amount under paragraph (1)(C) or *subparagraph (D) or (E) of paragraph (2), as the case may be,* and the learning opportunity threshold payment under [paragraph (2)(B)] *subparagraph (B) or (C) of paragraph (3) for an administrative school district described in subparagraph (A)—*

(5) LOCAL EDUCATIONAL AGENCIES AFFECTED BY REMOVAL OF FEDERAL PROPERTY.—

(A) IN GENERAL.—*In computing the amount of a basic support payment under this subsection for a fiscal year for a local educational agency described in subparagraph (B), the Secretary shall meet the additional requirements described in subparagraph (C).*

(B) LOCAL EDUCATIONAL AGENCY DESCRIBED.—*A local educational agency described in this subparagraph is a local educational agency with respect to which Federal property (i) located within the boundaries of the agency, and (ii) on which 1 or more children reside who are receiving a free public education at a school of the agency, is transferred by the Federal Government to another entity in any fiscal year beginning on or after the date of the enactment of the Impact Aid Reauthorization Act of 2000 so that the property is subject to taxation by the State or a political subdivision of the State.*

(C) ADDITIONAL REQUIREMENTS.—*The additional requirements described in this subparagraph are the following:*

(i) *For each fiscal year beginning after the date on which the Federal property is transferred, a child described in subparagraph (B) who continues to reside on such property and who continues to receive a free public education at a school of the agency shall be deemed to be a child who resides on Federal property for purposes of computing under the applicable subparagraph of subsection (a)(1) the amount that the agency is eligible to receive under this subsection.*

(ii)(I) *For the third fiscal year beginning after the date on which the Federal property is transferred, and for each fiscal year thereafter, the Secretary shall, after computing the amount that the agency is otherwise eligible to receive under this subsection for the fiscal year involved, deduct from such amount an amount equal to*

the revenue received by the agency for the immediately preceding fiscal year as a result of the taxable status of the former Federal property.

(II) For purposes of determining the amount of revenue to be deducted in accordance with subclause (I), the local educational agency—

(aa) shall provide for a review and certification of such amount by an appropriate local tax authority; and

(bb) shall submit to the Secretary a report containing the amount certified under item (aa).

(i) * * *

* * * * *

(c) PRIOR YEAR DATA.—

(1) IN GENERAL.—Except as provided in [paragraph (2) and subsection (f)] *subsection (b)(2) and paragraph (2)*, all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

* * * * *

[(f) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

[(1) RESERVATION.—From amounts appropriated under section 8014(b) for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

[(2) ELIGIBILITY.—(A) A local educational agency is eligible to receive additional assistance under this subsection if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency—

[(i)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection, or not less than 40 percent if such agency does not receive a payment on behalf of such children; and

[(II) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

[(ii)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 35 percent of the total student enrollment of such agency; and

[(II) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

[(iii) is a local educational agency whose boundaries are the same as a Federal military installation.

[(B) If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subsection (b)(1)(C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

[(C) Any local educational agency determined eligible under clause (iii) of subparagraph (A) shall be deemed to have met the tax effort requirements for eligibility under clause (i)(II) or (ii)(II) of such subparagraph.

[(D) local educational agency shall only be eligible to receive additional assistance under this subsection if the Secretary determines that—

[(i) such agency is exercising due diligence in availing itself of State and other financial assistance; and

[(ii) the eligibility of such agency under State law for State aid with respect to the free public education of children described in subsection (a)(1) and the amount of such aid are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount of such aid, with respect to the free public education of other children in the State.

[(3) MAXIMUM PAYMENTS.—

[(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the maximum amount that a local educational agency may receive under this subsection (other than any amount received under paragraph (2)(B)) in accordance with the following computations: The Secretary, in conjunction with the local educational agency, shall first determine each of the following:

[(I) The average per-pupil expenditure of the State in which the local educational agency is located.

[(II) The average per-pupil expenditure of generally comparable local educational agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary.

[(III) The average per-pupil expenditure of three generally comparable local educational agencies located in the State of the local educational

agency, as defined in regulations issued by the Secretary.

The local educational agency shall select one of the amounts determined under subclause (I), (II), or (III) for purposes of the remaining computations under this subparagraph.

[(ii) The Secretary shall next multiply the amount determined under clause (i) by the total number of students in average daily attendance at the schools of the local educational agency.

[(iii) The Secretary shall next subtract from the amount determined under clause (ii) all funds available to the local educational agency for current expenditures, but, except as provided in subparagraph (C), shall not so subtract funds provided—

[(I) under this Act; or

[(II) by any department or agency of the Federal Government (other than the Department) that are used for capital expenses.

[(iv) If the tax rate used by the local educational agency is greater than 95 percent, but less than 100 percent, of the tax rate of comparable local educational agencies, the Secretary shall next multiply the amount determined under clause (iii) by the percentage that the tax rate of the local educational agency is of—

[(I) the average tax rate of its generally comparable local educational agencies; or

[(II) the average tax rate of all the local educational agencies in the State in which the local educational agency is located.

[(v) The Secretary shall next subtract the total amount of payments received by a local educational agency under subsections (b) and (d) for a fiscal year from the amount determined under clause (iii) or clause (iv), as the case may be.

[(B) SPECIAL RULE.—With respect to payments under this subsection for a fiscal year for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of payments under this subsection shall be equal to—

[(i) the product of—

[(I) the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State; multiplied by

[(II) the number of students described in subparagraph (A) or (B) of subsection (a)(1) for such agency; minus

[(ii) the amount of payments such agency receives under subsections (b) and (d) for such year.

[(C) DETERMINATION OF AVAILABLE FUNDS.—When determining the amount of funds available to the local educational agency for current expenditures for purposes of subparagraph (A)(iii) for a fiscal year, the Secretary shall

include, with respect to the local educational agency's opening cash balance for such fiscal year, the portion of such balance that is the greater of—

[(i) the amount that exceeds the maximum amount of funds for current expenditures that the local educational agency was allowed by State law to carry over from the prior fiscal year, if State restrictions on such amounts were applied uniformly to all local educational agencies in the State; or

[(ii) the amount that exceeds 30 percent of the local educational agency's operating costs for the prior fiscal year.

[(4) DATA.—For purposes of providing assistance under this subsection the Secretary shall use student, revenue, expenditure, and tax data from the second fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this subsection.

[(5) REDUCTION IN PAYMENTS.—If funds appropriated to carry out this subsection are insufficient to pay in full the amounts determined under paragraph (3), the Secretary shall ratably reduce the payment to each eligible local educational agency.

[(g) ADDITIONAL PAYMENTS FOR LOCAL EDUCATIONAL AGENCIES WITH HIGH CONCENTRATIONS OF CHILDREN WITH SEVERE DISABILITIES.—

[(1) IN GENERAL.—If any local educational agency receives Federal funds from sources other than this title to carry out the purposes of this title for any fiscal year due to the enrollment of children described under subsection (a), then the Secretary shall consider such funds as a payment to such agency under this part for such fiscal year.

[(2) SPECIAL RULE.—Notwithstanding any other provision of law, if funds appropriated pursuant to section 8014(b) for payments under subsection (b) to such agency for a fiscal year which, when added to the funds described in paragraph (1) received by such agency for such fiscal year, exceed the maximum amount described under subsection (b)(1)(C), then the Secretary shall make available from the funds appropriated under section 8014(b) for such fiscal year such excess amounts to any local educational agency serving two or more children described under subparagraph (B) or (D) of subsection (a)(1) who have a severe disability and a parent serving in the uniformed services (as defined by section 101 of title 37, United States Code) who is assigned to a particular permanent duty station for compassionate reasons (compassionate post assignment) for the total costs associated with such children who are provided an educational program provided outside the schools of such agency.

[(3) REMAINING FUNDS.—If funds remain after payments are made under paragraph (2) for any fiscal year, then such remaining funds shall be made available for expenditures under subsection (d) in such fiscal year on a pro rata basis consistent with the requirements of such subsection.

[(4) RATABLE REDUCTIONS.—If amounts available to carry out paragraph (2) for any fiscal year are insufficient to pay in full the total payment that all eligible local educational agencies are eligible to receive under such paragraph for such year, then the Secretary shall ratably reduce such payments to such agencies for such year.]

[(h)] (f) OTHER FUNDS.—Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or such section's successor authority.

[(i)] (g) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under [sections 8002 and 8003(b)] *section 8002 and subsection (b) of this section* for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

* * * * *

SEC. 8005. APPLICATION FOR PAYMENTS UNDER SECTIONS 8002 AND 8003.

(a) IN GENERAL.—A local educational agency desiring to receive a payment under section 8002 or 8003 shall—

* * * * *

(d) APPROVAL.—

(1) * * *

* * * * *

(2) REDUCTION IN PAYMENT.—The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c), *or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be*, that otherwise meets the requirements of this title, except that, notwithstanding section 8003(e), the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

[(3) LATE APPLICATIONS.—The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c).]

(3) LATE APPLICATIONS.—

(A) NOTICE.—*The Secretary shall, as soon as practicable after the deadline established under subsection (c), provide to each local educational agency that applied for a payment under section 8002 or 8003 for the prior fiscal year, and with respect to which the Secretary has not received an application for a payment under either such section (as the case may be) for the fiscal year in question, written notice of the failure to comply with the deadline and instruction*

to ensure that the application is filed not later than 60 days after the date on which the Secretary sends the notice.

(B) ACCEPTANCE AND APPROVAL OF LATE APPLICATIONS.—The Secretary shall not accept or approve any application of a local educational agency that is filed more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to subparagraph (A).

* * * * *

[SEC. 8006. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.

[(a) ELIGIBILITY.—A local educational agency is eligible for a payment under this section if—

[(1) the number of children in average daily attendance during the school year for which the determination is made is at least 10 percent or 100 more than the number of children in average daily attendance in the school year preceding the school year for which the determination is made; and

[(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37, United States Code) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between May 15 and September 30, inclusive, of the fiscal year for which the determination is made, as certified by an appropriate local official of the Department of Defense, is at least 10 percent or 100 more than the number of children in average daily attendance in the preceding school year.

[(b) APPLICATION.—A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the school year for which payment is requested, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that such agency is eligible for such a payment.

[(c) CHILDREN TO BE COUNTED.—For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

[(1) the increase in the number of children in average daily attendance from the school year preceding the fiscal year for which the determination is made; and

[(2) the number of children described in subsection (a)(2).

[(d) PAYMENTS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), from the amount appropriated for a fiscal year under section 8014(d), the Secretary shall pay each local educational agency with an approved application an amount equal to one-half of the national average per-pupil expenditure multiplied by the number of such children determined under subsection (c) for that local educational agency.

[(2) RATABLE REDUCTION.—(A) If the amount appropriated to carry out this section for any fiscal year is insufficient to pay the full payment that all eligible local educational agencies are eligible to receive under this section for such year, then the

Secretary shall ratably reduce the payments to such agencies for such year.

[(B) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

[(e) NOTIFICATION PROCESS.—

[(1) ESTABLISHMENT.—The Secretary shall establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this title.

[(2) INFORMATION.—Such process shall provide timely information regarding such closures and such adjustments—

[(A) by the Secretary of Defense to the Secretary; and

[(B) by the Secretary to the affected local educational agencies.

[SEC. 8007. CONSTRUCTION.

[(a) PAYMENTS AUTHORIZED.—From the amount appropriated for each fiscal year under section 8014(e), the Secretary shall make payments to each local educational agency—

[(1) that receives a basic payment under section 8003(b); and

[(2)(A) in which the number of children determined under section 8003(a)(1)(C) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the preceding school year;

[(B) in which the number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made;

[(C) that receives assistance under section 8003(f); or

[(D) that receives assistance under section 8006.

[(b) AMOUNT OF PAYMENTS.—The amount of a payment to each such agency for a fiscal year shall be equal to—

[(1) the amount appropriated under section 8014(e) for such year; divided by

[(2) the number of children determined under section 8003(a)(2) for all local educational agencies described in subsection (a), but not including any children attending a school assisted or provided by the Secretary under section 8008 or section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); multiplied by

[(3) the number of such children determined for such agency.

[(c) USE OF FUNDS.—Any local educational agency that receives funds under this section shall use such funds for construction, as defined in section 8013(3).]

SEC. 8007. CONSTRUCTION.**(a) CONSTRUCTION PAYMENTS AUTHORIZED.—**

(1) *IN GENERAL.*—From 70 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary shall make payments in accordance with this subsection to each local educational agency that receives a basic support payment under section 8003(b) for that fiscal year.

(2) *ADDITIONAL REQUIREMENTS.*—A local educational agency that receives a basic support payment under section 8003(b)(1) shall also meet at least 1 of the following requirements:

(A) *The number of children determined under section 8003(a)(1)(C) for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.*

(B) *The number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.*

(3) AMOUNT OF PAYMENTS.—

(A) *LOCAL EDUCATIONAL AGENCIES IMPACTED BY MILITARY DEPENDENT CHILDREN.*—The amount of a payment to each local educational agency described in this subsection that is impacted by military dependent children for a fiscal year shall be equal to—

(i)(II) *35 percent of the amount appropriated under section 8014(e) for such fiscal year; divided by*

(II) the total number of weighted student units of children described in subparagraphs (B) and (D)(i) of section 8003(a)(1) for all local educational agencies described in this subsection (as calculated under section 8003(a)(2)), including the number of weighted student units of such children attending a school facility described in section 8008(a) if the Secretary does not provide assistance for the school facility under that section for the prior fiscal year; multiplied by

(ii) the total number of such weighted student units for the agency.

(B) *LOCAL EDUCATIONAL AGENCIES IMPACTED BY CHILDREN WHO RESIDE ON INDIAN LANDS.*—The amount of a payment to each local educational agency described in this subsection that is impacted by children who reside on Indian lands for a fiscal year shall be equal to—

(i)(I) *35 percent of the amount appropriated under section 8014(e) for such fiscal year; divided by*

(II) the total number of weighted student units of children described in section 8003(a)(1)(C) for all local educational agencies described in this subsection (as calculated under section 8003(a)(2)); multiplied by

(ii) the total number of such weighted student units for the agency.

(4) *USE OF FUNDS.*—Any local educational agency that receives funds under this subsection shall use such funds for construction, as defined in section 8013(3).

(b) *SCHOOL FACILITY MODERNIZATION GRANTS AUTHORIZED.*—

(1) *IN GENERAL.*—From 30 percent of the amount appropriated for each fiscal year under section 8014(e), the Secretary shall award grants in accordance with this subsection to eligible local educational agencies to enable the local educational agencies to carry out modernization of school facilities.

(2) *ELIGIBILITY REQUIREMENTS.*—A local educational agency is eligible to receive funds under this subsection only if—

(A) such agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, such agency's fiscal agent) has no capacity to issue bonds or is at such agency's limit in bonded indebtedness for the purposes of generating funds for capital expenditures; and

(B)(i) such agency received assistance under section 8002(a) for the fiscal year and has an assessed value of taxable property per student in the school district that is less than the average of the assessed value of taxable property per student in the State in which the local educational agency is located; or

(ii) such agency received assistance under subsection (a) for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

(3) *AWARD CRITERIA.*—In awarding grants under this subsection the Secretary shall consider 1 or more of the following factors:

(A) The extent to which the local educational agency lacks the fiscal capacity to undertake the modernization project without Federal assistance.

(B) The extent to which property in the local educational agency is nontaxable due to the presence of the Federal Government.

(C) The extent to which the local educational agency serves high numbers or percentages of children described in subparagraphs (A), (B), (C), and (D) of section 8003(a)(1).

(D) The need for modernization to meet—

(i) the threat that the condition of the school facility poses to the safety and well-being of students;

(ii) overcrowding conditions as evidenced by the use of trailers and portable buildings and the potential for future overcrowding because of increased enrollment; and

(iii) facility needs resulting from actions of the Federal Government.

(E) The age of the school facility to be modernized.

(4) *OTHER AWARD PROVISIONS.*—

(A) *FEDERAL SHARE.*—The Federal funds provided under this subsection to a local educational agency described in

subparagraph (C) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection. A local educational agency may use in-kind contributions to meet the matching requirement of the preceding sentence.

(B) MAXIMUM GRANT.—A local educational agency described in subparagraph (C) may not receive a grant under this subsection in an amount that exceeds \$3,000,000 during any 5-year period.

(C) LOCAL EDUCATIONAL AGENCY DESCRIBED.—A local educational agency described in this subparagraph is a local educational agency that has the authority to issue bonds but is at such agency's limit in bonded indebtedness for the purposes of generating funds for capital expenditures.

(5) APPLICATIONS.—A local educational agency that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain—

(A) documentation certifying such agency's lack of bonding capacity;

(B) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 8003(a)(1) in average daily attendance in each school facility;

(C) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located;

(D) a description of any school facility deficiency that poses a health or safety hazard to the occupants of the school facility and a description of how that deficiency will be repaired;

(E) a description of the modernization to be supported with funds provided under this subsection;

(F) a cost estimate of the proposed modernization; and

(G) such other information and assurances as the Secretary may reasonably require.

(6) EMERGENCY GRANTS.—

(A) APPLICATIONS.—Each local educational agency described in paragraph (2)(B)(ii) that desires a grant under this subsection shall include in the application submitted under paragraph (5) a signed statement from an appropriate local official certifying that a health or safety deficiency exists.

(B) PRIORITY.—If the Secretary receives more than 1 application from local educational agencies described in paragraph (2)(B)(ii) for grants under this subsection for any fiscal year, the Secretary shall give priority to local educational agencies based on the severity of the emergency, as determined by the Secretary, and when the application was received.

(C) CONSIDERATION FOR FOLLOWING YEAR.—A local educational agency described in paragraph (2)(B)(ii) that applies for a grant under this subsection for any fiscal year

and does not receive the grant shall have the application for the grant considered for the following fiscal year, subject to the priority described in subparagraph (B).

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SEC. 8010. FEDERAL ADMINISTRATION.

(a) PAYMENTS IN WHOLE DOLLAR AMOUNTS.—The Secretary shall round any payments under this title to the nearest whole dollar amount.

* * * * *

(c) SPECIAL RULES.—

[(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBSECTION (a) OR (b) OF SECTION 3 OF PUBLIC LAW 81-874.—Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.]

[(2)] (1) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION 8003(a)(1).—(A) * * *

* * * * *

[(3)] (2) REQUIREMENTS.—A child meets the requirements of this paragraph if—

(A) * * *

* * * * *

(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under [section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or] section 8009(b) of this title; and

* * * * *

SEC. 8011. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code *if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing*

not later than 60 days after the date of the action of the Secretary under this title.

(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—

(1) IN GENERAL.—A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) may, within **[60 days]** *30 working days (as determined by the local educational agency or State)* after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

* * * * *

SEC. 8013. DEFINITIONS.

For purposes of this title:

(1) * * *

* * * * *

(5) FEDERAL PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) through (F), the term “Federal property” means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

(i) * * *

* * * * *

(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937; **[or]**

* * * * *

(III) affordable housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996; or

* * * * *

(13) MODERNIZATION.—The term “modernization” means repair, renovation, alteration, or construction, including—

(A) the concurrent installation of equipment; and

(B) the complete or partial replacement of an existing school facility, but only if such replacement is less expensive and more cost-effective than repair, renovation, or alteration of the school facility.

SEC. 8014. AUTHORIZATION OF APPROPRIATIONS.

(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section 8002, there are authorized to be appropriated **[\$16,750,000 for fiscal year 1995]** *\$32,000,000 for fiscal year 2000* and such sums as may be necessary for each of the four succeeding fiscal years.

(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under **[subsections (b) and (f) of section 8003]** *section 8003(b)*,

there are authorized to be appropriated **[\$775,000,000 for fiscal year 1995] \$809,400,000 for fiscal year 2000** and such sums as may be necessary for each of the four succeeding fiscal years~~], of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 8003(f)]~~.

(c) **PAYMENTS FOR CHILDREN WITH DISABILITIES.**—For the purpose of making payments under section 8003(d), there are authorized to be appropriated **[\$45,000,000 for fiscal year 1995] \$50,000,000 for fiscal year 2000** and such sums as may be necessary for each of the four succeeding fiscal years.

~~[(d) **PAYMENTS FOR INCREASES IN MILITARY CHILDREN.**—For the purpose of making payments under section 8006, there are authorized to be appropriated \$2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.]~~

(e) **CONSTRUCTION.**—For the purpose of carrying out section 8007, there are authorized to be appropriated **[\$25,000,000 for fiscal year 1995] \$10,052,000 for fiscal year 2000** and such sums as may be necessary for each of the four succeeding fiscal years.

(f) **FACILITIES MAINTENANCE.**—For the purpose of carrying out section 8008, there are authorized to be appropriated **[\$2,000,000 for fiscal year 1995] \$5,000,000 for fiscal year 2000** and such sums as may be necessary for each of the four succeeding fiscal years.

(g) **ADDITIONAL ASSISTANCE FOR CERTAIN [FEDERAL PROPERTY] LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION.**—For the purpose of carrying out section 8002(j) there are authorized to be appropriated **[such sums as are necessary beginning in fiscal year 1998 and for each succeeding fiscal year] \$1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the four succeeding fiscal years.**

* * * * *

SECTION 426 OF THE GENERAL EDUCATION PROVISIONS ACT

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 426. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title VIII of the Elementary and Secondary Education Act of 1965, but not including any portion of such funds as are attributable to children counted under **[subsections (d) and (g) of section 8003 of such Act] section 8003(d) of such Act** or residing on property described in section 8013(10) of such Act.

ADDITIONAL VIEWS

Presently, the current weight assigned to military off-base children is .10 and civilian dependent children is .05. These weights are used to calculate the level of assistance provided to school districts. Under the Impact Aid Program, we feel these levels do not adequately measure the financial impact these categories of children place on a federally impacted local educational agency. Impact aid weights for military off-base children and civilian dependent children should reflect what is at least close to what the actual impact of these children is on a school district. It is our hope that an agreement can be reached in Conference that will increase the weights assigned these two categories of children.

BILL CLAY.
DALE E. KILDEE.
BOBBY SCOTT.

