Marcus Walters—Richardson, Texas—Pearce High School.

U.S. AIR FORCE ACADEMY

David Andrews—Richardson, Texas—Plano Senior High School.

Brian Campbell—Garland, Texas—Jesuit Preparatory School.

Benton Hall—Plano, Texas—Plano Senior High School.

Ronda Helart—Plano, Texas—Home School.

U.S. MERCHANT MARINE ACADEMY

Brendon Ball—Plano, Texas—Plano East Senior High School.

John Harman—Garland, Texas—Naaman Forest High School.

Scott Hughes—Plano, Texas—Plano West Senior High School.

Kartik Parmar—Plano, Texas—Plano Senior High School.

To these 15 appointees I say, God bless you. God bless America. I salute you.

IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

Mr. SESSIONS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 206 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 206

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, the Committee on Rules met yesterday afternoon and granted a structured rule for H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003. This rule makes a total of 14 amendments in order, including 3 minority and 1 bipartisan amendment. I am very proud of not only the Committee on Rules, but also the Committee on Education and the Workforce for preserving the greatest hallmarks for democracy while setting the stage for today's votes on H.R. 1350. I believe inclusion, deliberation and full participation was achieved in making sure that this important Act is brought forward.

Mr. Speaker, since I want original enactment in 1975, the purpose of IDEA has been to ensure free appropriate education is achieved nationwide for disabled students. When IDEA was first enacted, this was the goal. Today we are here to improve upon the things that we learned since the last IDEA reauthorization in 1997.

As you know, Mr. Speaker, as through IDEA, the Federal Government is, in fact, authorized to cover 40 percent of the costs that schools nationwide spend to educate special needs students. However, the Federal Government today picks up only about 18 percent of the total cost of educating our special needs students and we must do better than that.

The good news this year, Mr. Speaker, is that the budget agreement reached by the House and the Senate this month includes an increase of $2.2 billion for special education in 2004. This unprecedented funding to increase for special education programs means that the Federal share of the special education will be brought up to 21 percent this year. The good work for the Committee on the Budget this year also establishes a clear pattern to reach our State goal of funding fully 40 percent of the total cost of the special needs education within the next 7 years.

Mr. Speaker, I am very proud of the fact that from fiscal year 1996 to fiscal year 2003, overall IDEA funding has increased by nearly 21 percent, from $3.2 billion to $10 billion annually. In fact, the 2003 funding level is more than a 15 percent increase over the 2002 funding level. This is a positive trend and proves that we are serious about attaining our goals and meeting our commitment to special education needs. But there is so much more that this bill does, more than just increasing funding. And I would like to provide some of the major provisions of H.R. 13 where Members of Congress will be able to see that this committee and the committee work that was done not only by the gentleman from Ohio (Mr. BOEHNER) but also the subcommittee chairman, the gentleman from Delaware (Mr. CASTLE) really has made a difference in the life and ongoing life of IDEA.

The underlying bill ensures that State will align their accountability systems for students with disabilities to the No Child Left Behind Act system and requires each child's Individual Education Plan, known as an IEP, to specifically address that child's academic achievement.

H.R. 1350 makes significant changes to the Department of Education's activities on research of special education, establishes a center for special education research within the Institute of Education Science and authorizes the creation of a commissioner for special education research to oversee the Institute's research into special education and related services.

It incorporates elements of the gentleman from Florida's (Mr. KELLER) Paperwork Reduction Bill, H.R. 464, including the 3-year individualized education plan known as IEP; it creates a 10-State pilot program that allows State to reduce the IEP paperwork burden on teachers in order to increase instructional time and resources and improves results for disabled students.

For these and so many other reasons, Mr. Speaker, I have ask that you and each of my 434 other colleagues join me in supporting the dream of the greatest realization of our beloved, compassionate and democratic Nation. The realization that we have inherent worth and that here in America we will provide opportunity, love and compassion for every single one of our children.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume. I want to thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Mr. Speaker, partisan battles are nothing new on the floor of this House, but there are many matters where broad bipartisan agreement and good will have traditionally been the rule. Education for disabled and special needs children has been one of those issues notable for its profound bipartisan consensus.

□ 1030

Therefore, it is a sad day for this House as we consider the rule for H.R. 1350, the IDEA reauthorization. This is not a bipartisan rule, and this bill certainly does not reflect a broad bipartisan consensus. If anything, H.R. 1350

represents consensus breaking, undermining many of the hard-won and carefully constructed checks and balances of existing law.

Education for disabled and special-needs children is a sensitive issue for all Americans. Some of our colleagues will be personally and directly affected by what we do here today. I am disappointed that we are considering this bill today because I believe we can do better and we should have done more to build a broad consensus around this bill among Members of this House and the constituencies most affected by this law.

During consideration of this bill in the Committee on Rules last night, I told every Member who testified before the committee that I supported their right to offer their amendments on the floor today. Unfortunately, the majority did not join me in that support. I am disappointed the majority has denied the opportunity for many Members to offer their amendments, but I am most disappointed that the majority has stifled debate on mandatory funding by denying the Woolsey/Van Hollen/McCollum amendment and the Bass/Simmons amendment, both of which would have required mandatory funding for IDEA.

There is a pattern in this body of saying one thing and doing another. The majority talks a good game about educating America's children but balks at providing the necessary funding when the time comes to back up their rhetoric with deeds. Today, we will hear about increases for special education in the budget resolution. But when it comes time to fully fund these programs, the majority denies debate on the only two amendments that would genuinely make that a reality.

This bill reneges on our 28-year commitment to fully fund the Federal share of special education part B grants to States, what is commonly referred to as fully funding IDEA. It denies mandatory funding that would ensure the Federal Government finally lives up to its legal commitment to provide States with 40 percent of these costs.

Time and time again Congress has passed meaningless sense of Congress resolutions supporting full funding for IDEA. But when it came to the point to require that these funds be provided, this bill, once again, turned its back on that promise. In fact, this bill actually sets caps, authorizing ceilings on the amount of funding that Congress may provide in any given year.

Even those groups representing teachers, principals, and school administrations that do support many of the changes in H.R. 1350 categorically state that the bill must be amended to require mandatory funding increases. Yet the majority on the Committee on Rules denied both Republican and Democratic amendments on this issue. So there will be no debate in the United States House of Representatives on the most critical issue facing special education today: Will the Congress finally put some money where its mouth has been for the past several years?

H.R. 1350 also undermines due process and discipline protections for children with disabilities, placing new restrictions on the ability of parents to seek legal representation when a violation of the law has occurred. It might even bring us back to the time when children with disabilities could be removed from the classroom or, worse, refused a public education simply because they had disabilities.

I have heard from so many parents of children with disabilities and from school counselors and other professionals about how this bill would adversely affect the lives and education of these children. Here is what one mother in my district wrote about H.R. 1350, and I quote:

''Leah is my 7-year-old daughter. She has Downs Syndrome. Leah is fully included in her class, learning to read and has many friends. Not only has she benefited from being in this class, I truly believe the children in Leah's school have benefited from knowing Leah and becoming her friend. I want Leah to continue in this inclusive environment because I feel this is the best way for her to develop independence and appropriate social skills for the future. But H.R. 1350 does not provide full funding for IDEA. H.R. 1350 would take away many protections for parents' rights that are in IDEA, called procedural safeguards. It is important for schools to give parents their rights so parents can use them to make sure their children get a good education. H.R. 1350 would prevent this. When you sign an important contract, you get notice of your rights. H.R. 1350 would let schools give a short description of rights to parents rather than fully explain these rights to parents, like they now have to do. Why are the schools so afraid for parents to know their rights?''

Another woman from my district, the mother of a 12-year-old boy with autism, is also extremely disturbed by the changes contained in H.R. 1350. She writes: ''Under H.R. 1350, procedural rights would be greatly reduced. As a parent dealing with large teams of school district staff, these rights are critical to me in ensuring that my child's unique and individual needs are considered. Both school staff and I work very hard with my child to meet society's expectations. However, it is the nature of his disability that sometimes he cannot obey student codes of conduct. To subject my child to a segregated placement at the sole discretion of school staff anytime a rule is violated would be terrifying. Although some of the proposed changes in H.R. 1350 may appear sensible on the surface, as a person who has dealt with special education, I can easily see what their real-world impact would be, and it would be disastrous.''

I am sure my colleagues have received scores of similar letters from parents and grandparents of children who need special education, as well as letters from school counselors, psychologists, and therapists who work with and support these families. They are asking us and they are pleading with us to reject H.R. 1350.

Surely we can find a way to give school administrators the flexibility they say they need without undermining the rights of the children and families they are charged to serve. Surely we can find a way to fulfill our promises and provide mandatory funding. We should send this bill back to committee and return with a genuine consensus on the IDEA reauthorization, as has been the tradition of this body for nearly 3 decades.

Mr. Speaker, this bill is opposed by nearly every major constituency directly involved in the lives of children requiring special education: parents, families, school counselors, psychologists and developmental specialists, disabilities advocates, and organizations involved in the professional development of teachers.

Mr. Speaker, I submit for the RECORD a list of organizations opposed to this bill:

The Council for Exceptional Children
The National Mental Health Association
The Higher Education Consortium for Special Education
The National Center for Learning Disabilities
The American Academy of Pediatrics
The School Social Work Association of America
The National Down Syndrome Society
Easter Seals
American Society for Deaf Children
National Coalition of Parent Centers
Epilepsy Foundation
Association of Maternal and Child Health Programs
National Alliance of Pupil Services Organizations
American Council of the Blind
National Parent Teacher Association
National Association of School Psychologists
National Association of School Nurses
American School Counselor Association
American Psychological Association
National Association for College Admission Counseling
National Association of Social Workers
The American Academy of Child and Adolescent Psychiatry

Mr. Speaker, I urge my colleagues to reject this rule and to oppose the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume, and with great respect to the gentleman from Massachusetts, I would tell him that I too have received a good number of letters which involve feedback from parents who are concerned about changes in the law; they are concerned about what any IDEA reauthorization would look like.

As a parent of a son, a person who has Downs Syndrome and is affected with the afflictions that come with that syndrome, I can tell my colleagues that I too am concerned about

these things and approached this entire effort with an open mind, instead of saying I do not want any changes. I said, what are the things that we have learned from time; what are the things that we think we can do to get closer to not only better inclusion but to have better results from our children who fall within the IDEA guidelines?

Mr. Speaker, my son, who is 9 years old, and who is in first grade, is making progress. And I see where these things occur. But this committee and this subcommittee, under the leadership of the chairman, the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Delaware (Mr. CASTLE), have done things to go in and instead of keeping the status quo, they have gone in and made things dynamic. We are going to be more inclusive, we are going to provide more money, we are going to do those things that will enhance the relationship that a parent has in an IEP, which are these individual times processes that one goes through where they sit down and look at their child and try to map out and plan out a way for them to fully meet their needs and also those educational opportunities that are ahead of them.

After looking at the entire package, not just a piece or a part, I am satisfied; and I believe that what has occurred here is a better bill. Is it perfect? Probably not. But under the current law, there are still parents and still students that suffer needlessly as a result of either people not understanding the law or people not complying completely. That will always be a part of the process. But the advantages of this new bill come about as a result of the intuitive nature of this committee and subcommittee, who wanted to enhance and learn from the past and make it better.

So as a parent of a child who is affected by what this legislation will do, and as an advocate on behalf of this community, I am asking those people who have written in, those people who have called, and I have talked to a good number of them, to allow us an opportunity to speak fully about the entire bill, to put it into context; and I believe that by the end of today, as the smoke has cleared, as we have talked about it, the advantages will be very apparent for not only the parents but also the students that are impacted.

It is ultimately the parents who are put out on the front line in trying to negotiate. Parents are scared and they are worried about this; but if we walk through the things that this bill will do, including providing more funding and more flexibility, they will see where the advantages will be true for each one of them and their children. So I would politely address the concerns that the gentleman from Massachusetts has, because it is a real question that does exist in real parents' minds; and I respect the gentleman for his discussion.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wilmington, Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Texas for yielding me this time, and I have a tremendous amount of empathy for his personal situation and have spent a great deal of time discussing that and his interest in this bill, as well as the gentleman from Massachusetts, who exhibited, I felt, at the hearing before the Committee on Rules, an understanding of the legislation as well.

I think it is very important that we begin this debate by understanding several background areas. One is that this is legislation which was created in 1975 with the help of a number of people who are still here today. One of those Members is the ranking member on the Committee on Education and the Workforce, and others who put language into this legislation, which I think has held up extraordinarily well over the past 30 or so years. I believe that the services that we provide to our children who have disabilities are tremendous, light years ahead of where we were just 30 years ago.

I believe that Republicans and Democrats alike have worked together every 5 or 6 years in the reauthorization process, and I know it was very difficult 5 or 6 years ago when I went through it in order to put together legislation which will be helpful in improving what we are doing in helping children with disabilities. But I believe that the legislation before us is another step in that direction.

Now, obviously, if this passes today, with some of the amendments which are before us, it will go into a conference with the Senate and may come out somewhat differently. But I would suggest that before the process is done, this may become both bipartisan and perhaps even some improvements in it from where it is at this point today, although I think it is a significant and good piece of legislation today.

I do rise in support of H. Res. 206, which provides for the consideration of H.R. 1350, which is the Improving Results for Children With Disabilities Act of 2003. I offer my thanks to the chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), for his latitude in making sure that this legislation was worked out. We are very appreciative of that. I also want to thank the chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), and members of the Committee on Rules, particularly the gentleman from Texas (Mr. SESSIONS), for drafting what I find to be a fair and balanced rule.

I think we need to know the background of that too. For almost 2 years, we have been working to create a balanced piece of legislation to ensure that students with disabilities receive a quality education. In doing so, we have been committed to working with Democrats and parents and educators, and I think that rule today reflects that commitment. This has been an ongoing process, Mr. Speaker, which is exhibited in this rule.

There are a number of amendments that are the result of dialogue we have had with the minority. There are a number of other amendments that did not have to be introduced because we adopted them as part of the legislation. We have a manager's amendment with some technical aspects, which I am sponsoring.

But over the past 18 months, our committee, the House Committee on Education and the Workforce, has held seven different hearings on issues directly relating to the reauthorization of the Individuals With Disabilities on Education Act. And though that is probably not unparalleled, it is a little unusual to have that extensive number of hearings on any legislation in the House of Representatives.

□ 1045

On June 6, 2002, I helped launch a Web-based project called Great IDEAs, designed to solicit input from stakeholders in special education across the Nation. Since that time we have had more than 3,000 responses from teachers, school administrators, parents of children with special needs, and others familiar with the unique needs of children with disabilities and incorporated many of these suggestions into H.R. 1350. So the point on that is there has been a great deal of effort put into the preparation of this legislation and the preparation of the rule which we have before us today.

Turning to the bill, I believe that this bill employs commonsense reforms to reduce the excessive amount of paperwork requirements, and that is the common complaint that we hear from everybody. It improves IDEA to provide greater parent involvement, seeks to reduce litigation, authorizes dramatic funding increases, and improves early intervention strategies.

The excessive amount of paperwork requirement simply, frankly, overwhelms teachers and robs them of valuable time to educate their students. Teachers must have the ability to spend more time in the classroom rather than spending endless hours filling out unnecessary forms. Additionally, these provisions will allow school districts to retain and recruit highly qualified special education teachers.

Throughout the bill we have made improvements to IDEA to provide greater flexibility to parents and greater input in developing the Individualized Education Program, which is known by the acronym IEP, for their child.

The bill gives parents discretion over who attends IEP team meetings, how they are conducted, or whether to have one at all. We have improved the parent training and information centers and the community-parent resource centers to serve as valuable tools for parents trying to work with schools to get a quality education for their child.

This bill seeks to reduce litigation and restore trust between parents and school districts by encouraging the use of alternative means or what we know as dispute resolution. All too often miscommunication damages this relationship and results in proliferation of litigation. Not only is this course of action costly, but it breeds an attitude of distrust.

H.R. 1350 authorizes dramatic increases in funding for special education, creates a clear path to attain full funding of the Federal Government's 40 percent goal within 7 years. Let me go through that carefully. We are going to hear that a lot in the course of the next 4 or 5 hours on the floor. Essentially, after IDEA was created, in the original language it said that the Federal Government will fund up to 40 percent of the cost of the education of these children beyond the normal cost of education. The Federal Government for whatever reasons did not live up to that.

Up until about 7 years ago, the Federal Government was funding 5 or 6 percent of that cost. In the last 7 years, and I am proud that Republicans have been involved with this, although Democrats have been supportive as well, but over the last 7 years, we have increased that dramatically so that instead of funding 5 percent, we are now funding 18 percent.

In this year's budget resolution, that funding number will take us up to 21 percent. The President of the United States has indicated his complete willingness to fund this in rapid increases to get us to that 40 percent in a 7-year glide path. This Congress, in the form of the Committee on Appropriations, has indicated doing it the same way. This is all under the discretionary spending which we have with constant review; and believe me, we need constant review of IDEA which is happening as a result of the fact that it is under discretionary spending. I do not believe when we go to mandatory spending we get those reviews.

I believe that particular commitment to getting there in 7 years is going to work. The mandatory spending side of it, the amendments that we are seeing, although they are not in this particular legislation, have a 6-year path to get us to that 40 percent funding. The real differences are rather minimal in terms of when we would get there, and the commitment to do it. Some Members say we need to do it in a mandatory way or it is not going to happen.

I do not agree with that. I have watched it happen year after year in most of the years that I have been in the Congress of the United States, and it is happening extremely well. I am proud of our record of dramatically increasing this funding for IDEA over the past 7 years and remain committed to building on that impressive record as far as the future is concerned. I am convinced that we are doing the right thing. We will hear a lot about it in a political sense today, but the bottom line is the commitment is there and that is happening.

The bill also improves early intervention strategies. Currently too many children with reading problems are being identified as learning disabled and placed in special education classes they do not necessarily belong in. We have given local school districts the flexibility to use up to 15 percent of their funds for prereferral services for students before they are identified as needing special education. I think that is a very important provision because of some of the overidentification that goes on, particularly in the African American community.

We also attempt to address that question of a disproportionate number of minority students wrongly placed in special education. We encourage school districts to provide positive behavioral interventions and support intensive educational interventions to prevent this overidentification and misidentification.

Mr. Speaker, there is a lot in this legislation. It is very difficult, frankly, to take a significant piece of legislation and be able to comprehend it unless one has lived it for a long time. I will tell Members there are many people who have come to my office and left pictures of their children behind, which I have on my desk in both Wilmington and here in Washington, D.C. There are many Members of Congress who are involved very personally with children with disabilities and are very concerned with what is in this legislation.

Many steps have been taken in order to improve the legislation. We have tried to keep an open mind about amendments and suggestions and will do so through conference in order to help those children who truly need help in our schools. We are proud of our record and the legislation. I believe the Committee on Rules has done an outstanding job of sorting through amendments and preparing for today, and I would encourage everybody to support this rule.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to respond to the gentleman from Texas (Mr. SESSIONS), I wanted to make clear that those of us who have concerns about this bill do not want to maintain the status quo. We think this bill could be made much better. Our concerns are shared by a number of people who are directly impacted by this legislation, a number of constituency groups, parents, families, school counselors, psychologists, development specialists, disability advocates and other organizations. This is just a sampling of some of the correspondence I have received in the last 24 hours. People have very, very deep and legitimate concerns about this bill; and I think we should have tried to get a broader consensus before we brought this bill to the floor.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a member of the Committee on Education and the Workforce.

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this rule because it will not allow Members of this Congress to vote on an amendment and to debate an amendment that would fully fund IDEA and make the funding mandatory. We all know how the funding process works around here. Authorization levels may be fine, budget numbers may help, but what really counts is appropriations. There are many, many competing demands on appropriations, so we should remove that competition when the Federal Government has made a commitment to fund an education program at any level because our schools need to be able to count on those funds. We have told them they are coming. They need to be able to count on them.

To that end, Mr. Speaker, two amendments were submitted to the Committee on Rules, one by three Democrats and the other by three Republicans. Those amendments would have phased in full funding for the part B State grants in IDEA and at the same time made all new funding mandatory. Neither of these amendments were accepted; neither will be considered today. Without the opportunity to debate and vote on one or the other of these amendments, a vote for H.R. 1350 is a vote against fully funding special education programs, which in turn leaves our schools and our parents competing for scarce funds for needed programs that are needed equally for our special ed kids and for the rest of kids that need to be educated.

Mr. Speaker, I urge Members to vote down this rule and in so doing demand the opportunity to vote on an IDEA reauthorization bill that includes mandatory full funding.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from California (Ms. WOOLSEY) and the gentleman from California (Mr. MCKEON) were at the Committee on Rules last night and spoke eloquently about their desire to ensure the funding levels. There are several issues there, but one of the most important ones was requiring that additional increases in funding above fiscal year 2003 levels be passed down directly to the local level.

There was a very important discussion in the Committee on Rules about Governors and the responsibility they would have as they managed their State budgets. I would like to make sure that the Members of Congress understand this will be part of the debate that takes place today.

Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I urge my colleagues to join us in supporting this rule so we may move to debate on the underlying legislation, the Improving Education Results for Children With Disabilities Act of 2003.

This is a structured rule that makes in order a total of 14 amendments to

H.R. 1350. These amendments allow the House to work its will on a variety of important issues and topics. It is a fair rule, and I hope it is overwhelmingly approved.

With respect to H.R. 1350, I want to commend the gentleman from Delaware (Mr. CASTLE), the chairman of the Subcommittee on Education Reform, and the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for all of the time and effort they have invested in bringing this important, well-crafted legislation to the House floor.

Although IDEA has helped many children with special needs since it was enacted in 1975, some problems remain. The largest problem with IDEA is its focus on requiring compliance with complex rules, rather than producing the academic results that children with disabilities need. Streamlining and significant reforms are needed.

H.R. 1350 represents a step in the right direction. Not only does it strengthen accountability and results for students, it also gives States the freedom to reduce paperwork that is often duplicative and unnecessary. Doing this will allow teachers to focus less on complex forms and more on spending time in the classroom teaching students with needs.

Other reforms include greater flexibility for local school districts to improve early intervention strategies and thereby helping to lower the number of children who are improperly placed in special ed classes, and more innovative approaches to parental involvement and choice.

When the IDEA law was originally enacted in the mid-1970s, the Federal Government promised to fund 40 percent of its costs. Although the Federal Government has made dramatic improvements in the last 8 years by appropriating significantly higher funding, we are still falling short of the goal. However, to the credit of the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman, and the gentleman from Ohio (Mr. BOEHNER), the full committee chairman, this bill puts the Federal Government on a glide path towards providing its full 40 percent share of IDEA costs within 7 years.

To those who would vote against a rule because it does not do what they did not do for the 22 years they controlled this House and the Senate and the White House is pure politics. It has nothing to do with children; it has nothing to do with special needs. When I came here 10 years ago, IDEA was funded to the tune of 5 percent. It is now 18, soon to be 23, and on a glide path to 40 percent; and that is real significant progress. Opposition to this bill because it does not do what was failed to have been done for 25 years is sheer politics.

I have always supported the right of children to a quality public education, and that remains a bedrock principle of mine. Unfortunately, in many local schools, special ed cannot be given the kind of treatment, attention, and care that it ought to receive. When this happens, families with special education children suffer.

H.R. 1350 will move us toward our goal of working to give families with special education children the choices and the support they deserve. Mr. Speaker, I urge Members to support this rule so we may proceed to debate the underlying legislation.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to the gentleman from Georgia (Mr. LINDER) what we would like to see happen is all of us, including those on the majority side, keep their word to the American people, that we provide full funding for IDEA.

There have been over 22 various resolutions and bills which have been voted on in this Chamber and the other body endorsing the idea of fully funding IDEA. We want them to keep their word. Let us put our appropriations where our rhetoric is.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I thank the gentleman from Delaware (Mr. CASTLE), the chairman of our subcommittee, for the gentleman's recognition and leading the committee toward an understanding of the disproportionately high number of African American males being placed in special education.

I raised the issue in subcommittee in the form of an amendment, and the gentleman from Delaware (Mr. CASTLE), to his credit, led us through a discussion of that which led to what I am sure is a real adjustment and a way to handle that issue by dealing with this disproportionately high number of individuals in a special group.

□ 1100

With that having been said, since we did not get to the point, though, of dealing with full funding for the legislation and without the resources needed, I am afraid that we cannot take care of the problems. Therefore, Mr. Speaker, I cannot support the rule. I think we have had an opportunity and could have had an excellent piece of legislation, but I am afraid that it falls short because it short-changes those in our society who need the help the most, children with disabilities.

Mr. SESSIONS. Mr. Speaker, I would like to inquire upon the time remaining for both sides.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. SESSIONS) has 8 minutes remaining. The gentleman from Massachusetts (Mr. MCGOVERN) has 18 minutes remaining.

Mr. SESSIONS. Mr. Speaker, I would like to let the gentleman know that I would be pleased to have them consume several speakers so that we can get more closely aligned on the time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), a valued member of the Committee on Education and the Workforce.

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague for yielding me this time.

I think it is extremely unfortunate that the Republican majority on the Committee on Rules has voted to deny this full body, all 435 Members of this Congress, the opportunity today to vote up or down on meeting the education commitments we have made to America's children. We many years ago said that the Federal Government was going to pay for 40 percent of the costs for special education; and as we sit here on this floor today, we are only at 18 percent. I know that in campaigns throughout this country when we all go before school boards, Republicans and Democrats, when we talk to parents groups, we have all said how important it is to keep our promise and make that 40 percent commitment. I am very pleased and I want to thank the chairman of the full committee and the chairman of the subcommittee for giving us the opportunity to debate that very issue and vote on it in committee. I was disappointed that it failed on party lines, and I think it is important that this full House have an opportunity to debate that. This is the reauthorization bill. This is the one time for the next 5 years we are going to be taking up this issue. This is the time to do it.

For those who say it is not important, we should leave it to the appropriations process, I would say to those listening it is the difference between giving a guarantee today and rolling the dice every year with the Committee on Appropriations, and we know from history that we have been unable to meet that commitment rolling the dice every year. Now is the time to make the guarantee. Just a little over a year ago, the President signed the No Child Left Behind bill and promised a great deal of more resources to our States and our school boards in exchange for numerous responsibilities that we put upon them; and yet just a little over a year later, we are already failing to make our commitment on No Child Left Behind. This year we are $9 billion short. We need to meet our commitments we made on special ed more than 20 years ago. We need to meet our commitments we made in No Child Left Behind. We should not be pitting these groups against each other. There should not be competition in funds between special education and all other education. Let us vote today to provide our schools and our children the resources we have promised. Give this House an opportunity to do it. Why are we afraid to let 435 Members vote on that issue?

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND), another valued

member of the Committee on Education and the Workforce.

Mr. KIND. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding me this time, and I appreciate the work he has put in in dealing with this rule as well as with the legislation.

Mr. Speaker, I am a member of the Committee on Education and the Workforce and a member of the Subcommittee on Early Childhood, Youth and Families in charge of the reauthorization of this bill. And while I will be supporting legislation at the end of the day, assuming the voucher amendments that will be offered today are not in fact adopted, I have to rise and express my opposition to the rule.

I do appreciate most sincerely the effort that the gentleman from Delaware (Mr. CASTLE), the subcommittee chairman, has put in with the outreach that he has provided to the members of the committee and also throughout the rest of the Nation in regards to the input on this important legislation; but this is really the most important education bill that is going to be appearing before this 108th session of Congress over the next couple of years, and all Members should have an opportunity to offer amendments and to express their concerns and to offer some improvements to the legislation that we have been working on for some time, not least of which the granddaddy of all the unfunded Federal mandates that is affecting our school district, which is full funding of special education.

I cannot comment on the remarks of the gentleman from Georgia (Mr. LINDER) in regards to what happened in previous Congresses and why they did not fully fund it, but I do recognize a promise, and a promise that is not being kept, when I see it. We should have the opportunity today to offer an amendment requiring mandatory full funding of special education so we can get away from pitting student against student in our classrooms.

This is an important piece of legislation. Children with special needs should have access to quality of education like any other child throughout the country, but this is an unfunded mandate because we have never lived up to the 40 percent cost share that was promised in the mid-1970s when it was first passed. We are on an encouraging trend line, though, to try to increase funding to that level, but excuse some of us on this side of the aisle if we are somewhat cynical or doubtful that this Congress or the administration is truly committed to achieving full funding in the 7 years that they claim they will achieve it under this legislation. It is just a little over a year since No Child Left Behind was passed; and yet, as my colleague before me just recognized, we are $9 billion short in funding that program.

This should be an open rule. We should not be closing the debate process. I encourage my colleagues to vote ''no'' on it and bring back an open rule to have a discussion on this important topic.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I rise in opposition to the rule and the bill.

In general, IDEA is a good program which works well. As a society, we have decided that all children have a right to a quality education. In 1954 our country made it clear that ''all children'' included racial minorities, and under IDEA we made it clear that ''all children'' included those with disabilities. The dream that all children are entitled to a quality education is an expensive dream to achieve, but we have decided that we mean to achieve that goal.

Many years ago, Congress promised to contribute 40 percent of the cost of achieving that goal, and this bill provides only a modest increase in authorization; but if No Child Left Behind is a guide, the appropriations will not follow. If we mandated the appropriations in the bill, we could be sure that the money would follow the authorization, but that mandate is not in the bill. We should remember, Mr. Speaker, that the Federal legislation to protect the educational rights of children with disabilities would not be necessary if school districts did a better job in carrying out their responsibilities.

Prior to the Federal mandate of Individuals with Disabilities Education Act, millions of children with disabilities receive no education at all. But this bill makes it more difficult for our children with disabilities to get the free and appropriate education to which they are entitled because many of the discipline provisions in the bill are inconsistent with that goal. Rather than making sure that children with disabilities are provided with good teachers who have appropriate training and professional development, the bill allows school districts to shuttle kids off to so-called interim alternative educational settings that will not provide a free and appropriate public education. In so doing, this bill makes it easier for local school systems to illegally place children with disabilities in inappropriate settings while at the same time reducing the parents' ability to challenge those placements. And so, Mr. Speaker, in the bill the removal of the current discipline protections will result in students with disabilities being expelled or removed for actions they cannot control.

Mr. Speaker, the revised discipline provisions in the bill were added to give school districts an opportunity to avoid providing the most challenging students with disabilities free and appropriate education; yet we should remember that even with the current protections, students with disabilities are already overrepresented among students who are expelled from schools. The elimination of the current discipline safeguards will remove the only legal safeguards that currently exist for these students with disabilities.

Mr. Speaker, for these reasons as well as others I ask my colleagues to oppose the rule and oppose final passage of H.R. 1350.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, wherever I have gone in my district meeting with my school superintendents and parents, teachers, and just proponents of good education for all of our children, one of the strongest issues has been the full funding of the authorization for children with disabilities. Full funding, full funding is the cry all over America. I would have hoped today that we could have moved forward with the concept of full funding, and I am gratified that this legislation has finally come to the floor; but clearly we are missing the boat if we believe that we are going to be able to reach again to America's commitment to equal education for every children if we do not provide full funding for children with disabilities.

And then, Mr. Speaker, I think it is clearly important that we again reassess these new provisions dealing with penalties for misbehavior in this legislation. Why are we penalizing the children who need the most help? Why are we penalizing the children who need the most incentive? Why are we penalizing the teachers who need the most help? We can find a much better guide, if the Members will, and provide the guiding mark for helping these children without providing them with extra burdens or penalties for misbehavior so they wind up being the children who are expelled and out of the system in the first place.

Have my colleagues ever spoken to a parent of a disabled child? Their greatest plea is to give their child that opportunity. And here we come with a bill that, one, does not have full funding; and, two, creates these extraordinary burdens on the school system, the teachers, and the parents.

I would also say that I think it is extremely important to support the McKeon-Woolsey amendment that clearly dictates to our school districts, and I know they are struggling with the funding resources that they have, to direct all funds beyond the administrative costs directly to the services so that all the moneys that we do have funded out of this legislation will directly go to serving our children.

I would like us to come forward as we have attempted to do in a bipartisan manner. I certainly appreciate the work of the Committee on Education and the Workforce, but we are falling short of America's children and America's promise of the educational opportunity for all children. If we do not provide full funding, we do not direct

all moneys to the services and we get rid of these burdensome provisions, that will only send more special ed children into the streets away from equal opportunity of education for all of our children.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, before I was selected to the Committee on Appropriations, I was subcommittee chairman of the Committee on Education. I went through the IDEA bill and the reauthorization. Taking the parent groups and the schools and putting them in the same room is like putting a Persian cat and a Siamese cat together. It was very difficult. We actually basically put them in a room, gave them no bread or water, and told them to come out with a solution. The solution they came out with was pretty reasonable, and there was balance except that when the final bill came out, for example, the trial lawyers changed the intent, we said the first time a parent goes to the school we do not want a trial lawyer there because it will raise the funding and it will cost schools. And they said let the schools provide a lawyer. The schools do not need a lawyer. But they do, and what happened is they got around it when we established that rule that a parent would go to school, the trial lawyers would still be paid, and it would cost the additional money.

I think the Democrats have really got their gall. For 20 years IDEA was supposed to be funded at 40 percent. The most it was ever funded was 5 percent of that 40 percent. When the Democrats had the White House, the House, and the Senate, they gave us the highest tax increase in history. They increased spending with a deficit at $330 billion forever; but, no, they did not increase the spending on IDEA. It stayed at 5 percent. Since we have taken the majority, we have put it up to 18 percent, over a 262 percent increase; and it is on a climb, and it will go on to climb. But they want to put this program on a mandatory level, on autopilot. None of these changes would be possible. People will retire on active duty just like the other mandatory spending programs. The Democrats talk about fiscal responsibility. Let us put veterans, let us put IDEA, let us put Impact Aid, let us put all those other things on mandatory spending. The budget in this place will go out of sight and the deficit and the debt will also go up. The real problem is Gray Davis, the Governor of California. He is cutting the money at the State level and running the whole IDEA engine on Federal money. He is cutting IDEA.

□ 1115

He is cutting Impact Aid. He is cutting Title I. So if you want to improve IDEA stop him from stealing the money, I do not want to add new money and have Governor Davis steal it. I do not want to add new money though and have it go to the trial lawyers with these cottage organizations. But the Democrats will not do that, because that is where they get their campaign money.

We need to change the system. Alan Bersin was Bill Clinton's Border Czar and is now the superintendent of the San Diego city schools. He has testified that IDEA is his biggest problem in schools. He wants to improve IDEA. IDEA has helped children with disabilities before they were left out. They were left behind. We are trying to improve the bill. But to make it mandatory after what the Democrats have done nothing for all of these years is hypocrisy and political demagoguery.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to the gentleman from California who just spoke that the government made a commitment to provide States with 40 percent of the costs for special education. We have broken that promise time and time again. We are breaking that promise again today. If the gentleman does not want to provide 40 percent of the costs to States, he can vote against one of the amendments that was offered in the Committee on Rules last night that was denied here on the floor today that would provide mandatory funding.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. DAVIS).

(Mr. DAVIS of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Tennessee. Mr. Speaker, I rise in objection to the rule.

Mr. Speaker, the Individuals with Disabilities Act, also known as IDEA, has made progressive strides for children with disabilities since it was first introduced in 1975. H.R. 1350, which reauthorizes this landmark legislation, is before the House today. This bill has some very positive attributes and, I think, perhaps some very negative points.

First, this bill provides for a 1-year statute of limitations on complaints for due process hearing. I think this is very helpful for school districts who are serving many of these students. The 1-year statute will prevent complaints from previous school years from reoccurring.

But at the same time, this bill weakens protections for parents and students that are provided by the current law. The bill gives the option for a school district to develop an individual education plan for the child every 3 years. The current law provides for the IEPs to be done every year. Three years is too long, I think, to track a student's progress. This bill needs to maintain the continued IEP for every school year.

Additionally, the bill allows students to be moved indefinitely to an alternative placement for any violation of a school's code of conduct. Current law allows a 45-day alternative placement unless it is for weapons, guns or drugs. Removing the child indefinitely may not be warranted by the facts of the particular situation of the child. The child should be entitled to a manifestation review to see if the disability has caused that conduct, but this bill eliminates the manifestation review that is in the current law. We should not permanently remove a child from school if the conduct was a result of his or her disability.

Mr. Speaker, I urge my colleagues to uphold the imposition of the rule so debate can continue on this bill.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me thank my colleague from Texas for yielding me time and for his great work working with myself and the members of our committee and others to help craft the bill that we have before us today.

Let me also thank the gentleman from California (Chairman DREIER) and the Committee on Rules for their consideration of what I think is a very fair rule for Members on both sides of the political aisle. There is great opportunity for Members to offer amendments.

Let me also thank my good friend, the chairman of our Subcommittee on Education Reform, the gentleman from Delaware (Mr. CASTLE), for the tremendous work that he did, and the members of our committee and our staff, by the way, for all of their hard work in getting us here today.

I will have a lot more to say about the bill when we actually get into the bill, but we are on the rule.

Mr. Speaker, there has been a lot of conversation this morning about the issue of mandatory spending versus full funding. I just want to say that the amendments that were offered that were not made in order with regard to mandatory spending were not made in order because they violated the rules of the House. You cannot bring a mandatory funding amendment here without getting a waiver of the Budget Act. The fact is that neither of these amendments were crafted in such a way that they did not violate the rules of the House. That is why they were not made in order.

Let me also say that mandatory funding for this program is the wrong way to fund the program. We would not be here today making the improvements in this bill to help children with special needs and to help our teachers, principals, school board members and superintendents if it had not been for the fact that we have this bill on a 5-year reauthorization track. It forces the Congress to step back and look at this Act and to determine, is it working the way we intended it? Are there better ways to achieve our objective?

I would suggest to all of my colleagues that if it had been under mandatory spending, we know what happens with those programs; they get put on automatic pilot and are very seldom looked at. That is not in the best interests of special needs children, and it is not in the best interests of our schools.

Let me also say what my colleague from California pointed to. The first 20 years of this Act Congress never really stepped up to the plate. Our friends on the other side of the aisle were in charge. Even in 1993 and 1994, when they had control of the House and Senate and the White House, there was no move made to make this a mandatory funding program. So why do we hear about it now?

I would just suggest to my colleagues we do two things here in this town; we do public policy and we do politics. We would like to get the politics out of it, but it is kind of hard to take politics out of politics. But when we hear all of the discussion about mandatory funding, trust me, it is nothing more than politics.

Since 1996, all you have to do is look at the chart next to me and see the dramatic increases in funding. 1997, a 33.7 percent increase in IDEA spending. In 1998, a 22.3 percent increase in spending; then we raised it another 13.2 percent in 1999; how about the year 2000, 16 percent more on top of that; the year 2001, a 27.1 percent increase; or how about 2002, an 18.8 percent increase; or how about this year, 2003, a 17.8 percent increase.

All of these are built on top of the previous increases. And in the budget resolution that we adopted just several weeks ago we called for a 24.8 percent increase in IDEA spending.

For someone to suggest that we are not doing our job, we are not trying to meet our responsibilities, I think, misses the point entirely. In this bill that is before us, we have a glidepath to get from the 20 percent of funding, in round figures, 21 percent at the end of this year, to 40 percent. I think that is a reasonable approach, it is the right way to go, and none of us, none of us, should hang our heads when it comes to the question of whether we are meeting our obligations to fully fund IDEA.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume to close for our side.

Mr. Speaker, the vast majority of schools welcome children with disabilities as an integral part of their student body. They work with parents, teachers, medical professions and support personnel to provide these students with ''free appropriate public education.''

Unfortunately, there are still children with disabilities who are denied the education they need, the education that they deserve, and the education that they are entitled to by law.

H.R. 1350 does nothing. It does nothing to guarantee that the Federal Government will keep its commitment to fund 40 percent of the Part B grants to States.

It is astonishing that the new argument why we are being denied the right to vote up or down on the issue of mandatory funding is these amendments would require a budget waiver. The majority provides budget waivers and every other kind of waiver for all of their amendments all the time. So the real reason why we are not having these amendments on the floor is because the majority does not want us to vote on an amendment that would require the Federal Government to keep its word to the American people.

This bill also does not address the shortage of qualified special education teachers in a meaningful way. Currently unqualified and under-qualified special education teachers are teaching more than 600,000 children with disabilities. By significantly weakening both the discipline protections and due process rights in current law, H.R. 1350 makes it more likely that students with disabilities will be turned away from their neighborhood schools and segregated in alternative education settings until they eventually just drop out of school.

If H.R. 1350 becomes law, children with disabilities will not just be left behind, they will be left far behind.

Mr. Speaker, although this rule allows debate on several amendments, it denies the House the opportunity to debate the question of mandatory funding, the most fundamental question affecting special education programs. For this reason, I urge my colleagues to vote no on this rule and to vote no on H.R. 1350.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank several people who have been a part of our success today, not just the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Chairman CASTLE), but also from the Committee on Education and Workforce, David Cleary and Sally Lovejoy; from the staff of the gentleman from Delaware (Mr. CASTLE), Sarah Rittling; from the Committee on Rules, Adam Jarvis and Eileen Harley; and from my staff, Bobby Hillert and Tucker Anderson.

Mr. Speaker, this is about a decision that this House is going to make to debate today, IDEA. That is what the vote on the rule is about, are we going to proceed with regular order?

I am in favor of what we are doing. I believe that the clay that we have put in front of us today will be a better model. We will rebuild IDEA and we will make it better than what it is today.

As the parent of a child who will fall under IDEA, I can tell you obviously there are risks involved any time you get into a new circumstance. I am convinced beyond any reasonable doubt that the opportunity that this great body has to make IDEA better for every single student, for the teachers and the administrators who will work underneath these new processes and the students who come into contact with our children, will find that this will be a better way. We have learned from the last 7 years. We will learn on a going-forward basis. It is the right thing to do.

Mr. Speaker, I ask every single one of my colleagues, please support the rule. Let us debate IDEA, and let us get it passed today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 211, nays 195, not voting 28, as follows:

[Roll No. 149]

YEAS—211

Aderholt	Duncan	Johnson, Sam
Akin	Dunn	Jones (NC)
Baker	Ehlers	Keller
Ballenger	Emerson	Kelly
Barrett (SC)	English	Kennedy (MN)
Bartlett (MD)	Everett	King (IA)
Barton (TX)	Feeney	Kingston
Beauprez	Ferguson	Kline
Bereuter	Flake	Knollenberg
Biggert	Fletcher	Kolbe
Bilirakis	Foley	LaHood
Bishop (UT)	Forbes	Latham
Blackburn	Fossella	LaTourette
Blunt	Franks (AZ)	Leach
Boehner	Frelinghuysen	Lewis (CA)
Bonilla	Gallegly	Lewis (KY)
Bonner	Garrett (NJ)	Linder
Bono	Gerlach	LoBiondo
Boozman	Gibbons	Lucas (OK)
Bradley (NH)	Gilchrest	Manzullo
Brady (TX)	Gillmor	McCotter
Brown (SC)	Gingrey	McCrery
Brown-Waite, Ginny	Goode	McHugh
	Goodlatte	McInnis
Burgess	Goss	McKeon
Burns	Granger	Mica
Buyer	Graves	Miller (FL)
Calvert	Green (WI)	Miller (MI)
Camp	Greenwood	Miller, Gary
Cannon	Gutknecht	Moran (KS)
Cantor	Harris	Murphy
Capito	Hart	Musgrave
Carter	Hastings (WA)	Myrick
Castle	Hayes	Nethercutt
Chabot	Hayworth	Ney
Chocola	Hefley	Northup
Coble	Hensarling	Norwood
Cole	Herger	Nunes
Cox	Hobson	Nussle
Crane	Hoekstra	Osborne
Crenshaw	Hostettler	Ose
Culberson	Houghton	Otter
Cunningham	Hulshof	Oxley
Davis, Jo Ann	Hunter	Paul
Davis, Tom	Isakson	Pearce
Deal (GA)	Issa	Pence
DeLay	Istook	Peterson (PA)
Diaz-Balart, L.	Janklow	Petri
Diaz-Balart, M.	Jenkins	Pickering
Doolittle	Johnson (IL)	Pitts

Platts	Saxton	Thomas
Pombo	Schrock	Thornberry
Porter	Sensenbrenner	Tiahrt
Portman	Sessions	Tiberi
Pryce (OH)	Shadegg	Toomey
Putnam	Shaw	Turner (OH)
Quinn	Shays	Upton
Radanovich	Sherwood	Vitter
Regula	Shimkus	Walden (OR)
Rehberg	Shuster	Walsh
Renzi	Simpson	Wamp
Reynolds	Smith (MI)	Weldon (FL)
Rogers (AL)	Smith (NJ)	Weldon (PA)
Rogers (KY)	Smith (TX)	Weller
Rogers (MI)	Souder	Wicker
Rohrabacher	Stearns	Wilson (NM)
Ros-Lehtinen	Sullivan	Wilson (SC)
Royce	Sweeney	Wolf
Ryan (WI)	Tancredo	Young (AK)
Ryun (KS)	Taylor (NC)	Young (FL)
Sabo	Terry	

NAYS—195

Abercrombie	Hall	Nadler
Ackerman	Harman	Napolitano
Alexander	Hastings (FL)	Neal (MA)
Allen	Hill	Obey
Andrews	Hinchey	Olver
Baca	Hinojosa	Ortiz
Baird	Hoeffel	Pallone
Baldwin	Holden	Pascrell
Ballance	Holt	Pastor
Bass	Hooley (OR)	Payne
Bell	Hoyer	Pelosi
Berkley	Inslee	Peterson (MN)
Berman	Israel	Price (NC)
Berry	Jackson (IL)	Rahall
Bishop (GA)	Jackson-Lee (TX)	Ramstad
Bishop (NY)	Jefferson	Rangel
Blumenauer	John	Reyes
Boswell	Johnson (CT)	Rodriguez
Boucher	Johnson, E. B.	Ross
Boyd	Jones (OH)	Rothman
Brady (PA)	Kanjorski	Roybal-Allard
Brown (OH)	Kaptur	Ruppersberger
Brown, Corrine	Kennedy (RI)	Rush
Capps	Kildee	Ryan (OH)
Cardoza	Kilpatrick	Sanchez, Linda T.
Carson (IN)	Kind	Sanchez, Loretta
Carson (OK)	Kleczka	Sanders
Case	Kucinich	Sandlin
Clay	Lampson	Schakowsky
Clyburn	Langevin	Schiff
Cooper	Lantos	Scott (GA)
Costello	Larsen (WA)	Scott (VA)
Cramer	Larson (CT)	Serrano
Crowley	Lee	Sherman
Cummings	Levin	Simmons
Davis (CA)	Lipinski	Skelton
Davis (FL)	Lofgren	Smith (WA)
Davis (IL)	Lowey	Solis
Davis (TN)	Lucas (KY)	Spratt
DeFazio	Lynch	Stark
DeGette	Majette	Stenholm
Delahunt	Maloney	Strickland
DeLauro	Markey	Stupak
Deutsch	Marshall	Tanner
Dicks	Matheson	Tauscher
Dingell	Matsui	Taylor (MS)
Doggett	McCarthy (NY)	Thompson (CA)
Dooley (CA)	McCollum	Thompson (MS)
Doyle	McDermott	Tierney
Edwards	McGovern	Towns
Emanuel	McIntyre	Turner (TX)
Engel	McNulty	Udall (CO)
Eshoo	Meehan	Udall (NM)
Etheridge	Meek (FL)	Van Hollen
Evans	Meeks (NY)	Velazquez
Farr	Menendez	Visclosky
Fattah	Michaud	Waters
Filner	Millender-McDonald	Watson
Ford	Miller (NC)	Watt
Frank (MA)	Miller, George	Waxman
Frost	Mollohan	Weiner
Gonzalez	Moore	Wexler
Gordon	Moran (VA)	Woolsey
Green (TX)	Murtha	Wu
Grijalva	Nadler	Wynn
Gutierrez	Napolitano	

NOT VOTING—28

Bachus	Combest	Hyde
Becerra	Conyers	King (NY)
Boehlert	Cubin	Kirk
Burr	Davis (AL)	Lewis (GA)
Burton (IN)	DeMint	McCarthy (MO)
Capuano	Dreier	Oberstar
Cardin	Gephardt	
Collins	Honda	
Owens	Slaughter	Tauzin
Pomeroy	Snyder	Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON)(during the vote). The Chair announces that there are 2 minutes remaining in this vote.

□ 1152

Ms. VELÁZQUEZ and Messrs. EDWARDS, DAVIS of Tennessee, and GUTIERREZ changed their vote from ''yea'' to ''nay.''

Mr. GOSS changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. COLLINS. Mr. Speaker, I was inevitably detained at the White House and was not able to be present on rollcall vote 149, providing for consideration of H.R. 1350; to reauthorize the Individuals with Disabilities Education Act. Had I been present, I would have voted ''yea'' on rollcall vote 149.

Mr. BACHUS. Mr. Speaker, on Wednesday April 30th I missed rollcall vote 149 due to attending an awards ceremony for the National Teacher of the Year at the White House. If I had been present I would have voted ''yea'' on rollcall vote 149.

The SPEAKER pro tempore (Mr. CAMP). Pursuant to House Resolution 206 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1350.

The Chair designates the gentleman from Georgia (Mr. LINDER) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1153

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentlewoman from California (Ms. WOOLSEY) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased that we have a chance today to consider the Improving Education Results for Children with Disabilities Act, H.R. 1350, legislation that will strengthen our Nation's education law for children with special needs.

I am very grateful for the work of the gentleman from Delaware (Mr. CASTLE) on this important legislation, and for all of the hard work all of our committee members have put into this project over the last 18 months.

I also want to thank the ranking member and my friend, the gentleman from California (Mr. GEORGE MILLER), for his work during this process. While we are not in complete agreement with the bill that we have before us today, his efforts have been extraordinary and very helpful.

The issues addressed in this bill are important ones for our constituents. I hear more comments from Members about IDEA than I do about any other Federal education program. Today is a chance to do something that will make a real difference in our schools.

The bill that we have before us today is an important bill for our children and our schools. It is the next major step in education reform and the next step in the process of ensuring that Washington no longer spends billions of dollars a year on education programs without insisting on results for our children.

This bill is important as an opportunity for us as legislators. The reforms in H.R. 1350 are strongly supported by teachers, school administrators, principals, and other educators, those who have been asked to do the most under the bipartisan No Child Left Behind Act. This bill gives teachers and school leaders better tools to meet the high standards in No Child Left Behind, and they support it.

When Republicans and Democrats came together some 16 months ago to pass No Child Left Behind, we vowed to bring a generation of failed Federal education policy to an end. We acknowledged that money alone has failed to close the achievement gap between disadvantaged students and their peers. We declared that Washington would no longer pump billions of dollars a year into education without insisting on results for the children those dollars are supposed to serve.

No Child Left Behind was the beginning of this process, not the end of it. The No Child Left Behind law requires that every child in America be given the chance to learn and succeed, including children with special needs. When we passed the law, we promised we would follow up by giving teachers and educators the tools they need to meet these high standards.

We promised that we would revise laws like IDEA to ensure that the focus is on results being produced for our children, rather than on compliance with complicated rules and paperwork. We said that these things we could finally do, now that an accountability system was in place to ensure that parents know when their children are learning.

Mr. Chairman, we are here today to make good on that commitment. The measure before us provides powerful reforms requested for years by teachers, principals, local educators, the people on the front lines of education in our

country. The American Association of School Administrators, which represents some 14,000 educational leaders nationwide, calls H.R. 1350 ''the best special education policy revisions we have seen in decades.''

The legislation aligns IDEA with No Child Left Behind and gives our school districts greater flexibility in reviewing the progress of a child by replacing benchmarks and short-term objectives with regular reporting requirements that are contained in No Child Left Behind.

The bill before us reduces the paperwork burden on teachers. Good special education teachers are leaving the profession in frustration because of the IDEA paperwork burden, and there is a growing shortage of quality teachers in special education. This legislation before us allows parents to choose the option of a 3-year individualized education plan instead of an annual one.

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And it is at the option of school to offer it and at the option of parents if they want to move to a 3-year plan. And the gentleman from Florida (Mr. KELLER) has been promoting this idea for several years. I want to thank him for his contributions in this bill.

H.R. 1350 will reduce the numbers of students that are misidentified or overrepresented in special education, a problem that particularly effects minority children. As the Civil Rights Project at Harvard University has shown, African Americans are nearly 3 times more likely to be labeled as mentally retarded under the current IDEA system and almost twice as likely to be labeled emotionally disturbed. Thousands of children every year are inappropriately identified, while many others are not identified at all.

The gentleman from Pennsylvania (Mr. FATTAH), our colleague, gave us compelling testimony during committee sessions in the last Congress to help us address this, and I am proud to say that it is being addressed.

H.R. 1350 gives local school districts new flexibility and resources to improve early intervention and reduce misidentification of children into special education. The bill before us would reduce destructive lawsuits and litigation in special ed, it encourages the use of mediation as early as possible, and creates new opportunities for voluntary binding arbitration.

The bill encourages parental involvement and allows IDEA or school districts to use IDEA to support supplemental services for students with disabilities in high priority schools. It also allows parents to choose to keep their children with the same educational provider from the beginning of service until the child reaches school age. And I am grateful for the help from the gentleman from South Carolina (Mr. DEMINT) who helped devise these provisions.

The bill also charts a clear path to full funding within 7 years. Thanks to the gentleman from Nevada (Mr. PORTER), it authorizes a systematic increase in special education aid to the State that would result in the Federal Government paying an unprecedented 21 percent of the total cost of special ed in America next year. And as the chart shows, as this chart shows, we have had unprecedented increases over the last 7 years. And the budget resolution that we passed just several weeks ago brings an increase this year of over $2 billion and authorizes an additional $2.5 billion next year. This is by far the highest percentage in history; and the Porter language will allow appropriators to increase IDEA spending through the traditional spending process, the same process that Congress has used to increase IDEA spending by almost 300 percent over the past 8 years.

H.R. 1350, the bill before us, will enhance school safety, requiring districts to continue to provide educational services to students with disabilities while allowing the school district personnel to have one uniform discipline policy for our children. And the gentleman in Georgia (Mr. NORWOOD) has been a very effective member in leading the Congress to deal with this issue for many years. And I really do want to thank him for his willingness to work with the committee to craft the discipline provisions that we have in our bill.

Let me just say as I close, I want to commend my colleague from Delaware (Mr. CASTLE) for his leadership in bringing this legislation to this point. It is an excellent bill that will make a positive difference in the lives of parents with special needs children, teachers, school boards members and others, and I urge all of my colleagues today to join me in supporting this bill.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, this is a very important piece of legislation and I hope the Members will have an opportunity to listen to the debate. I wanted to thank my colleagues on the committee, the gentleman from Delaware (Mr. CASTLE), the gentlewoman from California (Ms. WOOLSEY), and the gentleman from Ohio (Mr. BOEHNER), the chairman of our committee, for the work and effort they have put in on behalf of this legislation. We went through an extensive mark-up. We had an opportunity to offer a number of amendments. Unfortunately, most of them from our side were not accepted. But I believe that, in fact, this is a matter of good intentions by both sides of this debate.

I must state, however, at this time I think this bill does considerable harm. I think that this bill falls short in protecting what is the basic civil rights of children with disabilities to get a free and appropriate education. That is the intent of the law. And I am concerned that this bill does not do what it says it should do with respect to guaranteeing the basic rights of those children.

This bill also falls short on another front, and that is the guaranteed full funding of this Act. The gentleman from Ohio (Mr. BOEHNER) is right, the Congress has done a much better job in the last 6 or 7 years in providing those fundings, but the fact is that the promise that has been made to the local school districts has not been kept; and even this year in an appropriations bill passed just a couple of weeks ago, we are $1 billion 200 million behind that curve; and yet we will not be allowed to offer amendments to require that that funding be mandatory and that full funding be achieved by this legislation. That is a 30 year-old promise that we made, and it is unfortunate that we will not be allowed to have that amendment.

Yes, many in the school establishment and the education establishment are for this Act. It probably makes their lives somewhat easier; but we ought to be thinking also about the rights of these children and the protections of these children and the needs of these children and their families; to make sure that, in fact, the educational opportunity is provided to these children with disabilities.

It is for that reason that after reviewing this legislation that the National PTA, the Children's Defense Fund, the National Association of Education of Young Children, and so many other organizations have contacted the Members of Congress and said that this bill is unacceptable, that they oppose this bill because it does not provide that protection along with 14,000 other people who have sent e-mails and petitions against this legislation, representing the parents and families of these children who know how difficult it is to get that education for the children. And yet at the same time, when we have not met full funding, when we are weakening the rights of the children and the families, we also see that this legislation allows for the diversion of funds, some of which are for good purposes, but when you do not have the funding in place, you have to raise the question of whether or not this money ought to be diverted from the system. And also, we have to look at that diversion of these Federal funds targeted for the education of children with disabilities at a time when these funds at the local level are becoming more and more scarce because of the budget problems of our States that is now so well documented.

Finally, let me say, Mr. Chairman, that I am deeply concerned about the waivers that are authorized in the name of paperwork reduction for the States. I am very concerned that this

will allow the waivers of documentation to ensure access to a general education curriculum, documentation ensuring accommodations of State tests, information on a child's academic achievement, information on transition plans for post secondary education, procedural safeguard notices provided to parents so that they are aware of their rights, prior written notices to parents of the services and placements that their child will receive.

These are fundamental to these families. It is fundamental to these children. It is fundamental to making sure that they can get the education that they have sought for their child so that the child will have a full opportunity to participate in American society. And yet we see as we go into the due process hearings, you go in to enforce your child's civil rights, that you would be barred from raising new issues at a process hearing even if the evidence surfaces. If there is new evidence that comes to the attention of the school and the parents, you cannot raise it in these hearings. You cannot raise it. You cannot. All they have to decide is whether or not you are getting a free and appropriate education. But if there are errors made, the parent cannot raise them. Why are we precluding these parents?

The fact of the matter is that many school districts, we may not want to say it is one in our district, but there are a huge number of school districts that make it very difficult for parents to get the free and appropriate education, to get the services. Huge numbers of these children do not get services. They get put on the list for services. And there is a world of distinction between being on the list for services and getting services when your child is in an educational setting and you run the risk that they are going to fall further and further behind, and then you need additional services to have them catch up.

Then we have a cap on attorneys fees on this legislation, which says that it is going to be harder and harder for low income parents to find a lawyer to take these cases to challenge the school districts where that educational opportunity is being denied. But the school district, there is no limitation on their use of tax dollars paid for by these parents to defend what they have done. Now, nothing there. It is just that you cannot get attorney's fees when you bring a case because your child has been denied that education.

My concern, Mr. Chairman, is that this legislation is taking us back to another time. With the discipline provisions, where we are now going to determine this basic right to an education, this basic civil rights action based upon the code of conduct in individual schools, so that children with autism, children with cerebral palsy, severely emotionally disturbed children, are going to be determined by that code of conduct. You ought to read those codes of conduct and see whether or not that is how you would like your child to be measured up if they have Down syndrome, because unacceptable displays of affection are reasons for suspension.

You say a school district would not do that, but these are the same school districts that are throwing Harry Potter out of school. So we cannot take the educational needs of these children and the civil rights protections in this law and have them open to that kind of whim. And I think we ought to be very careful about that.

I would urge Members to vote against this legislation. It fails on the protections for children and it fails on the funding, and this will be our last chance to try and get and redeem the promise that every Member of this Congress has made to local school districts that we would provide the funding. We said we would provide the funding in No Child Left Behind. We are $5 billion behind on that one, and we are a $1.2 billion behind on this one this year. That is $7 billion that we are down at a time when the States are struggling, and at a time when it is becoming more and more expensive to educate these children. We ought not do that. We ought to have an amendment here on full funding and we ought to make it mandatory, and we ought to protect the rights of these children.

This is a very, very important bill that we take up here today. I urge members to listen carefully to this debate.

I first want to thank my colleagues on the Education Committee, Representative CASTLE, Representative WOOLSEY, and Chairman BOEHNER, for the time and effort they have put into this legislation. I appreciate the other side's willingness to discuss the issues in this bill, and to take the time in Committee over a 2-day mark-up to debate the 30-some amendments that members on both sides of the aisle offered. However, despite what I know were many good intentions on the other side of the aisle, this bill is fundamentally flawed.

The Bill Does Harm: The bill we will consider today has many, many provisions that jeopardize the quality of education provided to children with disabilities and their civil and due process rights under current law.

This Bill Falls Short In What It Does Not Do: Moreover, this bill breaks yet another promise to couple resources with reform. Despite promises made last year by the Administration, and by the Republican leadership of this Congress, the bill before us today fails to ensure that additional resources will accompany these major changes to the law.

Stakes Are High: The stakes in this reauthorization are very high. The reason we need a Federal law is that students with disabilities have special needs. They require extra attention and accommodations. And for a variety of reasons, without external pressure and assistance, many schools cannot or will not provide the services and accommodations necessary to ensure that every child has a free and appropriate public education.

Before 1975, approximately 1 million children with disabilities were excluded from public education. Millions more were given an inferior education even though they attended school. There are many provisions in this bill that would turn back the clock on the progress we have made. But you don't have to take my word for it. I have received stacks of letters on this from parents, educators, and experts who have expressed grave concerns about this bill. Dozens of national organizations—including the National PTA, the Children's Defense Fund, the National Association of Education of Young Children, and almost every group that exists to advocate on behalf of students with specific disabilities—opposes this bill. And an ever growing list—at current count 14,000—of individuals has signed an on-line petition expressing their opposition.

Many of the fights we will have today pit the interests of parents and students against those of school board members and administrators. What drives these fights primarily is the scarcity of resources. It is a problem we could easily solve. If we had the will.

Almost every member of the House is on record in support of full funding either as cosponsor of a bill, as a ''yea'' vote on non-binding resolution, or as a speaker on special orders. And all of the other vehicles we have in this body for pretending we are doing something.

But now the moment of truth has arrived. And suddenly the past supporters of full funding, under pressure from their leadership, are scrambling for cover. It would have taken only an additional $1.2 billion in the appropriations bill just passed in February to put us on the road to full funding.

The other side will tell you that we have done all that is possible. That there are no offsets to provide additional funding. With all due respect, those arguments do not stand up under scrutiny.

What we are asking for to ensure that children with disabilities have the accommodations, the aides, the qualified teachers, the curriculum, and other things they need to receive a quality education is chump change compared to other legislation this House has passed within the last couple of years.

No one asked for an offset when this Congress spent over a trillion dollars in tax cuts for the wealthiest Americans. No one asked for an offset when we provided $99 billion over 10 years to repeal the estate tax for the richest 2 percent of decedents. No one asked for an offset when we spent $87 billion over 10 years on the farm bill. No one asked for an offset when we spent $36 billion over 10 years on a pointless energy bill. But suddenly we cannot come up with a measly $1.2 billion. Shame on us. Shame on us.

Diversion of Funds: To add insult to injury, H.R. 1350 contains many provisions that allow States and school districts to divert funds—all IDEA funds—away from direct services to students with disabilities during the regular school day. Here is a partial list:

Fifteen percent of funds can be diverted to a new ''pre-referral'' program;

Twenty percent of funds can be used to supplant local education funds; and

An unlimited percentage of funds can be diverted to ''supplemental services'' required under the Title I program of Federal education law.

These are all worthy purposes. But because we fail to provide the necessary funding, we are setting an even more intense competition for scarce resources. Resources that—given State and local budget crises and the prolonged economic downturn—are becoming scarcer and scarcer every day.

H.R. 1350 authorizes a pilot project under which the Secretary of Education may grant waivers to up to 10 States under the auspices of ''paperwork reduction.'' Under this authority, many bedrock requirements of IDEA could be waived, including:

Individualized Education Programs—

Documentation on ensuring access to general education curriculum;

Documentation ensuring accommodations on State tests;

Information on a child's academic achievement; and

Information on transition plans for postsecondary education or employment.

Procedural Safeguard Notices—Notices provided to parents to ensure they are aware of their rights.

Prior Written Notices—Notices to parents on the services and placement their child will receive.

Accountability and Public Reporting—State and local achievement and drop out data, disaggregation by race or LEP status, disproportionate representation of minorities in special education.

This bill Weakens Due Process Protections for Parents in All 50 States—even if children and their parents are lucky enough to live in one of the States that is not part of the waiver program, they cannot escape this bill's damage. The Republican bill would fundamentally undermine the due process rights of all parents:

Parents would be barred from raising new issues at due process hearings—even if new evidence has surfaced;

Hearing officers would be hamstrung to limit rulings to the denial of a Free and Appropriate Public Education (FAPE);

Schools would not be liable for procedural, due process, and other violations; and

Schools would have little to fear in denying parents due process rights because parents would effectively have no recourse, no remedy.

H.R. 1350 institutes a one-year statute of limitations on violations of IDEA. Virtually the only thing that would have a shorter statutory reach would be parking tickets and traffic violations.

H.R. 1350 Caps Attorneys' Fees Reimbursement to parents, requiring Governors to set the rate of attorneys' fees reimbursement when a parent wins a due process hearing. This would allow caps on attorneys' fees but only for parents. School districts would still be free to hire and pay, at public expense, the salaries of lawyers who are on the opposite side of the legal battle from parents. This provision will effectively prevent low- and moderate-income parents from acquiring legal representation to protect the rights of their disabled children.

H.R. 1350 would allow students to be expelled unilaterally and placed in an ''alternative setting'' for any violation of a school's ''code of conduct.'' This is the single most egregious provision in this bill. It will set back the disability rights movement 30 years.

Under the guise of discipline, many children will confront the same obstacles they confronted before IDEA was passed—school districts that can say unilaterally: ''You are not welcome here. We do not want to educate you.''

Under this provision, a student could be expelled for virtually anything: chewing gum, shouting out in class, carrying a plastic eating utensil with their lunch, inappropriate displays of public affection, being late for class, not completing homework.

Moreover, placement in an alternative setting is unilateral. There is no ''manifestation determination'' that would mitigate the consequences for students whose violations are the result of their disability:

A child with Tourrete's syndrome could be expelled for shouting out in class;

A child with cerebral palsy could be expelled for inadvertently making contact with another student or teacher;

A developmentally disabled child (low IQ) could be expelled for an ''inappropriate public affection;''

A child with Attention Deficit Disorder could be expelled for repeatedly being late for class or getting out of his or her seat.

As I said in my opening, I think many of the provisions in this bill are well-intentioned. Some make sensible improvements in the law. But overall the bill is fundamentally flawed.

I hope we are able to improve the bill here on the floor and in conference and look forward to working with my colleagues in that effort. I hope we can make these so that this law makes a positive change in lives of children with disabilities and their families. And so that it garners the strong bipartisan support and consensus it has long enjoyed.

Mr. BOEHNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, with all due respect to my good friend from California (Mr. GEORGE MILLER), one of the authors of the original underlying legislation, there is a point that is being missed here.

In all, the conversation that we heard from my friend from California revolved around the current system and how the current system works and the changes to the current system. But there is one very large dynamic that is being changed, and it changed under No Child Left Behind when we require school districts to disaggregate data and we require them to disaggregate the test data by subgroups including special education children. For a school to succeed under No Child Left Behind, all the sub-groups have to show improvement. And so school districts under No Child Left Behind are going to have to ensure that their special needs students are improving and showing progress.

This is a dramatic change in terms of how we are going to deal with special ed students. And as a result, the changes that we are putting in the bill will allow school districts to have more flexibility to move this program to one that will bring results for our special ed students as opposed to being locked in the process.

Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me time.

I just wanted to say that the committee has done a pretty good job on a very difficult issue. They are going to be up to 21 percent. The goal has been 40 percent for a long time. Let me just say that I have a personal interest in this issue. I did not have a few years ago but I do now. And I want to tell you that there are children being left behind and they are going to be left behind unless we get additional funds.

I have talked to school boards and school teachers and others and the funds are not there to give these children the educational additional attention they need, particularly children who are autistic. And we have 1 out of every 200 children in America now that are autistic. And we need to get to that 40 percent level before 6 years; and I know the gentleman is doing his absolute best to get there, but that is not enough. We are not moving fast enough. We waste a ton of money around here, and these kids who are autistic and who are Down syndrome children are going to be burdens on society as they grow up if they do not get the attention they need right now.

And it will cost 10, 20, 30 times more if we do not do it now by educating them and giving them a chance to be a productive member of society, than if we wait.

So what I would like to do is say to my colleagues in this Congress, and I know we are all well-intentioned and we care about these kids, the problem is real. Children are being left behind, and it is going to come back to bite us in the fanny in the future if we do not do something about it right now.

So I would like to say to my colleague who has worked very hard on this and his committee and the members of the Committee on Appropriations, let us get to the 40 percent level a lot quicker than 6 years from now because these kids cannot wait.

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We are going to bear the responsibility 10, 20, 30 years from now when they grow up and they cannot produce.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the ranking member of the subcommittee that has jurisdiction over the IDEA, I have been struck by how very emotional people are about this very issue. In fact, before me I have a stack of mail that came to the Committee on Education and the Workforce just over the last few days, and that mail is against passage of H.R. 1350.

There are two things we can do in Congress to reduce the stress and the emotion that people feel about this issue. One is to fully fund it and make it mandatory; two is to make sure that children are treated fairly in the discipline process.

If we fully fund the Federal share of our costs and if we make funding mandatory, we will fulfill the commitment to our schools for the special education programs that we have promised here in the Congress. Unfortunately, H.R. 1350 does not do that. Without mandatory full funding, the authorization levels in the bill are meaningless because they are subject to the many,

many competitive requests included in all and every appropriations process.

Amendments were offered during the committee, Mr. Chairman. Amendments were offered by the Democrats that would fully fund IDEA and make the funding mandatory. But those amendments were defeated on a partisan basis, and we do not have before us any amendment that would fully fund and allow for the debate here today to fully fund this issue of mandatory funding for IDEA.

To me, a vote for H.R. 1350 is a vote against fully funding the issue, and I oppose it for that reason alone. But there is another good reason to oppose H.R. 1350. And talk about getting emotional, this is where parents and educators have a lot to say, and that is the discipline provisions in the bill.

In the bill, a student with special needs can be removed from school for, and I quote, ''any violation of a school's student code of conduct.'' Now, that is different in every single school, and a child can be kept out of school for an indefinite length of time. So a student with Tourette's syndrome, for example, who may shout out in class, can be expelled. A student who does not understand the dress code and wears shorts when long pants are required, could be expelled. A student with limited muscular control could be expelled for lashing out or possibly pushing another student. There is no requirement in H.R. 1350 to determine if the child's violation is the result of his or her disability.

This is going backwards. It is no way to reauthorize IDEA. Children, parents, and schools deserve an IDEA reauthorization where parents will not have to compete over education funds, where the goal will be to keep kids with special needs in school, where the legislation removes the emotion surrounding the issue, not increases it. Unfortunately, Mr. Chairman, H.R. 1350 is not that kind of reauthorization, and I will not be able to support it.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from California (Mr. MCKEON), a friend and member of the committee as well as the chairman of the Subcommittee on 21st Century Competitiveness.

Mr. MCKEON. Mr. Chairman, I rise in strong support of H.R. 1350, which will make dramatic improvements in the Nation's special education law. I would like to thank my good friend and chairman of the committee, the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Delaware (Mr. CASTLE), chairman of the Subcommittee on Education Reform, for their leadership in bringing this bill to the floor.

Nearly 2 years ago, the Committee on Education and the Workforce began holding hearings in preparation for the reauthorization of the Individuals With Disabilities Act. During conversations with actual practitioners in the classroom, many who were from my own State of California, we have been told that the burdensome, unnecessary paperwork is driving away teachers from the classroom, which will hurt these children. Priority is placed on complying with complicated rules rather than delivering academic achievement. This must be changed, and H.R. 1350 starts the process by creating a 10-State pilot program to reduce the IEP paperwork burden on teachers in order to increase instructional time and resources.

I also remain concerned that excessive and expensive litigation continues to be a large component of the special education system. It seems that all too often decisions that are reached are those that benefit the attorneys the most. Every single one of the school districts in my congressional district, from the suburban areas of Santa Clarita to the rural areas of Bishop, have told me the single most important thing that we can do is to reduce litigation and restore the trust between the parents and the school district.

Though I do not think this goes far enough, the legislation does make significant improvements by encouraging the use of mediation as soon as possible, creating opportunities for voluntary binding arbitration, and allowing States to set limits on attorneys' fees. By passing IDEA, this Congress moves closer to following through on a commitment made over 27 years ago to families and their children with special needs.

In closing, I want to say that I commend the members of the committee for their hard work; and I strongly urge my colleagues to support the underlying bill, which will increase accountability and reduce overidentification of nondisabled children.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE), a really important member of the committee.

Mr. KILDEE. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I rise today in opposition to the bill before us today. H.R. 1350 does not ensure full funding of IDEA and, worse, jeopardizes the civil rights of children with disabilities.

Reauthorization of IDEA has traditionally been a bipartisan effort. In Michigan, I was cosponsor of the Special Education Act, which was passed before this Congress addressed the education of children with special needs in the least restrictive environment. In my tenure here in Congress, I have always supported the reauthorization of IDEA, but I cannot support the bill before us today.

First, this legislation does not provide any additional resources for IDEA. It does not get us any closer, Mr. Chairman, to fully funding IDEA, an effort that many Members have worked on for many, many years. Democratic members of the Committee on Education and the Workforce attempted to address this issue in committee. We offered several amendments that would provide mandatory spending for IDEA. Unfortunately, these amendments were defeated on party-line votes. These amendments represent the only way to ensure full funding for IDEA in this legislation.

Second, the legislation jeopardizes the civil rights of children with disabilities. This bill would allow children with disabilities to be removed from their current educational placement for any violation of a code of student conduct. The bill also eliminates the current manifestation determination. Manifestation determinations ensure that children with disabilities are not unfairly punished for acts they cannot control. The discipline provisions in this legislation are simply unfair.

Last, I would like to express my disappointment that this legislation does not continue funding for the freely associated states. These former U.S. territories have an extremely high percentage of children with disabilities due to U.S. military testing of weapons around the islands that make up these nations. I hope this issue can be further addressed in conference, Mr. Chairman.

In closing, I urge Members to carefully consider the impact that this legislation will have on children with disabilities. The disabled children of our Nation are best served by defeating this legislation today.

Mr. Chairman, I rise in opposition to the bill before us today. H.R. 1350 does not ensure full funding of IDEA and worse, jeopardizes the civil rights of children with disabilities.

Reauthorization of IDEA has traditionally been a bipartisan effort.

In Michigan I was cosponsor of the Special Education Act, which was passed before this Congress, addressed the education of children with special needs in the least restrictive environment. In my tenure here in Congress I have always supported the reauthorization of IDEA.

But I cannot support the bill before us today.

The last time we reauthorized IDEA in 1997, we worked tirelessly with our majority colleagues to improve this program for children with disabilities and the schools which serve them.

Unfortunately, the pace at which this legislation has moved has left very little time for public input or bipartisan discussions.

This bill has fundamental flaws.

First, this legislation doesn't provide any additional resources for IDEA. It doesn't get us any closer to fully funding IDEA—an effort that many members have worked on for numerous years.

Democratic members of the Education and the Workforce Committee attempted to address this issue in committee.

We offered several amendments that would provide mandatory spending for IDEA. Unfortunately, these amendments were defeated on party-line votes.

These amendments represent the only way to ensure full funding for IDEA in this legislation.

Second, the legislation jeopardizes the civil rights of children with disabilities.

This bill would allow children with disabilities to be removed from their current educational placement for any violation of a code of student conduct.

The bill also eliminates the current manifestation determination. Manifestation determinations ensure that children with disabilities are not unfairly punished for acts they cannot control. The discipline provisions in this legislation are simply unfair.

In addition, the bill places a strait jacket on parents of children with disabilities by instituting a 1-year statute of limitations.

This restriction will prevent parents of disabled children from raising issues with the education of their children to those issues that are less than 1 year old. This unfairly constrains parents and their efforts to ensure their children receive an education.

Lastly, I'd like to express my disappointment that this legislation does not continue funding for the freely associated States.

These former U.S. territories have an extremely high percentage of children with disabilities due to U.S. military testing of weapons around the islands that make up these nations.

I believe it is our responsibility to ensure that the freely associated States receive funding under this legislation and their negotiated compacts of free association.

I hope this is an issue we can further address in conference.

In closing, I urge Members to carefully consider the impact that this legislation will have on children with disabilities. The disabled children of our Nation are best served by defeating this legislation today.

Mr. BOEHNER. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD), another member of our committee and a subcommittee chairman.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me this time, and I particularly appreciate the time right now.

We need to take just a minute and ask ourselves a question, and perhaps somebody can answer it. In 1975, IDEA was passed by a Democratic Congress and signed by a Republican President. From 1975 to 1995 the Congress was controlled by the Democrats. Where were my Democratic colleagues' amendments then to fund IDEA? Why did they not fund it in the 20 years while they were in control? Why has it been only since Republicans have been in control of this House that we have increased funding for IDEA?

There is a very good reason for that, my colleagues. If the Federal Government does not pay its share, it comes out of the school districts and that affects disabled children and nondisabled children.

I wish to advise the gentleman from California (Mr. GEORGE MILLER) that this bill protects the civil rights of 88 percent of our schoolchildren that are not in special education without reducing the civil rights of special education children. To say it otherwise is simply not the way it is done. It is not the truth.

I want to also just briefly mention the cap on attorneys' fees. The money from the school districts that is used to train our children is going into the pockets of attorneys rather than going to train our children, whether they are in special ed or whether they are not. There is no question in my mind that we need to deal with that.

Last, the discipline amendments in this bill. The discipline amendments in this bill are not unfair. What is unfair is how the bill was written in 1975. I strongly support this legislation. It does not go quite as far as I would like for it to go, but it greatly improves that bill that has been on the books for 25 years.

I have been trying to improve this discipline provision almost for 5 years. We have passed it in this House, I know, three different times. It has been taken out in the other body every time. I have done this because of my concern that the system we have today is a double-standard system for the behavior in our schools, one for special needs students and another for nonspecial needs students. It is critical to the safety of the special ed student that we pass these disciplinary provisions.

My colleagues know as well as I do that there are people, teachers, who have been harmed because they could not remove a dangerous child from school. Now, all we are really doing is saying that rather than after 10 days they can now have 55 days to discipline a special education student. They really do get a manifestation determination after 55 days. They do get special education.

The other very important part of this is that it says that State laws will prevail for students who bring weapons, drugs, or commit felonies in school. A special ed child who would bring a gun or a pair of scissors and kill one of my constituents does not make any difference to them whether the children in the classroom are in special ed or whether they are not. We cannot stand here and say that the disciplinary changes we are making in this bill are harmful to the students of America. It is very, very important for the students of America, the 12 percent that are special needs students and the 88 percent that are not.

I encourage my friend, the gentleman from Michigan (Mr. KILDEE), to vote for this bill. He is a good man. The gentleman from California (Mr. GEORGE MILLER) is a good man. They do want full funding for IDEA. They did not do it when they were in charge; but they do want it, just like we want it. This is the right thing to do at this stage. I plead with my colleagues to pass this thing and let us move forward with protecting the children in the classroom.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY), another important member of the committee.

□ 1230

Mr. TIERNEY. Mr. Chairman, I rise in opposition to H.R. 1350 in its present form. As proposed, it is designed to dramatically undermine the ideals of IDEA, and doing so in the name of reauthorizing it.

In response to the previous speaker's question about funding over a period of time, from 1980 to 1992, we had a Republican in the White House. So we had a division between the leadership in the White House and in Congress, and that may explain some reason why things were not funded. But this year we had a Republican majority in the House, one in the Senate, and in the White House. If they have the will, they certainly have the way to move forward for full funding.

I am joined in my position of opposition to this bill in its present form by parents, educators, and advocates for the disability community, all making clear that this bill is not responsive to the needs of the true consumers of the law, and that is children.

The majority is asserting something is better than nothing, and in this case I am afraid that is wrong. These counterproductive changes in the bill mean that the children would be better served by the Individuals with Disabilities Education Act in its current form. The civil rights of these children and the due process rights of their parents are not being quality protected in the legislation. Foremost, as has been mentioned, this bill fails to fully fund that 40 percent of the average per-pupil expenditure that Members have been promising for 30 years to fund in order to help our States and local governments as they try to educate children who, before 1975, and before the courts stepped in to make it, otherwise were ignored or mistreated.

We cannot afford to rely on promises from the majority that some day we are going to fully fund it. We have to make it positive and firm right now. As our President rather inarticulately tried to say some time ago, Fool me once, shame on me. Fool me twice, and I did it just like he did.

The problem is that we cannot do that. We cannot just rely on their promises. Nobody can rely on that statement as inarticulately set forth. The fact of the matter is that their promises have fallen behind on the education bill; their promises have fallen behind on this bill; their promises have fallen behind on civil rights, due process rights and on funding. I ask Members to not support the bill.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. CARTER), a member of the Committee on Education and the Workforce.

Mr. CARTER. Mr. Chairman, I thank the gentleman for his hard work on this bill and the committee for bringing this bill forward. I am encouraged that the improvements in this bill will help reduce litigation, restore trust and refocus the system on improving the education of children with disabilities.

In 1997, Congress required the States to set up and maintain mediation systems that would allow school districts and parents to handle their disputes in less hostile fashion. The change significantly reduced the amount of litigation and helped restore trust between parents and school personnel. This bill builds upon the 1997 improvements by requiring States to establish and maintain voluntary arbitration systems. Given the interest in resolving disputes through nonlitigation, it is expected this will reduce the litigation burden and restore the focus on educating children.

Importantly, this system is voluntary, and voluntary means the parents can choose, the school can choose. If both parties do not choose voluntary arbitration, then the complaint goes through the regular due process system.

This bill also clarifies that the parent is obligated to provide clear and specific notice to the LEA or SEA before a due process hearing can be held.

This change is important to ensure that a school district has a clear understanding of what the problem is. Without this clear and specific notice, the school district cannot attempt to resolve the issue.

The resolution session created by this bill allows parents and the school district officials to explore the problem and attempt to resolve the problem in a rapid time frame, so that the child can be better served. Instead of waiting to air concerns at the due process hearing, the parent and the school district will meet within 15 days of the filing of the complaint to see if they can resolve the problem. If they cannot, the parent can still go to a due process hearing. This does not delay the parent's right to a due process hearing in any way. The IDEA regulations require a due process hearing to commence within 45 days of a parent filing a complaint. The language in the bill does not modify or delay that timeline in any way. This resolution session gives parents and school districts a new opportunity to sit down and work out the issues and is a sensible change to ensure that everyone's efforts are focused on improving results for the child.

The improvements included in H.R. 1350 should clear some of the legal landmines and allow for more productive, less hostile relations between parents and schools that refocuses on the Act's primary role of educating children with disabilities. IDEA currently has no statute of limitations and leaves school districts open to litigation for all of the 12 years a child is in school, whether or not the child has been identified as a child with a disability. School districts are often surprised by claims from parents involving issues that occurred in an elementary school program when the child may currently be a high school student.

Such an unreasonably long threat of litigation hanging over a school district forces them to document every step they take with every child, even if the parent agrees with the action, because parents could later change their mind and sue. The fear of far-removed litigation raises the tension between the school and the parent. This improvement will align IDEA with other federal statutes that have explicit statutes of limitations (civil rights claims, federal tort claims, Social Security, ERISA) and allow for timely resolution of issues.

I encourage my colleagues to support this bill and these provisions as we continue to work to improve the education results for children with disabilities.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in support of children with disabilities and their families and in opposition to H.R. 1350. They say, ''If it ain't broke, don't fix it.'' The fundamentals of IDEA are widely appreciated by parents. In an e-mail I received, it says, ''Do not dilute IDEA legislation in any way. Our family has personally benefited from almost every part of IDEA rights,'' says the father of an autistic son.

We say, ''First, do no harm.'' Unfortunately, this legislation does do harm. It changes the features of the Individualized Education Program in a way that hurts children and makes it easier to kick children with disabilities out of their classrooms, even when they are doing their best to comply and to do everything right, and it may be the result of their disability.

Third, it diminishes the legal rights of parents to get the best education for children.

Finally, this legislation still is dismally underfunded. If we want to do something good for IDEA, we should provide full funding and vote against H.R. 1350.

Mr. CASTLE. Mr. Chairman, I yield myself 4 minutes.

I rise in strong support of this legislation. Sometimes when we hear debates, we do not get the full significance of what we are doing. We are dealing with a piece of legislation which the chairman and others on the Democrat side have worked very hard on to make educational opportunities better for children with disabilities in this country.

We have been involved for 2 years doing this. We have had 7 hearings, we started a Web site, we had something like 3,000 suggestions on that Web site. We have had many discussions with many people in trying to work out a lot of differences, and there are a lot of problems in dealing with this issue.

I have talked to many, many individual Members, but at the heart of it, this legislation is aimed at trying to help children with disabilities get a better education and help other children being educated in our schools. I thank the parents and children in Delaware, many of whom I have spent time with, and my judgment is this is good legislation, excellent legislation which is going to move us forward.

For too many years children who had disabilities were denied access to education. In 1975 Congress, this House and the Senate, provided that educational opportunity. According to the Department of Education, about 6.6 million students currently participate in these programs across the Nation. Of those, almost 50 percent of the children with disabilities spend 80 percent or more of their day in a regular education classroom. Mr. Chairman, 30 years ago that would not have happened. Probably zero of those children would have spent time in a regular classroom. That is happening today. Each 5 years, we come along in Congress and try to improve that. There is room for improvement.

These are children who are at the greatest risk of being left behind. We have to give children with disabilities access to an education that maximizes their unique abilities and provides them with tools for later successful, productive lives. We must work together to do this in every way we can. This bill aims to improve current law by focusing on improved education results, reducing the paperwork burden for special education teachers, and addressing the problem of overidentification of minority students as disabled.

In addition, the bill seeks to reduce litigation and reform special education financing and funding. One of the great benefits of No Child Left Behind, H.R. 1, is that we have raised expectations and will hold school districts accountable for the annual progress of all of their students, including students with disabilities.

Although we have made great progress in including students with disabilities in regular classrooms, we now must make equally great process in ensuring that they receive a quality education in a regular classroom. We need to align IDEA and No Child Left Behind.

This bill will help reduce the paperwork burden so school districts are able to retain and recruit highly qualified special education teachers. The excessive amount of paperwork currently inherent in special education continues to overwhelm and burden teachers. We hear that from all of them, robbing them of time with their students. Based on that, we have tried to amend the individual education plan without reconvening the entire IEP team at all times. We also establish a rule of construction stating that nothing beyond what is explicitly included in the Act is required in a child's IEP, and requires the secretary to develop model forms for the IEP, something a lot of people asked for.

Secondly, we permit the use of alternative means of meeting participation, such as teleconferencing and videoconferencing.

All of these measures will give teachers the ability to spend more time in classrooms. Furthermore, we are committed to implementing reforms that would reduce the number of students that are misidentified or overrepresented in special ed programs. Minorities are often significantly overrepresented in these programs. In fact, African Americans are nearly 3 times, more likely twice, to be labeled as mentally retarded and almost twice as likely to be labeled emotionally disturbed. Thousands of children are misidentified every year, while many are not identified early enough.

We address these issues in this legislation. By providing these services to children at an earlier age, we can prevent people from being identified as having learning disabilities and help them in their education process. We also seek to reduce litigation, restore trust between parents and school districts, and many other steps have been taken in this legislation that we think are tremendously helpful in improving the opportunities for children with disabilities. I urge Members to support the legislation.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA) who is also an important member of the committee.

Mr. HINOJOSA. Mr. Chairman, I rise to oppose H.R. 1350 in its present form. The Improving Results for Children With Disabilities Act is the bill that we are debating. It includes amendments that I offered in committee to improve our knowledge as to how well special education serves limited English-proficient children, and to support research on best practices for identifying, assessing and providing instructional and other services to these left children.

H.R. 1350 also ensures that disabled children in migrant worker families are not placed at risk because their school records are not transferred to their next school. I believe that these additions to the bill will put us on the right path to improving services to migrant children and left children with disabilities.

These improvements, however, do not compensate for the draconian discipline provisions that are in H.R. 1350. Under this bill, schools could suspend or expel a child with disabilities for any infraction of the school code of conduct without considering whether the behavior was the result of a disability. This manifestation determination has been one of the key protections for children with disabilities under the current law. Given the disproportionate suspension and expulsion rates for Hispanic and black youth in general, it is hard to imagine that H.R. 1350 will not push more of these young people out of school.

Finally, the fast pace of this bill has shortchanged debate and full discussion on this and other important issues. I have heard from respected flagship university experts in my State in the field of special education research who are very concerned about transfer of special education research to the Institute for Education Sciences. We all recognize the value of education research is its direct link to practice. Moving special education research outside of the special ed program undermines that link. Because of the serious deficiencies in the bill, I oppose and ask my colleagues to oppose H.R. 1350.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. ISAKSON), a member of the Committee on Education and the Workforce.

Mr. ISAKSON. Mr. Chairman, I commend the gentleman from Delaware (Mr. CASTLE) and his great work on this bill. I have heard from a lot of Members about their concerns about the alignment of No Child Left Behind in IDEA. If there is ever a child that should not be left behind, it is a child with disabilities.

We are ensuring through this legislation and No Child Left Behind that goals are aligned, that we have meaningful goals and standards for children with disabilities, and that we give them meaningful assessments to determine whether schools need improvement. And then if that determination is made, we provide additional funds through subgrants so local education agencies can fund professional and staff development for special education and regular teachers alike who teach our children with disabilities.

If Members are for children with disabilities and the improvement of their education, if Members are for lifting their sights and raising standards, if Members are for funding professional and necessary staff development, Members should be for this bill, and I urge all Members to vote in favor of it.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I commend the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Delaware (Mr. CASTLE), and the gentlewoman from California (Ms. WOOLSEY) for the spirited hearings and debate and discussions that we have had on this legislation.

While it is not supportable to me, I do believe we made some progress, and I thank the gentleman from Delaware (Mr. CASTLE), chairman of the subcommittee for his sensitivity to an issue which I raised through proposed amendment and which we subsequently worked out for inclusion in the base bill.

The issue related to the disproportionately high number of African American males being placed in special education. The new language states in the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities or the placement in particular educational settings of such children in accordance with paragraph (1), the State or the secretary, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures and practices used in such identification or placement to ensure that such policies, procedures and practices comply with the requirements of this Act, and shall require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated prereferral support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1).

Even though I am pleased with this section, the inability to provide full funding and some onerous discipline provisions makes this Act unacceptable to me. I urge a no vote.

Mr. CASTLE. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. KELLER), a member of the Committee on Education and the Workforce.

Mr. KELLER. Mr. Chairman, I rise today in support of the IDEA bill for two reasons. First, we have tripled the IDEA special education funding from $3 billion in over $10 billion since 1995, when Republicans took control of the House.

□ 1245

Second, this bill will help reduce the paperwork burden on teachers so that they are able to spend more time in the classroom with the students rather than wasting hours a day filling out forms and performing clerical duties.

I recently spent time in the classroom with some of our special education teachers. While working as a special education teacher for a day in an elementary and a high school in Orlando, Florida, I learned firsthand that special education teachers spend approximately 2 hours a day completing government-required paperwork. I have tried to address this problem head on by drafting the paperwork reduction provisions in this IDEA bill. These paperwork reduction provisions incorporate the good ideas we received from parents; teachers; the Council for Exceptional Education, which is a nonprofit, nonpartisan organization; and the President's Commission on Excellence in Special Education. For example, this IDEA legislation helps reduce the paperwork burden on teachers by requiring the Secretary to develop model forms for the IEP, by creating a pilot program for 10 States, and by allowing parents the flexibility to choose to develop the multiple-year IEP for their child to a maximum of 3 years.

Mr. Chairman, I urge my colleagues to vote ''yes'' on this IDEA bill because it will improve the lives of disabled children in Orlando, Florida, and all across the country by making a historic increase in special education funding and by reducing the paperwork on teachers.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentlewoman's courtesy in allowing me to speak on this bill.

Twenty years ago, Congress made a law and a commitment. The law was to extend equal education opportunity for all children. The commitment was to provide 40 percent funding to meet this goal. We have no reason to put off fulfilling this commitment for yet another decade. Nearly every State is facing serious financial difficulty, few as serious as my State of Oregon. We need

help as never before. Yet we are told full funding is not realistic at this point. Yet we have the President and leadership of his party proposing a half trillion dollars in additional tax cuts for those who need help the least. Whatever dubious economic benefits claimed are clearly minuscule compared with investing in our communities and meeting the commitments to our schools and our children.

The authors of today's bill should be thanked for their commitment to move in the right direction and for some genuine improvements like dealing with some burdensome paperwork, which has been discussed here on the floor. But without providing full funding, the bill ought to be rejected until we do what we know is right and what is clearly within our power. I for one would be embarrassed to go home to a State that is stressed like many of my colleagues, giving cover for those who would avoid meeting this long-standing commitment for another decade. My community and my colleagues' deserve better. By all means, embrace the positive elements in this bill; but let us not pass it until we make sure we have fulfilled our commitment.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Chairman, I thank the gentleman from Delaware (Mr. CASTLE) and the gentleman from Ohio (Mr. BOEHNER), the chairman, for their efforts to improve the Individuals with Disabilities Education Act.

As a new grandfather for the first time, as the husband of a very hard-working school teacher, and with 17 years' experience on the Education Committee in the South Carolina State senate, I know the most important aspect of improving education is ensuring each classroom has a teacher committed to the task of educating children. Special education also requires teachers with this dedication. Teachers who choose to work with children with disabilities are especially gifted and especially valued.

The particular legislation we have before us today brings some very positive changes. First, the bill focuses on reducing unnecessary paperwork which is not educationally relevant to the teacher's interaction with the child. Second, to further reduce the paperwork burden, the bill requires GAO to review paperwork requirements and report to Congress on strategic proposals to reduce paperwork burdens on teachers. Third, we have shifted the goal of the State Improvement Grant to focus grants entirely on the activities to support the professional development of regular and special education teachers and administrators.

Ms. WOOLSEY. Mr. Chairman, I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BURNS), a member of the committee.

Mr. BURNS. Mr. Chairman, I rise in strong support of H.R. 1350. This is an important bill that contains much-needed improvements that address the needs of children with disabilities throughout this great Nation. I am especially grateful for the changes in this bill to help address the problem of misidentification of minority students as having a disability. I find it very troubling that we are continuing to identify three times as many African Americans as having mental retardation and twice as many African Americans as being emotionally disturbed. We must reduce these excessive figures.

This bill makes great strides in this area. I would like to point out that the bill permits local educational agencies to use funds for prereferral services for children not yet identified as needing special services. I believe that this will have a significant impact on the current overidentification of students, especially minority students, having disabilities. Finally, I am pleased that the bill allows personnel preparation programs, research and technical assistance projects to address the issue of overidentification of minority students. We must and we will solve this problem. I urge my colleagues to support this bill.

Ms. WOOLSEY. Mr. Chairman, I continue to reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise, first of all, to commend the gentleman from Delaware for the very hard work and the dedication he has for improving education for special needs children. I have some concerns about the bill, and I bring them up because I hope they will be addressed in conference. Number one, I read through the bill and spoke to staff. It does not seem to have any mechanism in there to inform parents of services that actually are available to them for their children. The second concern that I have is that a parent might choose a 3-year IEP because of a misunderstanding or being misinformed by the school district. We must ensure that parents are not intimidated by school districts into agreeing to a 3-year IEP when, indeed, there needs to be more follow-up for many students. And, third, we need to make sure that there are not any retaliation tactics that may occur at some school districts. Parents tell me that very often they fear retaliation. I would encourage the sponsor of the bill to make sure that these considerations are taken in when they do the conference.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, actually the key here is mandatory funding because no matter what we authorize on this committee, no matter what we vote for today on H.R. 1350, whether it is 18 percent of the 40 percent Federal commitment, whether it is 21 percent of the 40 percent commitment, or if it is 25 percent of the 40 percent Federal commitment, the funding has to be spent. We can authorize it, but the Committee on Appropriations spends it. Unless we tell the Committee on Appropriations through changing the rules of H.R. 1350 and IDEA, unless we tell them that it is mandatory that they spend what we authorize, it will not get spent; and it is going to be the year 2035 before we even come close to reaching 40 percent.

Later on today the gentleman from California (Mr. MCKEON) and I have an amendment that will pass all new funding after the year 2003, pass any new funding that is appropriated directly to the school districts and to the schools. But if we do not get any new funding because indeed the appropriators do not choose to add funding, then we pass along nothing to school districts because 100 percent of nothing is still nothing.

The Federal commitment to IDEA 30 years ago was 40 percent that Federal Government would match the mandate that the States educate all kids, which is absolutely the right thing to do, and provide them a free education and equally educate all children in the public school system. That was 40 years ago. We are at 18 percent of that 40 percent today, and we are never going to get there if we do not say that it is something that must be done. And in so doing, we will be making it possible for schools to count on the funding they need, we will be removing the emotion that parents pit themselves against each other because there is so little funding available for education in the first place, and we will make sure that special education funding does not come out of the funding necessary for other programs.

We make promises. We do not fulfill them. Voting for H.R. 1350 would be another broken promise unless H.R. 1350 includes mandatory full funding over the next 6-year, 7-year period.

Mr. Chairman, I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. GILLMOR).

(Mr. GILLMOR asked and was given permission to revise and extend his remarks.)

Mr. GILLMOR. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of the bill.

Mr. Chairman, I rise today in support of H.R. 1350. Reauthorizing and improving the Individuals with Disabilities Education Act is important to the future of many American children and their families. The special education community is now in a state of crisis—teachers are leaving, students are being over-identified, and litigation has taken the place of education. The true spirit of this legislation has been lost and because of this lost vision many children have been denied an appropriate education.

I commend my colleagues on the Education Committee who, under the leadership of my

colleague from Ohio, Chairman BOEHNER, reported a bill that brings back the spirit of the original legislation. This bill not only empowers local school districts, but more importantly it empowers parents with the freedom to choose what education plan best suits the needs of their child. Reducing bureaucratic red-tape, supporting teachers, and empowering parents are the keys to restoring faith in the special education community and the keys to providing those children with special needs a quality education. Mr. Chairman, I would urge all of my colleagues to support this legislation and insure that no child is ever left behind.

Mr. CASTLE. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I would like to take this 1½ minutes to address this issue of funding because I think there has been perhaps a misunderstanding here. Some of it, frankly, is a little bit political; but I think we need to sort of clear the air if we can.

This bill, as we all know, I think, now at this point, was first passed in 1975. From 1975 until 1995, which was a time, frankly, that the Congress was controlled by the Democrats for the most part here, the funding for the Federal share of this never got above 7 percent. Starting in 1996 and thereafter up until now in the year 2003 and then 2004, that funding as the percentage share of the Federal Government, even with the cost-of-living increases and everything else, has gone to 18 percent. The funding in the budget bill for this next year, 2004, which is the yellow line on this chart, is actually at 21 percent, on our way to 40 percent. In this legislation is a guide path by authorization to take that funding to the full 40 percent in 7 years. Even under the mandatory funding bills that those advocates are talking about in terms of handling the funding would not get there for 6 years. It would take an additional $10.2 billion, and everybody realizes that that cannot be done.

□ 1300

This Congress has committed to it. This Republican Party under this President has absolutely committed to doing this, and is making extraordinary gains. In fact, that increase is 282.3 percent in that period of time, from 1996 to 2003. We wish our stocks had increased that much in value. The average yearly funding for IDEA between 1996 and 2003 has grown at 18.6 percent per year. Those are astounding increases for any kind of Federal program, all of which usually increase, at best, at a rate of cost of living.

So, the truth of the matter is, the bottom line is that we have met our responsibilities, and I would encourage everyone to support the legislation.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Chairman CASTLE), and certainly my ranking member, the gentleman from California (Mr. GEORGE MILLER), for what has gone into this legislation. We truly have worked hard to make this be something that we could all vote for, and I believe in your sincerity and I know you believe in our's and our passion on all of this.

There are reasons why I will not be able to vote for this. Reason number one is the discipline provisions. This bill will allow students to be moved indefinitely to alternative placements for any violation of a school code of conduct, and we have gone over that. That could severely affect a disabled child.

This bill has no guarantee of full funding. We can say we want full funding, but if we do not guarantee it, it probably is not going to happen. And, yes, we have done a much better job over the last few years. We have just gone through some really good prosperous years in this country. Now this country is in an economic downturn and the challenges for the same dollars are going to be much, much greater.

This bill weakens due process protection for parents. It would bar parents from raising new issues at due process hearings, even if new evidence has surfaced since the hearing was scheduled.

This bill has a pilot program for 10 State waivers. It permits the Secretary of Education to waive IDEA provisions to reduce paperwork. Criteria for the approach of these pilot programs are completely open-ended and would be defined by the Secretary.

Mr. Chairman, the other thing this bill does that will make it impossible for me to vote for it is it puts a cap on attorney fee reimbursements, which makes it even more difficult for low income parents to get their due process.

Mr. Chairman, I am hoping Democrats and those on the Republican side who want full funding and want that funding to be mandatory, who want our children's discipline provisions not to go backwards, but to go forward, will vote against this bill.

Mr. Chairman, I yield back the balance of my time,

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me again thank my colleague, the gentleman from Delaware (Mr. CASTLE) and all of the members on our committee who have played an important role in bringing this bill to us today.

I also want to congratulate the members of our staff, including Sally Lovejoy, Krisann Pearce, David Cleary, Melanie Looney and Elisabeth Wheel; Sarah Rittling, a staff member of the gentleman from Delaware (Mr. CASTLE); and Jacqueline Norris, a staff member of the gentleman from Florida (Mr. KELLER), for all of their hard work and dedication over the last year or so as we were bringing this bill together.

Mr. Chairman, this is a very difficult piece of legislation. It has been very difficult for Congress to deal with it ever since they first brought it up in 1975. But I think that Members on both sides of the aisle have worked closely together to craft a bill that will help special needs children all across our country.

I think it is important to note that that is our goal here. It is to make sure that children with disabilities get the free and appropriate public education that they are entitled to in the least restrictive manner. We believe that the bill that we have before us today does, in fact, provide that, and does not weaken any safeguards for those children or their parents.

Let us not forget the importance of the requirements under No Child Left Behind where school districts are going to have to focus in on results for these children. This is a huge shift in dynamics for how schools are going to have to deal with their IDEA children. As a result, being able to change the paperwork requirements, to ease those for classroom teachers, to make the process more simple for school districts and administrators to enact, will not diminish the services for these students, because these same schools are going to have to show results for these children.

So this is a very big change, and I do believe it will lead to much better results for our special needs children.

The last point I would make is this is a bipartisan bill. We will talk about more of it as we get into the amendments.

Mr. UDALL of Colorado. Mr. Chairman, I rise today as a firm supporter of providing a free and quality education to students with and without disabilities, but also in opposition to H.R. 1350, the Reauthorization of the Individuals with Disabilities Act (IDEA).

When IDEA was initially enacted into law, Congress determined that the cost of educating a student with a disability was, on average, twice the cost of educating a student without a disability. In the original legislation, the Federal Government required States to provide an education to students with disabilities, but also agreed to help states fund the ''extra cost'' of educating disabled children by 40 percent of the total cost. It has been 28 years since the original implementation of IDEA, and Congress has yet to appropriate the full 40 percent to states for their special education programs. For 28 years, State and local governments have struggled to fulfill their obligation to disabled students with less than half of the funding that is necessary for the task.

This year, Congress again had the opportunity to fulfill the Federal Government's obligation. Members on both sides of the isle and education organizations representing not only administrators and teachers, but students and their parents have voiced their support of appropriating full funding. H.R. 1350 allocates the highest percentage ever to IDEA, yet the funding level is barely over half of that that is required, at 21 percent.

Even at a time when full funding for IDEA is almost unanimously supported, and education is touted as a priority by almost every Member of Congress, H.R. 1350 does not come close to backing IDEA's 28 year old promise. It is clear that in order to ensure substantial funding to the nation's disabled children, funding for IDEA must become a mandatory program

that requires the Federal Government to appropriate the full 40 percent every appropriations cycle. It is past time for us to fulfill our obligation to this Nation's disabled children. H.R. 1350 does not appropriate full funding, and does not make full funding of IDEA mandatory, and so I feel it is my duty to oppose the bill.

I also have serious concerns with the discipline provisions of this bill. Under the ''manifestation determination'' previously required in IDEA, when students with disabilities are disciplined the potential that their disability was a fundamental reason for the problem must be considered. H.R. 1350 would no longer require schools to determine whether a student's action was the result of the disability. Under the bill a child with cerebral palsy could be expelled for accidentally making contact with his teacher or a developmentally disabled child could be expelled for ''inappropriate public affection''. While the majority of schools and administrators would not expel a student for minor infractions, the original intent of IDEA was to protect students with disabilities. If every school was enthusiastic and dedicated to the education of disabled students there would have never been any need for IDEA in the first place.

I understand the concerns voiced by national teachers and administrators regarding their need to have the authority to discipline students with and without disabilities. However, in order to protect the students from punishment for their disability, the law must include a requirement for the disability always to be taken into account before deciding on consequences. I have received many calls from parents in my district voicing anxiety over what will happen to their disabled children next time he or she makes a mistake related to their disability in school. I believe it is necessary to discipline disabled children, just as it is necessary to discipline children without disabilities, but we must ensure that the disabilities are always taken into account. H.R. 1350 would omit this requirement, and this was another reason that I cannot vote for the bill.

Mrs. MCCARTHY of New York. Mr. Chairman, I rise today with deep concerns with H.R. 1350, the bill to reauthorize the Individuals with Disabilities Education Act.

Prior to IDEA being passed in 1975, many children with disabilities did not receive access to education, and worse they were denied any educational services at all.

As a result of court decisions and congressional action, schools were required to offer children with disabilities a free appropriate public education.

Since then, Congress has acted to strengthen these laws time and time again regardless of whether it was a Republican-controlled or Democratic-controlled Congress.

Today under H.R. 1350, we are taking a large step backward especially with regards to disciplining students.

Current law allows a school to suspend or expel a student with disabilities if he or she brings a weapon or drugs to school, or is found by a hearing officer to be likely to injure themselves or others. Education services must be provided for up to 45 days in an alternative setting.

In addition, current law requires schools to determine if the problem which caused the student to be suspended or expelled was due to his or her disability. This bill removes these important safety provisions completely.

Mr. Chairman, H.R. 1350 allows students of all disabilities to be removed from classrooms for any behavior for an indefinite period of time.

Mr. Chairman, I am the first person to say we need to protect our children from violence in the classroom. Therefore if a student with attention deficit disorder hits another student, the student with attention deficit disorder can be expelled indefinitely.

As a nurse, I can tell you that attention deficit disorder is widely misunderstood by teachers and principals throughout the country. However, it is recognized by Congress as disability under the law we are amending today and the Americans with Disabilities Act.

Mr. Chairman, this provision in H.R. 1350 alone cuts out the very heart of IDEA. IDEA was created to prevent this type of discrimination against disabled students. If a student's health problem is the reason for causing trouble in the classroom, the health problem must be taken into account before the child is expelled indefinitely. We should be strengthening the current law instead of weakening it. It's just common sense.

As a student with disabilities, a nurse, a mother, and a Member of Congress, I am hopeful that we protect all children.

With that, I urge all my colleagues to vote against this bill that takes the heart out of IDEA.

We should be doing more not less for our students.

Mrs. CHRISTENSEN. Mr. Chairman, the Americans with Disabilities Act, ADA, and the Individuals with Disabilities Action IDEA, are two primary and most important laws that protect the rights of a special segment of our population—individuals with disabilities. Today, we debate the passage of H.R. 1350, a bill to reauthorize IDEA, which was created to ensure that all children with disabilities are afforded a free and appropriate public education within the least restrictive environment, and that the rights of children with disabilities and parents of such children are protected. H.R. 1350, undermines the original intent of the law and essentially guts the protections it was intended to provide.

I support, 100 percent improving the quality of education for children with disabilities, but despite the statements of its proponents, this bill would not achieve this goal.

The base bill undermines civil rights provisions, something that seems under attack on many fronts by this administration, and as in the Leave No Child Behind Act, fails to fully fund it. This reauthorization would make IDEA nothing more than an empty promise.

I am also very much opposed to the DeMint voucher proposal. Is this yet another opportunity for the Republicans to force one of their favorite programs upon the unsuspecting public. It has been said that the amendment that Representative DEMINT is scheduled to offer is not a voucher, since it allows vouchers without requiring them. That is a distinction without a difference. A voucher is a voucher is a voucher.

On behalf of approximately 1617 students with disabilities in my district, the U.S. Virgin Islands, and all the major organizations representing children with disabilities, I urge my colleagues to resolve the issues raised by voting for the Democratic amendments and to oppose final passage of the bill if these issues have not been successfully addressed.

Mr. CUMMINGS. Mr. Chairman, the Individuals With Disabilities Education Act, IDEA, is the Nation's main statute ensuring children with disabilities receive the special education they need for success. Today, Congress had the opportunity to make a difference in the lives of millions of children with the reauthorization of IDEA. However, H.R. 1350 squanders this opportunity and that is why I urge all of my colleagues to vote against this legislation.

Congress had the opportunity to support mandatory full funding for the IDEA. Two amendments that would have made IDEA a mandatory program and would have guaranteed that the Federal Government contribute 40 percent of the cost as promised in the original 1975 law were not allowed to be offered.

Congress authorized the Federal Government to pay up to 40 percent of each State's excess cost of educating children with disabilities. As we have learned with the No Child Left Behind Act, promises to fund education through authorizations are often not kept. It is time we renew our commitment to all of our Nation's children and pay our share of the cost of IDEA.

States across the Nation are dealing with an economic crisis, facing large State budget deficits and making deep cuts to services. IDEA's unfunded mandate is $10 billion—this is money our States and school districts could be spending to alleviate State budget crises, reduce class sizes, build and modernize schools and further technology advances in education. This is an unfortunate trade off that our States should not have to make.

Fully funding IDEA is not just about special education. It is about keeping the promise of funding the mandate the Federal Government has put on the States and relieving the school funding crisis that States across the Nation are facing.

Congress needs to focus on real increases in IDEA funding and on aiding our States and local communities in times of tight budgets. Congress must follow through on the promise made to our special needs students years ago.

H.R. 1350 in its current form does not fulfill that promise. Please oppose H.R. 1350.

Mr. GIBBONS. Mr. Chairman, I rise today in support of H.R. 1350. As a father of three, I know the importance of educating our children. There should be no greater priority then providing our children with the educational tools needed to succeed in life.

H.R. 1350 fulfills our commit to the youth of this Nation, by providing special education children with the mechanisms and funding needed for success.

Mr. Chairman, since the Republicans have controlled Congress we have increased IDEA part B funding by $6.5 billion or 282 percent. All the while, the political rhetoric continues to fly in the face of these facts.

However, this is still not enough. Since 1975, when IDEA was originally established, Congress committed to provide Federal funding at 40 percent. Since 1975, IDEA funding levels have not even come close to reaching the 40 percent level.

H.R. 1350 sets up a bold plan, by setting a clear 7-year path to reach the 40 percent goal to make the full funding of IDEA a reality. I strongly support this effort, and this is one of the reasons I will be voting in favor of this bill.

Still, many on the other side of the aisle will confuse the issue, by asserting that this needs to be done by making IDEA a new Federal entitlement program.

Mr. Chairman, this is a misguided attempt. Making the program a mandatory Federal entitlement will only make it nearly impossible to make much needed reforms in IDEA for the future.

Making IDEA a new Federal entitlement spending program will cause an explosion of new paperwork and bureaucracy in special education at the very time teachers and parents are seeking a simpler process to ensure children with disabilities receive the education they deserve.

In addition, this could even prevent IDEA from receiving substantial funding increases in the upcoming years.

Finally, mandatory spending through a Federal entitlement will remove the accountability and oversight mechanisms that Congress provides through the annual discretionary appropriations process.

Instead, we need to continue our commitment to increasing the IDEA budget as well as the overall education budget to ensure real academic improvements results for children with disabilities and their peers.

Mr. Chairman, education is a top priority for this Republican-controlled House and Senate and this bill is a shining example of this continuing commitment to our children's education.

In spite of the continuing challenges of war and economic recovery—the Republican administration and Congress remain dedicated to funding our priorities. For this reason, I am proud to support the full funding of IDEA and H.R. 1350.

Mr. ETHERIDGE. Mr. Chairman, I rise to speak about this bill to reauthorize the Individuals with Disabilities Education Act.

As the only former State schools chief serving in Congress, I know firsthand the tremendous challenges facing our schools, teachers, parents and students when it comes to educating disabled children. Congress has an obligation to provide a fair share of funding for special education, and although this bill makes some progress toward that important goal, it unfortunately falls short.

Since 1975, the Federal Government has pledged to fund 40 percent of the costs of educating children with disabilities, but it has never made good on that promise. When I first arrived in this body, Congress was only funding its special education obligations at about 14 percent. This year that level will rise to about 18 percent, and this legislation will provide for additional increases perhaps as high as 21 percent. But Mr. Chairman, that still is not good enough. Congress must live up to its commitments and fully fund IDEA.

I also urge my colleagues to vote against the voucher amendments on this bill. Specifically, the DeMint amendment would siphon off precious public resources and funnel them to fund private schools. Vouchers are not good public policy. Taking taxpayer dollars to fund private school tuition is wrong. I urge my colleagues to vote against any and all voucher amendments.

Vouchers are a bad idea because they drain needed public resources away from our public schools, where more than 90 percent of the children in this country are educated, in favor of private schools that have no accountability to the American taxpayers. Rather than siphoning funds from the public schools, we need to invest more in initiatives like school construction, teacher training, class size reduction, tutoring and in other proven methods to raise academic achievement.

Finally, Mr. Chairman, let me state that this bill is not all bad, and I am hopeful it can be improved in the upcoming conference with the Senate. If the conference can fix its shortcomings, I could support the final version of this legislation. But this House can do better than the bill before us now, and I will vote no today on H.R. 1350.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 1350, the ''Improving Education Results for Children with Disabilities Act.''

Once again, the Republican majority is failing to match their rhetoric with their actions. This time the victims are children with disabilities. This bill will not improve education for children with disabilities as its title claims. it fails to invest the funds necessary to make that improvement real and it contains damaging provisions that actually inhibit such improvements. These are steps backward, not improvements at all.

The parents of children with disabilities are likely wondering why Congress is allowing this to happen? Well, its because the Republicans are refusing to honor the commitment Congress made almost 30 years ago to significantly invest in educating children with disabilities. Back then, the Federal Government promised to pay 40 percent of the national average per pupil for providing this education. Today, we only pay about 18 percent. Nothing in this bill improves on that. Talk about passing the buck to local schools. Its no wonder many school districts are cutting back on education for every child—not to mention their failing for children with disabilities.

As if the under-funding weren't bad enough, this bill goes further. This bill ignores the fact that the learning process for any child can be very sensitive to changes in their home lives or their health conditions. This is more likely to be true for children with disabilities, many of whom confront very difficult physical and mental health conditions that create barriers to their successful learning. it is critical for schools to constantly monitor the situation of students with disabilities and ensure that their educational needs are addressed as quickly as possible. Instead of promoting this need, the bill eliminates the requirement that every school have short-term instructional objectives for each student. This greatly decreases the chance for students with disabilities to succeed because their individual educational needs may well go unaddressed for what could be years.

In the biggest step backward, this bill provides schools with the right to unilaterally expel and child with a disability if they violate, even once, that school's code of conduct, regardless of the severity. Republicans eliminate the review process and the requirement for behavioral assessments and positive interventions in these discipline cases. Without these protections, there is no limit to the number of students with disabilities who can be kicked out of school with no questions asked. This provision is wrong and unfair and has no place in any legislation claiming to improve education for children with disabilities.

It is long overdue for Congress to make good on our promise to give children with disabilities a better chance to succeed. It is in that spirit that I urge my colleagues to join me in voting against the ''Improving Education Results for Children with Disabilities Act'' because it flatly fails that promise. I hope the Senate will fix many of the damaging provisions in this bill and pass an IDEA reauthorization bill that really does improve education and opportunity for children with disabilities. Then, maybe after a conference, we can vote on a bill that truly achieves the goal of its title.

Mr. RUSH. Mr. Chairman, I rise against this ill-conceived and ill-advised piece of legislation. Yet again the Republicans say that education is their number one priority but every time they have a chance to demonstrate their commitment to education they slash the funding or eliminate the programs designed to educate our children.

Since the enactment of the Individuals with Disabilities Education Act in 1975, we have failed to fully fund this worthy program. It has now been 28 years since we wrote children with disabilities a bad check and today its time to make good on that debt. The only way to ensure free appropriate public education is to fully fund special education. Let us not politicize this issue. We know that the program is working. Millions of children with special needs have benefitted greatly from IDEA. Let us not return to the dark ages where children with special needs were considered second class citizens. Our children deserve better.

Not only do we negate to fully fund special education but we do away with our children's basic civil rights protections. By removing due process procedures in this Act, many children with special needs will be the target of discriminatory practices. This is troubling to me because even with the current safeguard, minorities are disproportionately suspended or expelled from school compared to their majority counterparts. Its seems that this legislation is geared towards educating just the privileged few.

Again, I urge my colleagues on both sides of the aisle to rise on behalf of the 600,000 children with disabilities so that no child will be left behind.

Mr. LEVIN. Mr. Chairman, I rise in opposition to the rule and against the bill. The legislation before the House today fails to live up our promises to fully fund special education. It fails the parents of children with disabilities. Worst of all, it fails the kids who need our help the most.

The Bush Administration and many in this Congress have said over and over that the education policies of this country should leave no child behind. If it becomes law, this bill would leave more than 600,000 children with disabilities behind.

For more than 28 years, Congress has pledged time and time again to provide full funding for special education in this country, but not once has Congress provided the promised 40 percent Federal cost share of the states' cost of educating children and disabilities. Currently, the Federal Government pays just 18 percent. To illustrate my point, this year my home state of Michigan, will receive $308 million in IDEA Part B grants. Michigan should receive almost $704 million, if this Congress would only meet its obligation to fully fund this program, as it has promised.

IDEA is really the poster child for unfunded federal mandates. The fiscal crisis confronting the states makes it increasingly difficult for

them to pick up the unfunded federal share. Proponents of this legislation will claim that this bill fully funds IDEA by 1010. This House can authorize higher spending limits for IDEA until it is blue in the face, but it doesn't mean anything to our nation's disabled school children unless we follow up and actually appropriate the money to meet these authorization levels. And that's where the problem has been.

If the Majority is really serious about fully funding special education, as it claims, why not make the funding mandatory? It is ironic that at the same time the Majority is pushing to lock in a permanent $550 billion tax cut that chiefly benefits the very rich, it is unwilling to provide the same assurance of funding to disabled school kids. This speaks volumes about priorities around here.

I urge my colleagues to join me in opposing the rule and opposing this bill. We can do much better.

Mr. PAUL. Mr. Chairman, I rise to oppose H.R. 1350, the Improving Education Results for Children with Disabilities Act. I oppose this bill as a strong supporter of doing everything possible to advance the education of persons with disabilities. However, I believe this bill is yet another case of false advertising by supporters of centralized education, as it expands the federal education bureaucracy and thus strips control over education from local communities and the parents of disabled children. Parents and local communities know their children so much better than any federal bureaucrat, and they can do a better job of meeting a child's needs than we in Washington. There is no way that the unique needs of my grandchildren, and some young boy or girl in Los Angeles, CA or New York City can be educated by some sort of ''Cookie Cutter'' approach. In fact, the ''Cookie Cutter'' approach is especially inappropriate for special needs children.

At a time when Congress should be returning power and funds to the states, IDEA increases Federal control over education. Under this bill, expenditures on IDEA will total over $100 billion by the year 2011. After 2011, congressional appropriators are free to spend as much as they wish on this program. This flies in the face of many members' public commitment to place limits on the scope of the Federal bureaucracy.

There are attempts in this bill to reduce the role of bureaucracy and paperwork, and some provisions will benefit children. In particular, I applaud the efforts of the drafters of those who drafted it to address the over-prescription of psychotropic drugs, such as Ritalin by ensuring that no child shall be placed on these drugs without parental consent.

However, H.R. 1350 still imposes significant costs on state governments and localities. For example, this bill places new mandates on state and local schools to offer special services in areas with significant ''overidentification'' of disabled students. Mr. Chairman, the problem of overidentification is one created by the Federal mandates and federal spending of IDEA! So once again, Congress is using problems created by their prior mandates to justify imposing new mandates on the states!

When I think of imposing new mandates on local schools, I think of a survey of teachers my office conducted last year. According to this survey, over 65 percent of teachers felt that the federal mandates are excessive. In fact, the area where most teachers indicated there is too much federal involvement is disabilities education.

I would ask all my colleagues to consider whether we are truly aiding education by imposing new mandates, or just making it more difficult for hard-working, education professionals to properly educate our children?

The major federal mandate in IDEA is that disabled children be educated in the least restrictive setting. In other words, this bill makes mainstreaming the federal policy. Many children may thrive in a mainstream classroom environment; however, I worry that some children may be mainstreamed solely because school officials believe federal law requires it, even though the mainstream environment is not the most appropriate for that child.

On May 10, 1994, Dr. Mary Wagner testified before the Education Committee that disabled children who are not placed in mainstream classrooms graduate from high school at a much higher rate than disabled children who are mainstreamed. Dr. Wagner quite properly accused Congress of sacrificing children to ideology.

H.R. 1350 also burdens parents by requiring them to go through a time-consuming process of bureaucracy and litigation to obtain a proper education for their child. I have been told that there are trial lawyers actively soliciting dissatisfied parents of special needs children as clients for lawsuits against local schools! Parents and school districts should not be wasting resources that could go to educating children enriching trial lawyers.

Instead of placing more federal control on education, Congress should allow parents of disabled children the ability to obtain the type of education appropriate for that child's unique needs by passing my Help and Opportunities for Parents of Exceptional Children (HOPE for Children) Act of 2003, H.R. 1575. This bill allows parents of children with a learning disability a tax cut of up to $3,000 for educational expenses. Parents could use this credit to pay for special services for their child, or to pay tuition at private school or even to home school their child. By allowing parents of special needs children to control the education dollar, the HOPE for Children Act allows parents to control their child's education. Thus, this bill helps parents of special needs children provide their child an education tailored to the child's unique needs.

The HOPE for Children Act allows parents of special needs children to provide those children with an education that matches their child's unique needs without having to beg permission of education bureaucrats or engage in lengthy and costly litigation.

Mr. Chairman, it is time to stop sacrificing children on the altar of ideology. Every child is unique and special. Given the colossal failure of Washington's existing interference, it is clear that all children will be better off when we get Washington out of their classroom and out of their parents' pocketbooks. I therefore urge my colleagues to cast a vote for constitutionally limited government and genuine compassion by opposing H.R. 1350 and supporting the HOPE for Children Act.

Mr. HOLT. Mr. Chairman, none of the goals of IDEA can be achieved without full funding. Today, the majority is refusing even to allow amendments to improve the funding level in the bill.

Congress authorized full funding of IDEA 28 years ago and still has failed to deliver. In 1975, Congress authorized funding to cover 40 percent of the excess cost of educating a child with a disability.

President Bush has requested $1 billion increases for IDEA in each of his last 2 budgets. But according to the U.S. Department of Education, providing $1 billion increases each year will never allow IDEA to reach full funding.

When it comes to IDEA funding, Republicans are dwelling on the past, rather than focusing on the future. The majority consistently points to increases in IDEA funding in past years and this is true. However, this doesn't respond to the needs of school districts now. That is why we need to ensure full funding of IDEA over the next six years.

During debate on the No Child Left Behind Act, the majority claimed we had to reform IDEA before providing full funding. The bill before us supplies the Majority's reforms, yet reneges on full funding. What is the excuse now? Since 1977, 22 separate bills and resolutions have passed in the House and Senate calling for fund funding of IDEA with support of a majority of Republicans. It is time for Congress to make good on this promise.

In recent years, the Republican majority have said that there is not enough money to appropriate full funding, however they seem to be able to find enough money to give a large tax cut to those who don't need it.

I offered an amendment in the Education and the Workforce Committee with Representative Andrews to remove the funding cap from the bill. I did so because today seven states stand to lose IDEA funding under this cap, and another seven may soon be affected. While the Chairman did agree to move the cap to 13.5 percent—and I thank him for working with us—I still believe that a cap is fundamentally unfair. Not just unfair to the 50 states but also to the American children.

Even with this cap on funding, states and schools are still required to educate students that are identified as having special need even when the population exceeds the cap. So, why not allow the funding?

While I recognize that the cap reflects an attempt to reduce inappropriate identification of students as disabled, I believe that a cap does not get at the problem. Simply setting a cap does not address the issue of how students are being identified.

I believe that states and localities should be allowed to improve this inappropriate identification through professional development.

I applaud the chairman for including increased funding for professional development and research funding to reduce inappropriate identification of children with disabilities, including disproportionate assignment of minority children. We should allow these funds to work.

Let me point out a good point of today's bill. I am glad to see that section 674(c) recognizes the continued importance of funding an organization that ''provides free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools.'' As you may know, Mr. Speaker, Recording for the Blind & Dyslexic, located in New Jersey in my district, has received federal funding for nearly thirty years to produce, distribute and promote the use of accessible-format versions of printed textbooks free to students. During this time,

they have helped hundreds of thousands of students who would have otherwise not had access to the textbooks they need to receive the kind of ''free and appropriate'' education that is outlined under IDEA. I commend RFB&D and want to bring to the attention of my colleagues in the Congress the oustanding work of this organization.

I would to thank Chairman BOEHNER and Subcommittee Chairman CASTLE for maintaining this important program in the law. I would like to express my concern, however, that funding for this activity is no longer a requirement for the Secretary of Education, as is the case under current law. I believe this must be changed and this requirement should be restored, and I look forward to working with the Chairman and my colleagues to resolve this issue during conference with the Senate.

Mr. NUSSLE. Mr. Chairman, I rise in support of H.R. 1350, which reforms and re-Authorizes the Individuals with Disabilities Education Act (IDEA), the Nation's primary special education law. This reauthorization of IDEA offers an opportunity to renew our commitment to students with special needs in Iowa and across the country.

IDEA laws and funding decisions impact all students, regardless of whether they have special educational needs.

I commend the Education Committee for authorizing in this bill special education funding increases for the next two years in line with the amounts provided in the fiscal year 2004 conference budget resolution. This includes a $2.2 billion increase in 2004, followed by another $2.5 billion increases on top of that for 2005.

These funding increases would bring us more than halfway toward our ultimate goal of funding 40 percent of the national average per pupil expenditure for each child served under IDEA. These funding levels will result in the Federal Government paying 21 percent of these costs in 2004 and 25 percent the following year.

Let's take a moment to acknowledge just how far we have come in funding special education in recent years. The increases in this bill build upon the dramatic rise in special education funding already provided by the Republican Congress.

Since 1995, annual special education funding has risen from $2.3 billion to $8.9 billion. We've gone from 7 percent Federal funding to 17 percent.

In the first few years of the previous administration, special education funding remained essentially flat, with no increase in the Federal share.

I also want to point out that the fiscal year 2004 budget resolution includes mandatory funding to help address the national shortage of special education teachers by allowing Federal loan forgiveness of up to $17,500 for special education teachers who teach in disadvantaged school districts.

Funding is only one piece of the puzzle in improving education. We must ensure that significant improvements are made to the system. Iowa's students deserve no less. I am pleased this bill includes critical reforms to enhance educational performance while reducing the bureaucratic red tape that teachers and school administrators in Iowa tell me can get in the way of what is most important: teaching.

H.R. 1350 substantially reduces the paperwork requirement of annual individualized education plans (IEPS) by giving parents the option of choosing a three-year IEP, instead of having to craft a new one every year.

The bill grants school districts greater flexibility to more accurately classify students to avoid wrongly identifying as disabled those who may have a less severe condition. This growing problem hinders the progress of affected students and indirectly impacts all students.

There will be expanded choices for parents by allowing IDEA funds to be used in some cases to obtain supplemental education services, including services offered by private educational providers.

The bill also increases the flexibility of local school districts in making decisions about discipline for individual special education students. This flexibility can enhance the educational environment for all students. This is a necessary step I have been advocating for some time.

I support this bill and applaud the efforts of Mr. BOEHNER and Mr. CASTLE to improve the Nation's special education law at a time as we continue working to ensure that no child is left behind in America's classrooms.

Mr. BALLENGER. Mr. Chairman, not since Congress first passed legislation to help children with disabilities to receive a free and appropriate public education has a bill done so much for disabled students, parents, and their teachers. That is why I am proud to support the Improving Education Results for Children with Disabilities Act.

One important aspect of this legislation is that it helps to reduce the over-identification and mis-identification of non-disabled students. For far too long, students that were not disabled were classified as being disabled—stigmatizing these children for the rest of their education even though they were fully capable students.

H.R. 1350 encourages the use of early intervention strategies, which we all know that an ounce of prevention is worth a pound of cure. By reducing the number of non-disabled students receiving services, students who truly need assistance will have more resources available to them.

I would also like to point out that our litigious society has fostered an atmosphere of mistrust and apprehension between parents and teachers. H.R. 1350 gives parents and schools increased flexibility in resoling disputes. Through mediation and voluntary binding arbitration, the trust between parents and teachers can be restored.

While I understand the fears and concerns of some regarding changes to IDEA, I believe that H.R. 1350 goes a long way towards increasing accountability and flexibility for both teachers and parents. I strongly urge my colleagues to support this legislation.

Mr. KIND. Mr. Chairman, over a quarter century ago, President Ford signed historic legislation seeking to ensure educational equity for children with disabilities and special needs. This legislation, now known as the Individuals with Disabilities Education Act (IDEA), was a major milestone in the quest to end the chronic exclusion of students with exceptional needs. It helped open the door to fairness and access for millions of such youngsters and paved the way to greater educational success for many students with disabilities.

IDEA is both a grants statute and a civil rights statute. It mandates that all disabled students be provided a free appropriated public education in the least restrictive environment. Over six million children with disabilities are no longer limited by their families' ability to afford private education; they are no longer forced to attend costly state institutions, or worse, stay home and miss out entirely on the benefits of an education. IDEA ensures that children with disabilities may attend public school alongside their peers. There is no question about it: students, schools, communities are enriched when all children have a right to a free, appropriate public education.

As a member of the Education and Workforce Committee since 1997, I have worked hard to improve the quality of education for our children. Consistently, I have called on the federal government to fully fund IDEA. In fact, during reauthorization of the Elementary and Secondary Education Act I offered an amendment to fully fund IDEA. Unfortunately the House leadership prevented the amendment from being debated on the House floor.

Again, during committee consideration of H.R. 1350, I supported an amendment for mandatory full funding offered by Representative WOOLSEY. I am disappointed by the Committee's failure to adopt this important amendment. This is not the time to withhold necessary funds from out states. In the end, it is all our students nationwide, with an without disabilities, who suffer from the lack of federal funds for special education.

While I realize that H.R. 1350 is not a perfect bill, I feel that it resolves some significant issues that are problematic in Wisconsin, such as increasing instructional time with students through paperwork reduction, improving early intervention strategies, reducing overidentification and working to resolve conflicts between schools and parents early and with less litigation. I hope, that as we move forward we can continue to improve the bill and work with the Senate to produce the best bill possible.

Specicially, I am pleased that H.R. 1350 includes several amendments I offered during committee that focus on professional development. Frequently, during my visits with special education personnel in Wisconsin I heard how difficult it is to access professional development, this being more pronounced in those rural school systems in my district. For example, in Wisconsin a special education teacher is required to obtain six credit hours of professional development training every five years.

Thus, my amendment encourages the use and development of state-of-the-art strategies to deliver professional development training for school personnel working with special education students through the use of technology, peer networks, and distance learning. The training will include special and regular education teachers, principals, superintendents, and other related services personnel.

Furthermore, to better assist states in encouraging the development and use of distance learning and technology for special education personnel, it is critical to raise awareness of what is currently available in the area of distance learning for professional development. Therefore, I requested GAO to research the existing and developing distance learning and technology program offered to special education personnel. This knowledge will help better focus resources and time on developing programs where they are needed.

I offered an additional professional development amendment that will include principals,

superintendents, and administrators in the states personnel preparation programs. As district Special Education Directors leave, retire, or are cut due to budgetary shortfalls, principals, and superintendents are being tapped to fill this void. In the 423 school districts in Wisconsin, less than half, only 185 school districts presently have directors of special education. In the 238 districts without a director of special education, school principals and superintendents provide leadership of special education programs. Yet, few have had training needed to administer these complicated programs. This amendment will allow states to include administrators in special education professional development programs.

Finally, H.R. 1350 includes a new provision that permits states to establish and implement cost- and risk-sharing funds, consortiums or cooperatives to assist students with severe disabilities. I offered my amendment, which was accepted, that would allow states to prioritize a certain percentage of funding for school districts to finance these programs. High-cost, low-incidence students have a significant impact on the budgets of the school districts, and this can be very pronounced in rural areas. I am pleased this amendment was accepted and know it will have a positive impact for Wisconsin.

Mr. Chairman, our educators are doing everything they can to meet the needs of disabled students, despite the federal government's failure to fully-fund IDEA. Congress has gone less than half way in its promise to fund 40 percent of education costs for children with disabilities. Therefore, until it does, we have to provide whatever help we can and I feel that H.R. 1350 is a step forward in helping our local education communities reach the goal of providing the best possible education system for students with disabilities.

Ms. ESHOO. Mr. Chairman, it's with great disappointment that I rise today in opposition to H.R. 1350, the Individuals with Disabilities Education Act reauthorization.

H.R. 1350 fails special ed kids for these reasons: It undermines their civil rights and their educational opportunity by removing parental involvement in actions relating to the identification, evaluation and education of their child.

It limits the dialogue between school professionals and families. It institutes a one-year statute of limitations on parents to bring about any grievances with their child's education.

It eliminates short term objectives for a student's Individualized Education Program and limits a teacher of special ed to participate in the process.

It makes changes to disciplinary procedures which allow disabled children to be punished or removed for behavior due to their disability.

And H.R. 1350 fails to fully fund IDEA. It calls for full funding over seven years, but there isn't any guarantee that these dollars will be there in seven years.

Congress made a commitment in 1975 to our children and our school districts to fully fund special education at forty-percent. What an insult it is that twenty-eight years later, Congress is still funding less than half of this commitment. The budget passed by the House this year authorizes only $8.5 billion, far short of the $20.2 billion needed to fulfill our obligation.

Today every state across the nation is struggling fiscally, the worst condition of states since the Great Depression and school funding is being slashed.

It's critical that our nation's Governors unite with Congress now to uphold the special education commitment to school districts. I support the Woolsey-McKeon amendment which requires that any additional increases in IDEA federal funding be passed down directly to the local level.

I regret that the House is missing a critical opportunity to invest in our children and our schools through IDEA reauthorization. The reality of this bill is that it's bad for our children and it will set back the progress we've made.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I rise in support of H.R. 1350 as I believe it will make many necessary reforms to better serve our Nation's special-needs students, but wish to makes my reservations known about funding levels for part B of the Individuals with Disabilities Education Act. It is well known that Congress committed to contribute up to 40 percent of the average per pupil expenditure of educating special needs children, and Congress' failure to achieve even half of that 40 percent promise is even more well known. In fact, in 28 years Congress has never contributed more than 17.6 percent, leaving local school districts with too heavy a burden to provide for their special needs children. Thus, I am currently cosponsor to H.R. 1094, legislation that would authorize appropriations to achieve the full, 40 percent funding for part B of IDEA by 2008. I believe it is imperative that the Federal Government keep its promise to our Nation's special needs children.

While I am pleased that funding for IDEA has steadily risen in the last several years, Congress is long overdue in providing its promise of 40 percent. That said, I support H.R. 1350, although I realize that its funding levels for part B of IDEA are lower than those that would be authorized if H.R. 1094 were signed into law. While I realize this discrepancy, I do believe that H.R. 1350 puts forth a good-faith effort to dramatically increase the Federal Government's expenditure for special needs children. H.R. 1350 will set in motion a plan to finally achieve the 40 percent funding, and thus makes a statement that Congress realizes its current funding shortfall of IDEA. I will continue to fight for full funding for part B of IDEA in the budget for FY2004 and beyond.

Mr. BOEHNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1350

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improving Education Results for Children With Disabilities Act of 2003''.

TITLE I—GENERAL PROVISIONS

SEC. 101. SECTIONS 601 THROUGH 603 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 601 through 603 of the Individuals with Disabilities Education Act (20 U.S.C. 1400–1402) are amended to read as follows:

''SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

''(a) SHORT TITLE.—This Act may be cited as the 'Individuals with Disabilities Education Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''(c) FINDINGS.—Congress finds the following:

''(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

''(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the special educational needs of millions of children with disabilities were not being fully met and there were many children with disabilities participating in regular school programs whose undiagnosed disabilities prevented them from having a successful educational experience.

''(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

''(4) Over 25 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

''(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order—

''(i) to meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

''(ii) to be prepared to lead productive and independent adult lives, to the maximum extent possible;

''(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

''(C) coordinating this Act with other local, State, and Federal school improvement efforts, including efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that children with disabilities benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

''(D) supporting high-quality, intensive professional development for personnel who work with children with disabilities;

''(E) providing incentives for scientifically based reading programs and prereferral intervention services to reduce the need to label children as disabled in order to address their learning needs;

''(F) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

''(G) supporting the development and use of technology, including assistive technology devices and services, to maximize accessibility for children with disabilities.

''(5) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government has a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

''(6) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

''(7)(A) The Federal Government must respond to the growing needs of an increasingly diverse society.

''(B) America's ethnic profile is rapidly changing. In the year 2000, nearly one of every three persons in America was a member of a minority group or was limited English proficient.

''(C) Minority children comprise an increasing percentage of public school students.

''(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.

''(8)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

''(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

''(C) This poses a special challenge for special education in the referral, assessment, and provision of services for our Nation's students from non-English language backgrounds.

''(9)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

''(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

''(C) African American children are overidentified as having mental retardation and emotional disturbance at rates greater than their white counterparts.

''(D) In the 1998–99 school year, African American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

''(E) Studies have found that schools with predominantly Caucasian students and teachers have placed disproportionately high numbers of their minority students into special education.

''(10)(A) As the number of minority students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

''(B) The opportunity for full participation by minority individuals, organizations, and historically black colleges and universities in awards for grants and contracts, boards of organizations receiving assistance under this Act, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.

''(d) PURPOSES.—The purposes of this title are—

''(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

''(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

''(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

''(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

''(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

''(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

''SEC. 602. DEFINITIONS.

''Except as otherwise provided, as used in this Act:

''(1) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

''(2) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

''(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

''(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

''(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

''(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

''(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

''(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

''(3) CHILD WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'child with a disability' means a child—

''(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

''(ii) who, by reason thereof, needs special education and related services.

''(B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 or any subset of that age range, including ages 3 through 5, may, at the discretion of the State and the local educational agency, include a child—

''(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

''(ii) who, by reason thereof, needs special education and related services.

''(4) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'—

''(A) means a regional public multiservice agency—

''(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

''(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

''(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

''(5) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

''(6) EQUIPMENT.—The term 'equipment' includes—

''(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

''(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audiovisual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

''(7) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

''(A) amounts received—

''(i) under part B of this title;

''(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; and

''(iii) under title III of that Act; and

''(B) any State or local funds expended for programs that would qualify for assistance under any of the provisions of law described in subparagraph (A).

''(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that—

''(A) have been provided at public expense, under public supervision and direction, and without charge;

''(B) meet the standards of the State educational agency;

''(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

''(D) are provided in conformity with the individualized education program required under section 614(d).

''(9) HIGHLY QUALIFIED.—The term 'highly qualified' has the same meaning as that term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(10) INDIAN.—The term 'Indian' means an individual who is a member of an Indian tribe.

''(11) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

''(12) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

''(13) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term 'individualized family service plan' has the meaning given such term in section 636.

''(14) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' has the meaning given such term in section 632.

''(15) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—

''(A) has the meaning given that term in subsection (a) or (b) of section 101 of the Higher Education Act of 1965; and

''(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

''(16) LOCAL EDUCATIONAL AGENCY.—

''(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

''(B) The term includes—

''(i) an educational service agency, as defined in paragraph (4); and

''(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

''(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

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

''(18) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(19) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(20) PARENT.—The term 'parent'—

''(A) includes a legal guardian; and

''(B) except as used in sections 615(b)(2) and 639(a)(5), includes an individual assigned under either of those sections to be a surrogate parent.

''(21) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given that term in section 672(g).

''(22) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under sections 672 and 673.

''(23) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

''(24) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

''(25) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(26) SPECIAL EDUCATION.—The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

''(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

''(B) instruction in physical education.

''(27) SPECIFIC LEARNING DISABILITY.—

''(A) IN GENERAL.—The term 'specific learning disability' means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

''(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

''(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

''(28) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

''(29) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

''(30) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

''(31) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a child with a disability that—

''(A) is designed within a results-oriented process, that is focused on improving the academic and developmental achievement of the child with a disability to facilitate the child's move from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

''(B) is based upon the individual child's needs, taking into account the child's skills, preferences, and interests; and

''(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

''SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

''(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

''(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

''(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.''.

SEC. 102. SECTIONS 605 THROUGH 607 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 605 through 607 of the Individuals with Disabilities Education Act (20 U.S.C. 1404–1406) are amended to read as follows:

"SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

''(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

''(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

''(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or

''(2) appendix A of part 101–19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').

"SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

''The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities, particularly as teachers, related services personnel, early intervention providers, and administrators, in programs assisted under this Act.

"SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

''(a) IN GENERAL.—The Secretary may issue regulations under this Act only to the extent that such regulations are reasonably necessary to ensure that there is compliance with the specific requirements of this Act.

''(b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would—

''(1) violate or contradict any provision of this Act; and

''(2) procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

''(c) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 60 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

''(d) POLICY LETTERS AND STATEMENTS.—The Secretary may not issue policy letters or other statements (including on issues of national significance) that—

''(1) would violate or contradict any provision of this Act; or

''(2) establish a rule that is required for compliance with, and eligibility under, this Act without following the requirements of section 553 of title 5, United States Code.

''(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART.—

''(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

''(2) ADDITIONAL INFORMATION.—For each item of correspondence published in a list under paragraph (1), the Secretary shall—

''(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

''(B) ensure that all such correspondence is issued, where applicable, in compliance with section 553 of title 5, United States Code.

''(f) EXPLANATION AND ASSURANCES.—Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under this Act shall include an explanation in the written response that the response—

''(1) is issued, when required, in compliance with the requirements of section 553 of title 5, United States Code; and

''(2) is provided as informal guidance and represents only the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented in the original question.''.

SEC. 103. SECTION 608 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Part A of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following:

"SEC. 608. STATE ADMINISTRATION.

''(a) RULEMAKING.—Each State that receives funds under this Act shall—

''(1) ensure that any State rules, regulations, and policies relating to this Act conform to the purposes of this Act; and

''(2) minimize the number of rules, regulations, and policies to which the State's local educational agencies and schools are subject to under this Act.

''(b) SUPPORT AND FACILITATION.—All State rules, regulations, and policies relating to this Act shall support and facilitate local educational agency and school-level systemic reform designed to enable children with disabilities to meet the challenging State student academic achievement standards.''.

SEC. 104. GAO REVIEW; REPORT.

(a) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable sample of State and local educational agencies relating to such Act, to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

SEC. 105. GAO REVIEW OF CERTAIN STATE DEFINITIONS AND EVALUATION PROCESSES.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(1) variation among States in definitions, and evaluation processes, relating to the provision of services under the Individuals with Disabilities Education Act to children having conditions described in section 602(a)(3) of such Act using the terms ''emotional disturbance'', ''other health impairments'', and ''specific learning disability''; and

(2) the degree to which these definitions and evaluation processes conform to scientific, peer-reviewed research.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

SEC. 106. ADDITIONAL GAO STUDY AND REPORT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on existing or developing professional development programs for special education personnel delivered through the use of technology and distance learning.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under subsection (a) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 107. STUDY ON LIMITED ENGLISH PROFICIENT STUDENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under subsection (a) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

TITLE II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

SEC. 201. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

Section 611 of the Individuals with Disabilities Education Act (20 U.S.C. 1411) is amended to read as follows:

"SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS TO STATES.—

''(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

''(2) MAXIMUM AMOUNTS.—The maximum amount of the grant a State may receive under this section for any fiscal year is—

''(A) the number of children with disabilities in the State who are receiving special education and related services—

''(i) aged 3 through 5 if the State is eligible for a grant under section 619; and

''(ii) aged 6 through 21; multiplied by

''(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.

''(3) LIMITATION.—Notwithstanding subparagraphs (A) and (B) of paragraph (2), the maximum amount of the grant a State may receive under this section for a fiscal year may not be based on the number of children ages 3 through 17, inclusive, in excess of 13.5 percent of the number of all children in that age range in the State.

''(b) OUTLYING AREAS.—

''(1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than one percent, which shall be used to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21.

''(2) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas under this section.

''(c) SECRETARY OF THE INTERIOR.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (h).

''(d) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—After reserving funds for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

''(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in the subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

''(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

''(A)(i) Except as provided in subparagraph (B), the Secretary shall allocate—

''(I) to each State the amount it received for fiscal year 1999;

''(II) 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

''(III) 15 percent of those remaining funds to States on the basis of their relative populations of children described in subclause (II) who are living in poverty.

''(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

''(ii) No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount it received for fiscal year 1999; and

''(bb) one-third of one percent of the amount by which the amount appropriated under subsection (i) exceeds the amount appropriated under this section for fiscal year 1999;

''(II) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

''(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount it received for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

''(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(4) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of—

''(i) the amount it received for fiscal year 1999; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

''(B)(i) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount it received for fiscal year 1999.

''(ii) If the amount available is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

''(e) STATE-LEVEL ACTIVITIES.—

''(1) IN GENERAL.—

''(A) Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2), (3), and (4).

''(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

''(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

''(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

''(C) A State may use funds it retains under subparagraph (A) without regard to—

''(i) the prohibition on commingling of funds in section 612(a)(18)(B); and

''(ii) the prohibition on supplanting other funds in section 612(a)(18)(C).

''(2) STATE ADMINISTRATION.—

''(A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)—

''(i) each State may use not more than 20 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or $500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

''(ii) each outlying area may use up to 5 percent of the amount it receives under this section for any fiscal year or $35,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater.

''(B) Funds described in subparagraph (A) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

''(3) HIGH COST SPECIAL EDUCATION AND RELATED SERVICES.—Each State may use not more than 4 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year to establish and implement cost or risk sharing funds, consortia, or cooperatives to assist local educational agencies in providing high cost special education and related services.

''(4) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under paragraph (1) and does not use under paragraph (2) or (3) for any of the following:

''(A) Support and direct services, including technical assistance and personnel development and training.

''(B) Administrative costs of monitoring and complaint investigation.

''(C) To establish and implement the mediation and voluntary binding arbitration processes required by sections 612(a)(17) and 615(e), including providing for the costs of mediators, arbitrators, and support personnel.

''(D) To assist local educational agencies in meeting personnel shortages.

''(E) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart.

''(F) To support paperwork reduction activities, including expanding the appropriate use of technology in the IEP process under this part.

''(G) To develop and maintain a comprehensive, coordinated, prereferral educational support system for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who are not enrolled in special education but who need additional academic and behavioral support to succeed in a general education environment.

''(H) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

''(I) For subgrants to local educational agencies for the purposes described in paragraph (5)(A).

''(5)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR ACCOUNTABILITY.—In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than $100,000, to provide technical assistance and direct services to local educational agencies identified as being in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the basis, in whole or in part, of the assessment results of the disaggregated subgroup of students with disabilities, including providing professional development to special and regular education teachers, based on scientifically based research to improve educational instruction.

''(B) MAXIMUM SUBGRANT.—For each fiscal year, the amount referred to in subparagraph (A) is—

''(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by

''(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

''(6) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe—

''(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

''(B) how those amounts will be allocated among the activities described in this subsection to meet State priorities based on input from local educational agencies; and

''(C) the percentage of those amounts, if any, that will be distributed to local educational agencies by formula.

''(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (e) to local educational agencies, including public charter schools that operate as local educational agencies, in the State that have established their eligibility under section 613, for use in accordance with this part.

''(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—For each fiscal year for which funds are allocated to States under subsection (e), each State shall allocate funds under paragraph (1) as follows:

''(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.

''(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

''(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

''(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(3) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.

''(g) DEFINITIONS.—For the purpose of this section—

''(1) the term 'average per-pupil expenditure in public elementary and secondary schools in the United States' means—

''(A) without regard to the source of funds—

''(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia); plus

''(ii) any direct expenditures by the State for the operation of those agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year; and

''(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—

''(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—

''(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) for that fiscal year. Of the amount described in the preceding sentence—

''(i) 80 percent shall be allocated to such schools by July 1 of that fiscal year; and

''(ii) 20 percent shall be allocated to such schools by September 30 of that fiscal year.

''(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as 'BIA') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (2).

''(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

''(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

''(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

''(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

''(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures described in subparagraph (A);

''(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

''(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

''(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring, enforcement, and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

Section 616(a) shall apply to the information described in this paragraph.

''(3) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.—

''(A) IN GENERAL.—With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c).

''(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

''(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

''(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(E) ANNUAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior an annual report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

''(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

''(4) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services

to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

''(5) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(22), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

''(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

''(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

''(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

''(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

''(E) provide assistance in the preparation of information required under paragraph (2)(D).

''(6) ANNUAL REPORTS.—

''(A) IN GENERAL.—The advisory board established under paragraph (5) shall prepare and submit to the Secretary of the Interior and to the Congress an annual report containing a description of the activities of the advisory board for the preceding year.

''(B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated—

''(1) $11,074,398,000 for fiscal year 2004;
''(2) $13,374,398,000 for fiscal year 2005;
''(3) $15,746,302,000 for fiscal year 2006;
''(4) $17,918,205,000 for fiscal year 2007;
''(5) $20,090,109,000 for fiscal year 2008;
''(6) $22,262,307,000 for fiscal year 2009;
''(7) $25,198,603,000 for fiscal year 2010; and
''(8) such sums as may be necessary for fiscal year 2011 and each subsequent fiscal year.''.

SEC. 202. STATE ELIGIBILITY.

(a) IN GENERAL.—(1) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)) is amended in the matter preceding paragraph (1) by striking ''demonstrates to the satisfaction of'' and inserting ''reasonably demonstrates to''.

(2) Paragraphs (1) through (11) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)–(11)) are amended to read as follows:

''(1) FREE APPROPRIATE PUBLIC EDUCATION.—

''(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

''(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

''(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

''(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

''(I) were not actually identified as being a child with a disability under section 602(3) of this Act; or

''(II) did not have an individualized education program under this part.

''(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

''(3) CHILD FIND.—

''(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

''(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

''(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

''(5) LEAST RESTRICTIVE ENVIRONMENT.—

''(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

''(B) ADDITIONAL REQUIREMENT.—

''(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

''(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

''(6) PROCEDURAL SAFEGUARDS.—

''(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

''(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this Act will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

''(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614.

''(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(d) (relating to the confidentiality of records and information).

''(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).

''(10) CHILDREN IN PRIVATE SCHOOLS.—

''(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

''(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the area served by such agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

''(I) Amounts to be expended for the provision of those services (including direct services to parentally-placed children) by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

''(II) In calculating the proportionate share of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of children with disabilities parentally-placed in private schools as described in clause (iii), shall conduct a thorough and complete child-find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

''(III) Such services may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.

''(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this paragraph.

''(V) Each local educational agency maintains in its records and provides to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection.

''(ii) CHILD-FIND REQUIREMENT.—

''(I) IN GENERAL.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary and secondary schools.

''(II) EQUITABLE PARTICIPATION.—The child-find process must be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of such children.

''(III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children.

''(IV) COST.—The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local

education agency has met its obligations under clause (i).

''(V) COMPLETION PERIOD.—Such child-find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.

''(iii) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a state educational agency, shall consult with representatives of children with disabilities parentally-placed in private schools during the design and development of special education and related services for these children including—

''(I) the child-find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

''(II) the determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;

''(III) the consultation process among the district, private school officials, and parents of parentally-placed private school children with disabilities including how such process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services; and

''(IV) how, where, and by whom special education and related services will be provided for parentally-placed private school children, including a discussion of alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made.

''(iv) COMPLIANCE.—

''(I) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

''(II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

''(v) PROVISION OF SERVICES.—

''(I) DIRECTLY OR THROUGH CONTRACTS.—An agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and institutions.

''(II) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Special education and related services, including materials and equipment, shall be secular, neutral, and nonideological.

''(vi) PUBLIC CONTROL OF FUNDS.—

''(I) IN GENERAL.—The control of funds used to provide special education and related services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

''(II) PROVISION OF SERVICES.—The provision of services under this Act shall be provided—

''(aa) by employees of a public agency; or

''(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.

''(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

''(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

''(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies.

''(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

''(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

''(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

''(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

''(I) if—

''(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

''(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

''(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

''(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

''(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—

''(I) shall not be reduced or denied for failure to provide such notice if—

''(aa) the school prevented the parent from providing such notice;

''(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); or

''(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and

''(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

''(aa) the parent is illiterate or cannot write in English; or

''(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.

''(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—

''(A) IN GENERAL.—The State educational agency is responsible for ensuring that—

''(i) the requirements of this part are met; and

''(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

''(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

''(II) meet the educational standards of the State educational agency.

''(B) LIMITATION.—Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

''(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.''.

(3) Paragraphs (13) through (22) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)–(22)) are amended to read as follows:

''(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.

''(14) PERSONNEL STANDARDS.—

''(A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained.

''(B) STANDARDS DESCRIBED.—Such standards shall—

''(i) ensure that special education teachers who teach in core academic subjects are highly qualified in those subjects;

''(ii) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services in order to ensure that such individuals are qualified to provide such services; and

''(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.

''(C) INNOVATIVE STRATEGIES FOR PROFESSIONAL DEVELOPMENT.—The State educational agency encourages the development and use of research-based innovative strategies, such as strategies using technology, peer networks, and distance learning, to deliver intensive professional development programs for special and regular education teachers, administrators, principals, and related services personnel that—

''(i) improve educational results for students with disabilities; and

''(ii) are both cost-effective and easily accessible.

''(15) PERFORMANCE GOALS AND INDICATORS.—The State—

''(A) has established goals for the performance of children with disabilities in the State that—

''(i) promote the purposes of this Act, as stated in section 601(d);

''(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;

''(iii) address dropout rates, as well as such other factors as the State may determine; and

''(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;

''(B) has established performance indicators the State will use to assess progress toward achieving those goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965; and

''(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 1111(h) of the Elementary and Secondary Education Act of 1965.

''(16) PARTICIPATION IN ASSESSMENTS.—

''(A) IN GENERAL.—(i) All children with disabilities are included in all general State and district-wide assessment programs, including assessments described under title I of the Elementary and Secondary Education Act of 1965, with appropriate accommodations, where necessary and as indicated in their respective individualized education programs.

''(ii) The State (or, in the case of a district-wide assessment, the local educational agency) has developed and implemented guidelines for the provision of accommodations described in clause (i).

''(iii) The State (or, in the case of a district-wide assessment the local educational agency)—

''(I) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under clause (i); and

''(II) conducts those alternate assessments.

''(B) REPORTS.—The State educational agency (or, in the case of a district-wide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

''(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.

''(ii) The number of children with disabilities participating in alternate assessments.

''(iii) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information would not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

''(17) DISPUTE RESOLUTION.—The State has in effect systems of mediation and voluntary binding arbitration pursuant to section 615(e).

''(18) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—

''(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

''(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.

''(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

''(19) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

''(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

''(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one fiscal year at a time, if the Secretary determines that—

''(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

''(ii) the State meets the standard in paragraph (18)(C) of this section for a waiver of the requirement to supplement, and not to supplant, funds received under this part.

''(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

''(20) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

''(21) STATE ADVISORY PANEL.—

''(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

''(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

''(i) parents of children with disabilities (ages birth through 26);

''(ii) individuals with disabilities;

''(iii) teachers;

''(iv) representatives of institutions of higher education that prepare special education and related services personnel;

''(v) State and local education officials;

''(vi) administrators of programs for children with disabilities;

''(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

''(viii) representatives of private schools and public charter schools;

''(ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

''(x) representatives from the State juvenile and adult corrections agencies.

''(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities ages birth through 26.

''(D) DUTIES.—The advisory panel shall—

''(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

''(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

''(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

''(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

''(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

''(22) SUSPENSION AND EXPULSION RATES.—

''(A) IN GENERAL.—The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

''(i) among local educational agencies in the State; or

''(ii) compared to such rates for nondisabled children within such agencies.

''(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.''.

(4) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)–(22)) is amended by adding at the end the following:

''(23) INSTRUCTIONAL MATERIALS.—

''(A) IN GENERAL.—The State adopts the national instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.

''(B) PURCHASE REQUIREMENT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the State, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard.

''(C) DEFINITION.—For purposes of this paragraph, the term 'instructional materials' means printed textbooks and related core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by pupils in the classroom.

''(24) OVERIDENTIFICATION AND DISPROPORTIONALITY.—The State has in effect, consistent with the purposes of this Act and with section 618, policies and procedures designed to prevent the overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3).

''(25) PROHIBITION ON PSYCHOTROPIC MEDICATION.—The State educational agency develops and implements policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school or receiving services.''.

(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—Section 612(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(b)) is amended to read as follows:

''(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

''(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and

''(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).''.

(c) EXCEPTION FOR PRIOR STATE PLANS.—Section 612(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(c)) is amended to read as follows:

''(c) EXCEPTION FOR PRIOR STATE PLANS.—

''(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.

''(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State deems necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

''(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.''.

(d) APPROVAL BY THE SECRETARY.—Section 612(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(d)) is amended to read as follows:

''(d) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.

''(2) NOTICE AND HEARING.—The Secretary shall not make a final determination that a State is not eligible to receive a grant under this part until after providing the State—

''(A) with reasonable notice; and

''(B) with an opportunity for a hearing.''.

(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Section 612(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(e)) is amended to read as follows:

''(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.''.

SEC. 203. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

Section 613 of the Individuals with Disabilities Education Act (20 U.S.C. 1413) is amended to read as follows:

''SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

''(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency reasonably demonstrates to the State educational agency that it meets each of the following conditions:

''(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

''(2) USE OF AMOUNTS.—

''(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

''(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

''(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

''(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

''(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

''(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

''(ii) a decrease in the enrollment of children with disabilities;

''(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

''(I) has left the jurisdiction of the agency;

''(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

''(III) no longer needs such program of special education; or

''(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

''(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—

''(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds $4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for the previous fiscal year.

''(ii) If a local educational agency chooses to use the authority under clause (i), then the agency shall use those local funds to provide additional funding for programs under the Elementary and Secondary Education Act of 1965, including, but not limited to, programs that address student achievement, comprehensive school reform, literacy, teacher quality and professional development, school safety, before- and after- school learning opportunities.

''(iii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a), the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for that fiscal year, but only if it is authorized to do so by the State constitution or a State statute.

''(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—

''(i) the number of children with disabilities participating in the schoolwide program; multiplied by

''(ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by

''(II) the number of children with disabilities in the jurisdiction of that agency.

''(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612 of this Act and section 1119 of the Elementary and Secondary Education Act of 1965.

''(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

''(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

''(B) PREREFERRAL SERVICES.—To develop and implement a system of comprehensive coordinated prereferral education support services in accordance with subsection (f).

''(C) HIGH COST EDUCATION AND RELATED SERVICES.—To establish and implement cost or risk sharing funds, consortia, or cooperatives for the agency itself, or for local educational agencies working in consortium of which the local educational agency is a part, to pay for high cost special education and related services.

''(D) CASE MANAGEMENT AND ADMINISTRATION.—To purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel who are providing services described in the individualized education program of children with disabilities necessary to the implementation of those case management activities.

''(E) SUPPLEMENTAL EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES IN SCHOOLS DESIGNATED FOR IMPROVEMENT.—For the reasonable additional expenses (as determined by the local educational agency) of any necessary accommodations to allow children with disabilities who are being educated in a school identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) to be provided supplemental educational services under section 1116(e) of such Act on an equitable basis.

''(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS.—In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency—

''(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools, including providing supplemental and related services on site at the charter school when the local educational agency has a policy or practice of providing those services on site to its other schools; and

''(B) provides funds under this part to those schools on the same basis as it provides those funds to its other public schools (including, at the option of such agency, proportional distribution based on relative enrollment of children with disabilities at such charter schools), and at the same time as such agency distributes other Federal funds to those schools, consistent with the State's charter law.

''(6) PURCHASE OF INSTRUCTIONAL MATERIALS.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the local educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the local educational agency, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard described in section 612(a)(23).

''(7) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

''(8) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

''(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES.—The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6398) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

''(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

''(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

''(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.

''(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

''(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

''(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

''(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

''(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

''(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

''(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

''(1) JOINT ESTABLISHMENT.—

''(A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

''(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.

''(2) AMOUNT OF PAYMENTS.—If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(f) if such agencies were eligible for such payments.

''(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

''(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

''(B) be jointly responsible for implementing programs that receive assistance under this part.

''(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

''(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

''(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

''(ii) be carried out only by that educational service agency.

''(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

''(f) PREREFERRAL SERVICES.—

''(1) IN GENERAL.—A local educational agency may use not more than 15 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement comprehensive coordinated prereferral educational support services for students in kindergarten through grade 12 (with a particular emphasis on students in grades kindergarten through 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

''(2) ACTIVITIES.—In implementing comprehensive coordinated prereferral educational services under this subsection, a local educational agency may carry out the following activities:

''(A) Professional development (which may be provided by entities other than local educational agencies) for teachers to enable them to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction.

''(B) Providing educational evaluations, services, and supports, including scientifically based literacy instruction and speech therapy.

''(C) Providing behavioral evaluations and services and supports, including positive behavioral interventions and supports.

''(3) EXCLUSION.—Nothing in this subsection shall be construed to either limit or create a right to a free appropriate public education under this part.

''(4) REPORTING.—Each local educational agency that develops and maintains comprehensive coordinated prereferral educational support services under this subsection shall annually report to the State educational agency on—

''(A) the number of students served under this subsection; and

''(B) the number of students served under this subsection who subsequently receive special education and related services under this Act during the preceding 2-year period.

''(5) COORDINATION WITH THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

''(A) IN GENERAL.—Comprehensive coordinated prereferral educational support services provided under this subsection may be aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965, such as the Reading First program under subpart 1 of part B of title I of such Act, the Early Reading First program under subpart 2 of part B of title I of such Act, reading and math supports under part A of title I of such Act, and behavior intervention supports, that improve results for children with disabilities.

''(B) MAINTENANCE OF EFFORT.—Funds used under this section shall be used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965.

''(g) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

''(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children

with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be—

''(A) has not provided the information needed to establish the eligibility of such agency under this section;

''(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);

''(C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or

''(D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children.

''(2) MANNER AND LOCATION OF EDUCATION AND SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers appropriate. Such education and services shall be provided in accordance with this part.

''(h) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that—

''(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

''(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

''(i) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.''.

SEC. 204. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

Section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414) is amended to read as follows:

''SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

''(a) EVALUATIONS, PARENTAL CONSENT, AND REEVALUATIONS.—

''(1) INITIAL EVALUATIONS.—

''(A) IN GENERAL.—A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation, in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.

''(B) REQUEST FOR INITIAL EVALUATION.—Consistent with subparagraph (D), either a parent of a child, a State educational agency, other State agency as appropriate, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

''(C) PROCEDURES.—Such initial evaluation shall consist of procedures—

''(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and

''(ii) to determine the educational needs of such child.

''(D) PARENTAL CONSENT.—

''(i) IN GENERAL.—

''(I) CONSENT FOR INITIAL EVALUATION.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3)(A) or 602(3)(B) shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

''(II) CONSENT FOR SERVICES.—An agency that is responsible for making a free appropriate public education available to a child with a disability under this part shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.

''(ii) ABSENCE OF CONSENT.—

''(I) FOR INITIAL EVALUATION.—If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child through the procedures described in section 615, except to the extent inconsistent with State law relating to such parental consent.

''(II) FOR SERVICES.—If the parent of such child does not provide consent for services under clause (i)(II), or the parent fails to respond to a request to provide the consent, the local educational agency shall not provide special education and related services to the child through the procedures described in section 615.

''(III) EFFECT ON AGENCY OBLIGATIONS.—In any case for which there is an absence of consent for an initial evaluation under subclause (I), or for which there is an absence of consent for services under subclause (II)—

''(aa) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

''(bb) the local educational agency shall not be considered to be in violation of any requirement under this part (including the requirement to make available a free appropriate public education to the child) with respect to the lack of an initial evaluation of the child, an IEP meeting with respect to the child, or the development of an IEP under this section for the child.

''(E) RULE OF CONSTRUCTION.—The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

''(2) REEVALUATIONS.—

''(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—

''(i) if the local educational agency determines that the educational needs, including improved academic achievement, of the child warrant a reevaluation; or

''(ii) if the child's parent or teacher requests a reevaluation.

''(B) LIMITATION.—A reevaluation conducted under subparagraph (A) shall occur—

''(i) no more than once a year, unless the parent and the local educational agency agree otherwise; and

''(ii) at least once every three years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

''(b) EVALUATION PROCEDURES.—

''(1) NOTICE.—The local educational agency shall provide notice to the parent of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.

''(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

''(A) use multiple up-to-date measures and assessments to gather relevant functional, developmental, and academic information, including information provided by the parent, to assist in determining—

''(i) whether the child is a child with a disability; and

''(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum or, for preschool children, to participate in appropriate activities;

''(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

''(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

''(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

''(A) assessments and other evaluation measures used to assess a child under this section—

''(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;

''(ii) are provided and administered, to the extent practicable, in the language and form most likely to yield accurate academic and developmental data;

''(iii) are used for the purposes for which the assessments or measures are valid and reliable;

''(iv) are administered by trained and knowledgeable personnel; and

''(v) are administered in accordance with any instructions provided by the producer of such tests;

''(B) the child is assessed in all areas of suspected disability; and

''(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

''(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—

''(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

''(B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

''(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—

''(A) lack of scientifically based instruction practices and programs that contain the essential components of reading instruction (as that term is defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);

''(B) lack of instruction in math; or

''(C) limited English proficiency.

''(6) SPECIFIC LEARNING DISABILITIES.—

''(A) IN GENERAL.—Notwithstanding section 607 of this Act, when determining whether a child has a specific learning disability as defined under this Act, the local educational agency shall not be required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension,

written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

''(B) ADDITIONAL AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process which determines if a child responds to scientific, research-based intervention.

''(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—

''(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall—

''(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based local or State assessments, and classroom-based observations, and teacher and related services providers observations; and

''(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

''(i) whether the child is a child with a disability as defined in section 602(3), and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

''(ii) the present levels of academic achievement and related developmental needs of the child;

''(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

''(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

''(2) SOURCE OF DATA.—The local educational agency shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

''(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

''(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency—

''(A) shall notify the child's parents of—

''(i) that determination and the reasons for it; and

''(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and

''(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

''(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—A local educational agency shall evaluate a child with a disability in accordance with this section prior to graduation, and before determining that the child is no longer a child with a disability, only in instances where the IEP Team is not in agreement regarding the change in eligibility.

''(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

''(1) DEFINITIONS.—As used in this title:

''(A) INDIVIDUALIZED EDUCATION PROGRAM.—

''(i) IN GENERAL.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

''(I) a statement of the child's present levels of academic achievement, including—

''(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

''(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

''(cc) until the beginning of the 2005–2006 school year, a description of benchmarks or short-term objectives, except in the case of children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives shall continue to be included;

''(II) a statement of measurable annual goals designed to—

''(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

''(bb) meet the child's other educational needs that result from the child's disability;

''(III) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

''(aa) to advance appropriately toward attaining the annual goals;

''(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

''(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

''(IV) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (III)(cc);

''(V)(aa) a statement of any individual appropriate accommodations in the administration of State or districtwide assessments of student achievement that are necessary to measure the academic achievement of the child consistent with section 612(a)(16)(A)(ii); and

''(bb) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of—

''(AA) why that assessment is not appropriate for the child; and

''(BB) how the child will be assessed consistent with 612(a)(16)(A);

''(VI) the projected date for the beginning of the services and modifications described in subclause (III), and the anticipated frequency, location, and duration of those services and modifications;

''(VII)(aa) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

''(bb) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

''(cc) beginning at least 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(l); and

''(VIII) a statement of—

''(aa) how the child's progress toward the annual goals described in subclause (II) will be measured; and

''(bb) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of the sufficiency of their child's progress toward the annual goals described in subclause (II).

''(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to require—

''(I) that additional information be included in a child's IEP beyond what is required in this subsection; and

''(II) the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

''(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

''(i) the parents of a child with a disability;

''(ii) a regular education teacher of such child, but such teacher shall not be required to attend a meeting or part of a meeting of the IEP Team involving issues not related to the child's participation in the regular education environment, nor shall multiple regular education teachers, if the child has more than one regular education teacher, be required to attend a meeting, or part of a meeting, of the IEP team;

''(iii) at least 1 special education teacher, or where appropriate, at least 1 special education provider of such child;

''(iv) a representative of the local educational agency who—

''(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

''(II) is knowledgeable about the general education curriculum; and

''(III) is knowledgeable about the availability of resources of the local educational agency;

''(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

''(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

''(vii) whenever appropriate, the child with a disability.

''(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

''(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

''(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2 year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

''(i) consistent with State policy; and

''(ii) agreed to by the agency and the child's parents.

''(3) DEVELOPMENT OF IEP.—

''(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

''(i) the results of the initial evaluation or most recent evaluation of the child;

''(ii) the academic and developmental needs of the child;

''(iii) the strengths of the child; and

''(iv) the concerns of the parents for enhancing the education of their child.

''(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

''(i) in the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

''(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

''(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

''(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

''(v) consider whether the child needs assistive technology devices and services.

''(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team pursuant to paragraph (1)(B)(ii), shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(III).

''(D) IEP TEAM ATTENDANCE.—The parent of a child with a disability and the local educational agency may jointly excuse any member of the IEP Team from attending all or part of an IEP meeting if they agree that the member's attendance is not necessary. The IEP Team shall obtain the member's input prior to an IEP meeting from which the member is excused.

''(E) AGREEMENT ON MEETING.—In making changes to a child's IEP after the annual IEP meeting, the parent of a child with a disability and the local educational agency may agree not to reconvene the IEP team and instead develop a written document to amend or modify the child's current IEP.

''(F) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage the consolidation of IEP Team meetings for a child.

''(G) AMENDMENTS.—Changes to the IEP may be made either by the entire IEP Team or, as provided in subparagraph (E), by amending the IEP rather than by redrafting the entire IEP.

''(4) REVIEW AND REVISION OF IEP.—

''(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

''(i) reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

''(ii) revises the IEP as appropriate to address—

''(I) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;

''(II) the results of any reevaluation conducted under this section;

''(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);

''(IV) the child's anticipated needs; or

''(V) other matters.

''(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, if a member of the IEP Team, shall, consistent with this section, participate in the review and revision of the IEP of the child.

''(5) MULTI-YEAR IEP.—

''(A) DEVELOPMENT.—The local educational agency may offer to the parent of a child with a disability the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to cover the natural transition points for the child. With the consent of the parent, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the appropriate multi-year period, which includes a statement of—

''(i) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

''(ii) measurable annual goals for determining progress toward meeting the goals described in clause (i).

''(B) REVIEW AND REVISION OF MULTI-YEAR IEP.—

''(i) REQUIREMENT.—The IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP at each of the child's natural transition points.

''(ii) STREAMLINED ANNUAL REVIEW PROCESS.—In years other than a child's natural transition points, the local educational agency shall ensure that the IEP Team—

''(I) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child are being achieved; and

''(II) amends the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP.

''(iii) COMPREHENSIVE REVIEW PROCESS.—If the IEP Team determines, on the basis of the review under clause (i), that the child is not making sufficient progress toward the goals described in subparagraph (A), the local educational agency shall ensure that the IEP Team reviews the IEP under paragraph (4), within 30 calendar days.

''(iv) PARENTAL PREFERENCE.—At the request of the parent, the IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP rather than a streamlined annual review under clause (ii).

''(C) DEFINITION.—As used in this paragraph, the term 'natural transition points' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, and from high school grades to post-secondary activities, but in no case longer than 3 years.

''(6) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

''(7) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

''(A) IN GENERAL.—The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

''(i) The requirements contained in section 612(a)(16) and paragraph (1)(A)(i)(V) of this subsection (relating to participation of children with disabilities in general assessments).

''(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VII) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

''(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

''(e) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

''(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.—When conducting IEP team meetings and placement meetings pursuant to this section and 615, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.''.

SEC. 205. PROCEDURAL SAFEGUARDS.

(a) ESTABLISHMENT OF PROCEDURES.—Section 615(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(a)) is amended to read as follows:

''(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.''.

(b) TYPES OF PROCEDURES.—Section 615(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(b)) is amended to read as follows:

''(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

''(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain as appropriate an independent educational evaluation of the child;

''(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents;

''(3) written prior notice to the parents of the child whenever such agency—

''(A) proposes to initiate or change; or

''(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child;

''(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

''(5) an opportunity for mediation and voluntary binding arbitration, in accordance with subsection (e);

''(6) an opportunity to present complaints—

''(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

''(B) which set forth a violation that occurred not more than one year before the complaint is filed;

''(7)(A) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

''(i) to the local educational agency or State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)), in the complaint filed under paragraph (6); and

''(ii) that shall include—

''(I) the name of the child, the address of the residence of the child (or, in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child), and the name of the school the child is attending;

''(II) a description of the specific issues regarding the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

''(III) a proposed resolution of the problem to the extent known and available to the parents at the time;

''(B) a requirement that a parent of a child with a disability may not have a due process hearing until the parent, or the attorney representing the child, files a notice that meets the requirements of this paragraph; and

''(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).''.

(c) CONTENT OF PRIOR WRITTEN NOTICE.—Section 615(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(c)) is amended to read as follows:

''(c) CONTENT OF PRIOR WRITTEN NOTICE.—The notice required by subsection (b)(3) shall include—

''(1) a description of the action proposed or refused by the agency;

''(2) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

''(3) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

''(4) sources for parents to contact to obtain assistance in understanding the provisions of this part.''.

(d) PROCEDURAL SAFEGUARDS NOTICE.—Section 615(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(d)) is amended to read as follows:

''(d) PROCEDURAL SAFEGUARDS NOTICE.—

''(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum—

''(A) upon initial referral or parental request for evaluation;

''(B) annually, at the beginning of the school year; and

''(C) upon written request by a parent.

''(2) CONTENTS.—The procedural safeguards notice shall include a description of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

''(A) independent educational evaluation;

''(B) prior written notice;

''(C) parental consent;

''(D) access to educational records;

''(E) opportunity to present complaints;

''(F) the child's placement during pendency of due process proceedings;

''(G) procedures for students who are subject to placement in an interim alternative educational setting;

''(H) requirements for unilateral placement by parents of children in private schools at public expense;

''(I) mediation, early dispute resolution, and voluntary binding arbitration;

''(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

''(K) civil actions; and

''(L) attorneys' fees.''.

(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—Section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)) is amended to read as follows:

''(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—

''(1) MEDIATION.—

''(A) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

''(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

''(i) The procedures shall ensure that the mediation process—

''(I) is voluntary on the part of the parties;

''(II) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and

''(III) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

''(ii) A local educational agency or a State agency may establish procedures to offer to parents who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

''(I) a parent training and information center in the State established under section 672; or

''(II) an appropriate alternative dispute resolution entity;

to encourage the use, and explain the benefits, of the mediation process to the parents.

''(iii) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

''(iv) The State shall bear the cost of the mediation process, including the costs of meetings described in clause (ii).

''(v) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

''(vi) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

''(vii) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

''(2) VOLUNTARY BINDING ARBITRATION.—

''(A) IN GENERAL.—A State educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through voluntary binding arbitration, which shall be available when a hearing is requested under subsection (f) or (j).

''(B) REQUIREMENTS.—Such procedures shall meet the following requirements:

''(i) The procedures shall ensure that the voluntary binding arbitration process—

''(I) is voluntarily and knowingly agreed to in writing by the parties; and

''(II) is conducted by a qualified and impartial arbitrator.

''(ii) A local educational agency or a State agency shall ensure that parents who choose to use voluntary binding arbitration understand that the process is in lieu of a due process hearing under subsection (f) or (j) and that the decision made by the arbitrator is final, unless there is fraud by a party or the arbitrator or misconduct on the part of the arbitrator.

''(iii) The parties shall jointly agree to use an arbitrator from a list that the State shall maintain of individuals who are qualified arbitrators and knowledgeable in laws and regulations relating to the provision of special education and related services.

''(iv) The arbitration shall be conducted according to State law on arbitration or, if there is no such applicable State law, in a manner consistent with the Revised Uniform Arbitration Act.

''(v) The voluntary binding arbitration shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.''.

(f) IMPARTIAL DUE PROCESS HEARING.—Section 615(f) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)) is amended to read as follows:

''(f) IMPARTIAL DUE PROCESS HEARING.—

''(1) IN GENERAL.—

''(A) ACCESS TO HEARING.—Whenever a complaint has been received under subsection (b)(6) or (j) of this section, the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency.

''(B) RESOLUTION SESSION.—

''(i) IN GENERAL.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents—

''(I) within 15 days of receiving notice of the parents' complaint; and

''(II) where the parents of the child discuss their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint;

unless the parents and the local educational agency agree in writing to waive such meeting.

''(ii) DUE PROCESS HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing shall occur in accordance with subparagraph (A).

''(iii) DEFINITION OF MEETING.—A meeting conducted pursuant to clause (i) shall not be considered—

''(I) a meeting convened as a result of an administrative hearing or judicial action; or

''(II) an administrative hearing or judicial action for purposes of subsection (h)(3).

''(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

''(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

''(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

''(3) LIMITATION ON HEARING.—

''(A) HEARING OFFICER.—A hearing conducted pursuant to paragraph (1)(A) may not be conducted by—

''(i) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

''(ii) any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.

''(B) SUBJECT MATTER OF HEARING.—The parents of the child shall not be allowed to raise issues at the due process hearing that were not raised in the complaint or discussed during the meeting conducted pursuant to subparagraph (1)(B), unless the local educational agency agrees otherwise.

''(C) DECISION OF HEARING OFFICER.—A decision made by a hearing officer must be based on a determination of whether or not the child received a free appropriate public education.''.

(g) APPEAL.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by striking subsection (g).

(h) SAFEGUARDS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (h) as subsection (g); and

(2) by amending subsection (g) (as redesignated) to read as follows:

''(g) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (j) shall be accorded—

''(1) the right to be represented by counsel and by non-attorney advocates and to be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities;

''(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

''(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

''(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(d)) (relating to the confidentiality of data, information, and records).''.

(i) ADMINISTRATIVE PROCEDURES.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (i) as subsection (h); and

(2) in subsection (h) (as redesignated)—

(A) in paragraph (1)—

(i) by striking ''IN GENERAL.—'' and all that follows through ''A decision made in a hearing'' and inserting ''IN GENERAL.—A decision made in a hearing'';

(ii) by striking ''(k)'' and inserting ''(j)'';

(iii) by striking ''subsection (g) and''; and

(iv) by striking subparagraph (B);

(B) in paragraph (2)(A), by striking ''subsection (f) or (k) who does not have the right to an appeal under subsection (g)'' and inserting ''subsection (f) or (j)''; and

(C) in paragraph (3), by amending subparagraph (C) to read as follows:

''(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—

''(i) IN GENERAL.—Fees awarded under this paragraph shall be based on rates determined by the Governor of the State (or other appropriate State official) in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

''(ii) NOTICE.—The Governor of the State (or other appropriate State official) shall make available to the public on an annual basis the rates described in clause (i).''.

(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (j) as subsection (i); and

(2) by amending subsection (i) (as redesignated) to read as follows:

''(i) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (j)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.''.

(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (k) as subsection (j); and

(2) by amending subsection (j) (as redesignated) to read as follows:

''(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

''(1) AUTHORITY OF SCHOOL PERSONNEL.—

''(A) IN GENERAL.—School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities).

''(B) ADDITIONAL AUTHORITY.—Subject to subparagraph (C), and notwithstanding any other provision of this Act, school personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP, for not more than 45 school days (to the extent such alternative and such duration would be applied to children without disabilities, and which may include consideration of unique circumstances on a case-by-case basis), except that the change in placement may last beyond 45 school days if required by State law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the schools under the jurisdiction of the local educational agency.

''(C) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (B) shall—

''(i) continue to receive educational services selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

''(ii) continue to receive behavioral intervention services designed to address the behavior violation so that it does not recur.

''(2) DETERMINATION OF SETTING.—The alternative educational setting described in paragraph (1)(B) shall be determined by the IEP Team.

''(3) PARENT APPEAL.—

''(A) IN GENERAL.—If the parent of a child with a disability disagrees with any decision regarding placement or punishment under this section, the parent may request a hearing.

''(B) AUTHORITY OF HEARING OFFICER.—If a parent of a child with a disability disagrees with a decision regarding placement of the child or punishment of the child under this section, including duration of the punishment, the hearing officer may determine whether the decision regarding such action was appropriate.

''(4) PLACEMENT DURING APPEALS.—When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(B) to challenge the interim alternative educational setting or the violation of the code of student conduct policy, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(B), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.

''(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

''(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct policy, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

''(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

''(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

''(ii) the parent of the child has requested an evaluation of the child pursuant to section 614; or

''(iii) the teacher of the child, or other personnel of the local educational agency, has expressed concern in writing about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.

''(C) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

''(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

''(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

''(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

''(A) IN GENERAL.—Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

''(B) TRANSMISSION OF RECORDS.—An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.''.

(l) RULE OF CONSTRUCTION.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by redesignating subsection (l) as subsection (k).

(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (m) as subsection (l); and

(2) by amending subsection (l) (as redesignated) to read as follows:

''(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

''(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

''(A) the public agency shall provide any notice required by this section to both the individual and the parents;

''(B) all other rights accorded to parents under this part transfer to the child;

''(C) the agency shall notify the individual and the parents of the transfer of rights; and

''(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

''(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.''.

SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.

Section 616 of the Individuals with Disabilities Education Act (20 U.S.C. 1416) is amended—

(1) by amending the heading to read as follows:

''SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.'';

(2) by redesignating subsections (a) through (c) as subsections (e) through (g), respectively; and

(3) by inserting before subsection (e) (as redesignated) the following:

''(a) FEDERAL MONITORING.—

''(1) IN GENERAL.—The Secretary shall monitor implementation of this Act.

''(2) FOCUSED MONITORING.—The primary focus of Federal monitoring activities shall be to improve educational results for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

''(b) INDICATORS.—

''(1) REQUIRED INDICATORS.—The Secretary shall examine relevant information and data related to States' progress on improving educational results for children with disabilities by reviewing—

''(A) achievement results of children with disabilities on State or district assessments, including children with disabilities taking State or district assessments with appropriate accommodations;

''(B) achievement results of children with disabilities on State or district alternate assessments;

''(C) graduation rates of children with disabilities and graduation rates of children with disabilities as compared to graduation rates of nondisabled children; and

''(D) dropout rates for children with disabilities and dropout rates of children with disabilities as compared to dropout rates of nondisabled children.

''(2) PERMISSIVE INDICATORS.—The Secretary also may establish other priorities for review of relevant information and data, including data provided by States under section 618, and also including the following:

''(A) PRIORITIES FOR THIS PART.—The Secretary may give priority to monitoring on the following areas under this part:

''(i) Provision of educational services in the least restrictive environment, including—

''(I) education of children with disabilities with nondisabled peers to the maximum extent appropriate;

''(II) provision of appropriate special education and related services;

''(III) access to the general curriculum with appropriate accommodations;

''(IV) provision of appropriate services to students whose behavior impedes learning; and

''(V) participation and performance of children with disabilities on State and local assessments, including alternate assessments.

''(ii) Secondary transition, including the extent to which youth exiting special education are prepared for post-secondary education, employment, and adult life, and are participants in appropriate transition planning while in school.

''(iii) State exercise of general supervisory authority, including effective monitoring and use of complaint resolution, mediation, and voluntary binding arbitration.

''(B) PRIORITIES FOR PART C.—The Secretary may give priority to monitoring on the following areas under part C:

''(i) Child find and public awareness to support the identification, evaluation and assessment of all eligible infants and toddlers, including the provision of culturally relevant materials to inform and promote referral.

''(ii) Provision of early intervention services in natural environments, evaluation and assessment to identify child needs and family needs related to enhancing the development of the child, and provision of appropriate early intervention services in natural environments to meet the needs of individual children.

''(iii) Effective early childhood transition to services under this part.

''(iv) State exercise of general supervisory authority, including—

''(I) effective monitoring and use of other mechanisms such as complaint resolution;

''(II) implementation of mediation and voluntary binding arbitration; and

''(III) coordination of parent and child protections.

''(3) DATA COLLECTION AND ANALYSIS.—The Secretary shall review the data collection and analysis capacity of States to ensure that data and information is collected, analyzed, and accurately reported to the Secretary. The Secretary may provide technical assistance to improve the capacity of States to meet data requirements.

''(c) ADDITIONAL PRIORITIES.—

''(1) IN GENERAL.—The Secretary may develop additional priorities for monitoring the effective implementation of this Act.

''(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on any additional priority proposed under this part or part C.

''(3) DATE OF ENFORCEMENT.—The Secretary may not begin to enforce a new priority until one year from the date of publication of the priority in the Federal Register as a final rule.

''(d) COMPLIANCE.—

''(1) IN GENERAL.—The Secretary shall review State data to determine whether the State is in compliance with the provisions of this Act.

''(2) LACK OF PROGRESS.—If after examining data, as provided in section (b) or (c), the Secretary determines that a State is not making satisfactory progress in improving educational results for children with disabilities, the Secretary shall take one or more of the following actions:

''(A) Advise the State of available sources of technical assistance that may help the State address the lack of progress, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies. Such technical assistance may include—

''(i) the provision of advice by experts to address the areas of noncompliance, including explicit plans for ensuring compliance within a specified period of time;

''(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

''(iii) designating and using distinguished superintendents, principals, special education administrators, regular education teachers, and special education teachers to provide advice, technical assistance, and support; and

''(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D, and private providers of scientifically based technical assistance.

''(B) Direct the use of State level funds for technical assistance on the area or areas of unsatisfactory performance.

''(C) Each year withhold at least 20 but no more than 50 percent of the State's funds under section 611(e), after providing the State the opportunity to show cause why the withholding should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

''(3) SUBSTANTIAL NON-COMPLIANCE.—

''(A) INITIAL DETERMINATION.—When the Secretary determines that a State is not in substantial compliance with any provision of this part, the Secretary shall take one or more of the following actions:

''(i) Request that the State prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

''(ii) Identify the State as a high-risk grantee and impose special conditions on the State's grant.

''(iii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within one year.

''(iv) Recovery of funds under section 452 of the General Education Provisions Act.

''(v)(I) Withholding of payments under subsection (e).

''(II) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

''(B) CONTINUED NON-COMPLIANCE.—

''(i) SECRETARIAL ACTION.—If the Secretary has imposed special conditions on a grant under subparagraph (A)(ii) for substantially the same compliance problems for three consecutive years, and at the end of the third year the State has not demonstrated that the violation has been corrected to the satisfaction of the Secretary, the Secretary shall take such additional enforcement actions as the Secretary determines to be appropriate from among those actions specified in clauses (iii) through (v) of subparagraph (A).

''(ii) REPORT TO CONGRESS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph on the specific action taken and the reasons why enforcement action was taken.''.

SEC. 207. ADMINISTRATION.

Section 617 of the Individuals with Disabilities Education Act (20 U.S.C. 1417) is amended to read as follows:

''SEC. 617. ADMINISTRATION.

''(a) RESPONSIBILITIES OF SECRETARY.—In carrying out this part, the Secretary shall—

''(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, the State in matters relating to—

''(A) the education of children with disabilities; and

''(B) carrying out this part; and

''(2) provide short-term training programs and institutes.

''(b) PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this Act may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, curriculum, or program of instruction.

''(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.

''(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618 and 661 without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.

''(e) PILOT PROGRAM.—The Secretary is authorized to grant waivers of paperwork requirements under this part for a period of time not to exceed 4 years with respect to not more than 10 States based on proposals submitted by States for addressing reduction of paperwork and non-instructional time spent fulfilling statutory and regulatory requirements.

''(f) REPORT.—The Secretary shall include in the annual report to Congress under section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under subsection (e)—

''(1) in reducing the paperwork burden on teachers, administrators, and related services providers and non-instructional time spent by teachers in complying with this part, including any specific recommendations for broader implementation; and

''(2) in enhancing longer-term educational planning, improving positive outcomes for children with disabilities, promoting collaboration between IEP Team members, and ensuring satisfaction of family members, including any specific recommendations for broader implementation.

''(g) MODEL FORMS.—Not later than the date on which the Secretary publishes final regulations to implement this part (as amended by the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall publish and disseminate widely to States, local educational agencies, and parent training and information centers—

''(1) a model individualized education program form;

''(2) a model form for the procedural safeguards notice described in section 615(d); and

''(3) a model form for the prior written notice described in section 615(b)(3);

that would be consistent with the requirements of this part and be deemed to be sufficient to meet such requirements.''.

SEC. 208. PROGRAM INFORMATION.

Section 618 of the Individuals with Disabilities Education Act (20 U.S.C. 1418) is amended to read as follows:

''SEC. 618. PROGRAM INFORMATION.

''(a) IN GENERAL.—Each State and local educational agency that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—

''(1)(A) on—

''(i) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

''(ii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;

''(iii) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

''(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

''(v) the number and percentage of children with disabilities, by race and ethnicity, and disability category who begin secondary school and graduate with a regular high school diploma, through the age of 21;

''(vi) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;

''(vii) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

''(viii)(I) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who under subparagraph (A) or (B) of section 615(j)(1), are removed to an interim alternative educational setting;

''(II) the acts or items precipitating those removals;

''(III) the number of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and

''(IV) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;

''(ix) the number of complaints resolved through voluntary binding arbitration; and

''(x) the number of mediations held and the number of settlement agreements reached through mediation;

''(B) on the number and percentage of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C; and

''(C) on the number of children served with funds under section 613(f); and

''(2) on any other information that may be required by the Secretary.

''(b) SAMPLING.—The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

''(c) DISPROPORTIONALITY.—

''(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

''(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);

''(B) the placement in particular educational settings of such children; and

''(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

''(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be—

''(A) shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act;

''(B) shall require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated prereferral support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

''(C) shall require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).''.

SEC. 209. PRESCHOOL GRANTS.

Section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1419) is amended to read as follows:

''SEC. 619. PRESCHOOL GRANTS.

''(a) IN GENERAL.—The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this part—

''(1) to children with disabilities aged 3 through 5, inclusive; and

''(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

''(b) ELIGIBILITY.—A State shall be eligible for a grant under this section if such State—

''(1) is eligible under section 612 to receive a grant under this part; and

''(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

''(c) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—The Secretary shall allocate funds among the States in accordance with paragraph (2) or (3), as appropriate.

''(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A)(i) Except as provided in subparagraph (B), the Secretary shall—

''(I) allocate to each State the amount it received for fiscal year 1997;

''(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and

''(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.

''(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) No State's allocation shall be less than its allocation for the preceding fiscal year.

''(ii) No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount it received for fiscal year 1997; and

''(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for fiscal year 1997;

''(II) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount it received for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated from the preceding fiscal year.

''(iii) Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount it received for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated.

''(C) If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(3) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

''(i) the amount it received for fiscal year 1997; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

''(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

''(d) RESERVATION FOR STATE ACTIVITIES.—

''(1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

''(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

''(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

''(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

''(e) STATE ADMINISTRATION.—

''(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) for any fiscal year.

''(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

''(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under subsection (d) and does not use for administration under subsection (e)—

''(1) for support services (including establishing and implementing the mediation and voluntary binding arbitration process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

''(2) for direct services for children eligible for services under this section;

''(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart; or

''(4) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.

''(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

''(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

''(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

''(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

''(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(2) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

''(h) PART C INAPPLICABLE.—Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

''(i) DEFINITION.—For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 2004 and such sums as may be necessary for each subsequent fiscal year.''.

TITLE III—INFANTS AND TODDLERS WITH DISABILITIES

SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 631 through 638 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1438) are amended to read as follows:

''SEC. 631. FINDINGS AND POLICY.

''(a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

''(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

''(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

''(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

''(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

''(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

''(b) POLICY.—It is the policy of the United States to provide financial assistance to States—

''(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

''(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

''(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

''(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

''SEC. 632. DEFINITIONS.

''As used in this part:

''(1) AT-RISK INFANT OR TODDLER.—The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

''(2) COUNCIL.—The term 'council' means a State interagency coordinating council established under section 641.

''(3) DEVELOPMENTAL DELAY.—The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

''(4) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means developmental services that—

''(A) are provided under public supervision;

''(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

''(C) are designed to address family-identified priorities and concerns that are determined by individualized family service plan team to relate to enhancing the child's development in any one or more of the following areas—

''(i) physical development;

''(ii) cognitive development;

''(iii) communication development;

''(iv) social or emotional development; or

''(v) adaptive development;

''(D) meet the standards of the State in which they are provided, including the requirements of this part;

''(E) include—

''(i) family training, family therapy, counseling, and home visits;

''(ii) special instruction;

''(iii) speech-language pathology and audiology services;

''(iv) occupational therapy;

''(v) physical therapy;

''(vi) psychological services;

''(vii) service coordination services;

''(viii) medical services only for diagnostic or evaluation purposes;

''(ix) early identification, screening, and assessment services;

''(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

''(xi) social work services;

''(xii) vision services;

''(xiii) assistive technology devices and assistive technology services; and

''(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

''(F) are provided by qualified personnel, including—

''(i) special educators;

''(ii) speech-language pathologists and audiologists;

''(iii) occupational therapists;

''(iv) physical therapists;

''(v) psychologists;

''(vi) social workers;

''(vii) nurses;

''(viii) registered dietitians;

''(ix) family therapists;

''(x) vision specialists, including ophthalmologists and optometrists;

''(xi) orientation and mobility specialists; and

''(xii) pediatricians and other physicians;

''(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

''(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

''(5) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability'—

''(A) means an individual under 3 years of age who needs early intervention services because the individual—

''(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

''(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;

''(B) may also include, at a State's discretion, at-risk infants and toddlers; and

''(C) may also include, at a State's discretion, a child aged 3 through 5, who previously received services under this part and who is eligible for services under section 619, if—

''(i) services provided to this age group under this part include an educational component that promotes school readiness and incorporates scientifically based pre-literacy, language, and numeracy skills; and

''(ii) parents are provided a written notification of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs assisted under section 619.

''SEC. 633. GENERAL AUTHORITY.

''The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

''SEC. 634. ELIGIBILITY.

''In order to be eligible for a grant under section 633, a State shall provide assurances to the Secretary that the State—

''(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

''(2) has in effect a statewide system that meets the requirements of section 635.

''SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

''(a) IN GENERAL.—A statewide system described in section 633 shall include, at a minimum, the following components:

''(1) A definition of the term 'developmental delay' that will be used by the State in carrying out programs under this part.

''(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

''(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

''(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

''(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

''(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619 of this Act, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers.

''(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

''(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State that—

''(A) shall include—

''(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

''(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and

''(iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under part B (other than section 619), to a preschool program receiving funds under section 619, or another appropriate program; and

''(B) may include—

''(i) training personnel to work in rural and inner-city areas; and

''(ii) training personnel in the emotional and social development of young children.

''(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of standards that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services.

''(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

''(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

''(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

''(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

''(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

''(E) the resolution of intra- and interagency disputes; and

''(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

''(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

''(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

''(13) Procedural safeguards with respect to programs under this part, as required by section 639.

''(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

''(15) A State interagency coordinating council that meets the requirements of section 641.

''(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—

''(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

''(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

''(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law within 3 years.

''(c) TREATMENT OF CHILDREN AGED 3 THROUGH 5.—

''(1) IN GENERAL.—If a State includes children described in section 632(5)(C) in the system described in section 633, the State shall be considered to have fulfilled any obligation under part

B with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

''SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

''(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

''(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

''(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

''(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the child's entrance in school.

''(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

''(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

''(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

''(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

''(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

''(3) a statement of the major goals expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the goals is being made and whether modifications or revisions of the goals or services are necessary;

''(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

''(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

''(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

''(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

''(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

''(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

''SEC. 637. STATE APPLICATION AND ASSURANCES.

''(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

''(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

''(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

''(3) information demonstrating eligibility of the State under section 634, including a description of services to be provided to infants and toddlers with disabilities and their families through the system;

''(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services;

''(5) a description of the State policies and procedures requiring the referral of a child under the age 3 who is involved in a substantiated case of child abuse or neglect consistent with section 635(a)(5) or who is born and identified with fetal alcohol effects, fetal alcohol syndrome, neonatal intoxication, or neonatal physical or neurological harm resulting from prenatal drug exposure;

''(6) a description of the uses for which funds will be expended in accordance with this part;

''(7) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

''(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

''(9) a description of the policies and procedures to be used—

''(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

''(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

''(ii) the lead agency designated or established under section 635(a)(10) will—

''(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

''(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

''(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

''(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

''(C) to establish a transition plan;

''(10) a description of State efforts to promote collaboration between Early Head Start programs, child care, and services under part C of this Act; and

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

''(b) ASSURANCES.—The application described in subsection (a)—

''(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

''(2) shall contain an assurance that the State will comply with the requirements of section 640;

''(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

''(4) shall provide for—

''(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

''(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

''(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

''(A) will not be commingled with State funds; and

''(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

''(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

''(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part; and

''(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

''(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

''(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this part (as in effect before the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

''(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

''(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

''(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

''(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

''(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

''SEC. 638. USES OF FUNDS.

''In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

''(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

''(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

''(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and

''(4) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

''(A) identifying and evaluating at-risk infants and toddlers;

''(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

''(C) conducting periodic followup on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.''.

SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 641 through 645 of the Individuals with Disabilities Education Act (20 U.S.C. 1441–1445) are amended to read as follows:

''SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

''(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

''(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The council shall be composed as follows:

''(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

''(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

''(C) STATE LEGISLATURE.—At least one member shall be from the State legislature.

''(D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation.

''(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

''(F) AGENCY FOR PRESCHOOL SERVICES.—At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

''(G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance.

''(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

''(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.

''(J) MENTAL HEALTH AGENCY.—At least one representative from the State agency responsible for children's mental health.

''(K) CHILD WELFARE AGENCY.—At least one representative from the State agency responsible for child protective services.

''(L) OFFICE OF THE COORDINATOR FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—At least one representative designated by the Office of the Coordinator.

''(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

''(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

''(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

''(e) FUNCTIONS OF COUNCIL.—

''(1) DUTIES.—The council shall—

''(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

''(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

''(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

''(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

''(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

''(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

''SEC. 642. FEDERAL ADMINISTRATION.

''Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

''(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

''(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

''(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

''SEC. 643. ALLOCATION OF FUNDS.

''(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

''(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

''(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

''(b) PAYMENTS TO INDIANS.—

''(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

''(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total number of such children served by all tribes, tribal organizations, or consortia.

''(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

''(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for

parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(5) REPORTS.—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make an annual report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the year following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on an annual basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

''(6) PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

''(c) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

''(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3) no State shall receive an amount under this section for any fiscal year that is less than the greater of—

''(A) one-half of one percent of the remaining amount described in paragraph (1); or

''(B) $500,000.

''(3) RATABLE REDUCTION.—

''(A) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

''(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

''(4) DEFINITIONS.—For the purpose of this subsection—

''(A) the terms 'infants' and 'toddlers' mean children under 3 years of age; and

''(B) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(d) REALLOTMENT OF FUNDS.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

"SEC. 644. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $447,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.''.

TITLE IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES.

Part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) is amended to read as follows:

"PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

"SEC. 651. FINDINGS.

''The Congress finds the following:

''(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling them to lead productive and independent adult lives.

''(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations, to develop and implement comprehensive strategies that improve educational results for children with disabilities.

''(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.

''(4) An effective educational system serving students with disabilities should—

''(A) maintain high academic standards and clear achievement goals for children, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

''(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

''(C) promote transition services, as described in section 602(31), and coordinate State and local education, social, health, mental health, and other services, to address the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

''(5) The availability of an adequate number of qualified personnel is critical in order to serve effectively children with disabilities, fill leadership positions in administrative and direct-service capacities, provide teacher training, and conduct high-quality research to improve special education.

''(6) High-quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.

''(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

''(8) Continued support is essential for the development and maintenance of a coordinated and high-quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.

''(9) A comprehensive research agenda should be established and pursued to promote the highest quality and rigor in research on special education and related services, and to address the full range of issues facing children with disabilities, parents of children with disabilities, school personnel, and others.

''(10) Technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

''(11) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

''(12) Parent training and information activities assist parents of a child with a disability in dealing with the multiple pressures of parenting such a child and are of particular importance in—

''(A) creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between such parents and schools, encouraging dispute resolution at the earliest point in time possible, and discouraging the escalation of an adversarial process between such parents and schools;

''(B) ensuring the involvement of such parents in planning and decision-making with respect to early intervention, educational, and transitional services;

''(C) achieving high-quality early intervention, educational, and transitional results for children with disabilities;

''(D) providing such parents information on their rights, protections, and responsibilities under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

''(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 602(31);

''(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

''(G) supporting those parents who may have limited access to services and supports due to economic, cultural, or linguistic barriers.

''(13) Support is needed to improve technological resources and integrate technology into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

"Subpart 1—State Professional Development Grants

"SEC. 652. PURPOSE.

''The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for professional development in early intervention, educational, and related and transition services in order to improve results for children with disabilities.

"SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.

''(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a period of not less than 1 year and not more than 5 years.

''(b) PARTNERS.—

''(1) REQUIRED PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall enter into a partnership agreement with local educational agencies, at least one institution of higher education in the State, and other State agencies involved in, or concerned with, the education of children with disabilities.

''(2) OPTIONAL PARTNERS.—In addition, a State educational agency may enter into a partnership agreement with any of the following:

''(A) The Governor.

''(B) Parents of children with disabilities ages birth through 26.

''(C) Parents of nondisabled children ages birth through 26.

''(D) Individuals with disabilities.

''(E) Organizations representing individuals with disabilities and their parents, such as parent training and information centers.

''(F) Community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities.

''(G) The lead State agency for part C.

''(H) General and special education teachers, related services personnel, and early intervention personnel.

''(I) The State advisory panel established under part C.

''(J) The State interagency coordinating council established under part C.

''(K) Institutions of higher education within the State.

''(L) Individuals knowledgeable about vocational education.

''(M) The State agency for higher education.

''(N) The State vocational rehabilitation agency.

''(O) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice.

''(P) Other providers of professional development that work with students with disabilities.

''(Q) Other individuals.

''SEC. 654. APPLICATIONS.

''(a) IN GENERAL.—

''(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

''(2) STATE PLAN.—The application shall include a plan that addresses the State and local needs for the professional development of administrators, principals, teachers, related services personnel, and individuals who provide direct supplementary aids and services to children with disabilities, and that—

''(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965, as appropriate; and

''(B) is designed to enable the State to meet the requirements of section 612(a)(15) of this Act.

''(b) ELEMENTS OF STATE PLAN.—Each State plan shall—

''(1) describe a partnership agreement that—

''(A) specifies—

''(i) the nature and extent of the partnership among the State educational agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

''(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

''(B) is in effect for the period of the grant;

''(2) describe how grant funds, including part B funds retained for use at the State level under sections 611(e) and 619(d), and other Federal funds will be used to support activities conducted under this subpart;

''(3) describe the strategies the State will use to implement the plan to improve results for children with disabilities, including—

''(A) how the State will align its professional development plan with the plans submitted by the State under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965;

''(B) how the State will provide technical assistance to local educational agencies and schools to improve the quality of professional development available to meet the needs of personnel that serve children with disabilities; and

''(C) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the achievement goals and indicators in section 612(a)(16);

''(4) describe, as appropriate, how the strategies described in paragraph (3) will be coordinated with public and private sector resources; and

''(5) include an assurance that the State will use funds received under this subpart to carry out each of the activities specified in the plan.

''(c) COMPETITIVE AWARDS.—

''(1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.

''(2) PRIORITY.—The Secretary may give priority to applications on the basis of need.

''(d) PEER REVIEW.—

''(1) IN GENERAL.—The Secretary shall evaluate applications under this subpart using a panel of experts who are qualified by virtue of their training, expertise, or experience.

''(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

''(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.

''(e) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall—

''(1) describe the progress of the State in implementing its plan;

''(2) analyze the effectiveness of the State's activities under this subpart and of the State's strategies for meeting its goals under section 612(a)(16); and

''(3) identify any changes in such strategies needed to improve its performance.

''SEC. 655. USE OF FUNDS.

''(a) IN GENERAL.—

''(1) ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds, subject to subsection (b), for the following:

''(A) PROFESSIONAL DEVELOPMENT.—

''(i) Carrying out programs that support the professional development of early intervention personnel, related services personnel, and both special education and regular education teachers of children with disabilities, such as programs that—

''(I) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development;

''(II) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the definition of professional development in section 9101 of the Elementary and Secondary Education Act of 1965;

''(III) promote collaborative and consultive models of providing special education ad related services; and

''(IV) increase understanding as to the most appropriate placements and services for all students to reduce significant racial and ethnic disproportionality in eligibility, placement, and disciplinary actions.

''(ii) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

''(iii) Providing professional development activities that improve the knowledge of special education and regular education teachers concerning—

''(I) the academic and developmental needs of students with disabilities; and

''(II) effective instructional strategies, methods, and skills, use of challenging State academic content standards and student academic achievement standards, and use of State assessments, to improve teaching practices and student academic achievement.

''(iv) Providing professional development activities that—

''(I) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, related services personnel and paraprofessionals, concerning effective instructional practices;

''(II) provide training in how to teach and address the needs of students with different learning styles;

''(III) involve collaborative groups of teachers and administrators;

''(IV) provide training in methods of—

''(aa) positive behavior interventions and supports to improve student behavior in the classroom;

''(bb) scientifically based reading instruction, including early literacy instruction; and

''(cc) early and appropriate interventions to identify and help students with disabilities;

''(V) provide training to enable special education and regular education teachers, related services personnel, and principals to involve parents in their child's education, especially parents of low-income and limited English proficient children with disabilities; or

''(VI) train administrators and other relevant school personnel in conducting facilitated individualized education program meetings.

''(v) Developing and implementing initiatives to promote retention of highly qualified special education teachers, including programs that provide—

''(I) teacher mentoring from exemplary special education teachers, principals, or superintendents;

''(II) induction and support for special education teachers during their first 3 years of employment as teachers; or

''(III) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities improve their academic achievement.

''(vi) Carrying out programs and activities that are designed to improve the quality of the teacher force that serves children with disabilities, such as—

''(I) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101 of the Elementary and Secondary Education Act of 1965, and are coordinated with activities carried out under this part; and

''(II) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

''(B) STATE ACTIVITIES.—

''(i) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

''(I) special education and regular education teachers have the training and information necessary, including an understanding of the latest scientifically valid education research and its applicability, to address the wide variety of needs of children with disabilities across disability categories;

''(II) special education and regular education teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

''(III) special education and regular education teacher certification (including recertification)

or licensing requirements are aligned with challenging State academic content standards; and

''(IV) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students meet challenging State student academic achievement standards.

''(ii) Carrying out programs that establish, expand, or improve alternative routes for State certification of special education teachers for individuals who demonstrate the potential to become highly effective special education teachers, such as individuals with a baccalaureate or master's degree (including mid-career professionals from other occupations), paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction.

''(iii) Carrying out teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

''(iv) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

''(v) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

''(vi) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified special education teachers.

''(vii) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this clause or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.

''(viii) Developing or assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

''(ix) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for special education teachers.

''(x) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve the academic achievement of children with disabilities.

''(xi) Coordinating with, and expanding, centers established under section 2113(c)(18) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.

''(2) CONTRACTS AND SUBGRANTS.—Each such State educational agency—

''(A) shall, consistent with its partnership agreement under section 654(b)(1), award contracts or subgrants to local educational agencies, institutions of higher education, and parent training and information centers, as appropriate, to carry out its State plan under this subpart; and

''(B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.

''(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart shall use—

''(1) not less than 90 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(A); and

''(2) not more than 10 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(B).

''(c) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

''SEC. 656. STATE GRANT AMOUNTS.

''(a) IN GENERAL.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is—

''(1) not less than $500,000, nor more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

''(2) not less than $80,000, in the case of an outlying area.

''(b) FACTORS.—The Secretary shall set the amount of each grant under subsection (a) after considering—

''(1) the amount of funds available for making the grants;

''(2) the relative population of the State or outlying area; and

''(3) the types of activities proposed by the State or outlying area, including—

''(A) the alignment of proposed activities with paragraphs (14) and (15) of section 612(a);

''(B) the alignment of proposed activities with the plans submitted under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965; and

''(C) the use, as appropriate, of scientifically based research.

''SEC. 657. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $44,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

''Subpart 2—Scientifically Based Research; Technical Assistance; Model Demonstration Projects; Dissemination of Information; and Personnel Preparation Programs

''SEC. 661. PURPOSE.

''The purpose of this subpart is to provide Federal funding for scientifically based research, technical assistance, model demonstration projects, information dissemination, and personnel preparation programs to improve early intervention, educational, and transitional results for children with disabilities.

''SEC. 662. ADMINISTRATIVE PROVISIONS.

''(a) COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart (other than section 663) in order to enhance the provision of educational, related, transitional, and early intervention services to children with disabilities under parts B and C. The plan shall include mechanisms to address educational, related services, transitional, and early intervention needs identified by State educational agencies in applications submitted under subpart 1.

''(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 30 days on the plan.

''(3) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

''(4) REPORTS TO CONGRESS.—The Secretary shall annually report to the Congress on the Secretary's activities under this subsection, including an initial report not later than the date that is 12 months after the date of the enactment of Improving Education Results for Children With Disabilities Act of 2003.

''(b) ELIGIBLE APPLICANTS.—

''(1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart:

''(A) A State educational agency.

''(B) A local educational agency.

''(C) A public charter school that is a local educational agency under State law.

''(D) An institution of higher education.

''(E) Any other public agency.

''(F) A private nonprofit organization.

''(G) An outlying area.

''(H) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

''(I) A for-profit organization if the Secretary finds it appropriate given the specific purpose of the competition.

''(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to one or more categories of eligible entities described in paragraph (1).

''(c) SPECIAL POPULATIONS.—

''(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

''(2) REQUIRED OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of this Act, the Secretary shall reserve at least two percent of the total amount of funds appropriated to carry out this subpart for either or both of the following activities:

''(A) Providing outreach and technical assistance to historically black colleges and universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

''(B) Enabling historically black colleges and universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if such grant applicants meet the criteria established by the Secretary under this subpart.

''(d) PRIORITIES.—The Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, may, without regard to the rulemaking procedures under section 553 of title 5, United States Code, limit competitions to, or otherwise give priority to—

''(1) projects that address one or more—

''(A) age ranges;

''(B) disabilities;

''(C) school grades;

''(D) types of educational placements or early intervention environments;

''(E) types of services;

''(F) content areas, such as reading; or

''(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings;

''(2) projects that address the needs of children based on the severity or incidence of their disability;

''(3) projects that address the needs of—

''(A) low-achieving students;

''(B) underserved populations;

''(C) children from low-income families;

''(D) children with limited English proficiency;

''(E) unserved and underserved areas;

''(F) rural or urban areas;

''(G) children whose behavior interferes with their learning and socialization;

''(H) children with intractable reading difficulties; and

''(I) children in public charter schools;

''(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children; and

''(5) any activity that is expressly authorized in this subpart or subpart 3.

''(e) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

''(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart—

''(A) involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project; and

''(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

''(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

''(A) to share in the cost of the project;

''(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

''(C) to disseminate such findings and products; and

''(D) to collaborate with other such recipients in carrying out subparagraphs (B) and (C).

''(f) APPLICATION MANAGEMENT.—

''(1) STANDING PANEL.—

''(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are qualified, by virtue of their training, expertise, or experience, to evaluate applications under this subpart (other than section 663) that, individually, request more than $75,000 per year in Federal financial assistance.

''(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

''(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high-quality programs of personnel preparation;

''(ii) individuals who design and carry out scientifically-based research targeted to the improvement of special education programs and services;

''(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically-based research findings to improve educational and transitional results for children with disabilities;

''(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

''(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

''(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

''(vii) individuals who are parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

''(viii) individuals with disabilities.

''(C) TERM.—No individual shall serve on the standing panel for more than 3 consecutive years.

''(2) PEER-REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

''(A) COMPOSITION.—The Secretary shall ensure that each subpanel selected from the standing panel that reviews applications under this subpart (other than section 663) includes—

''(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the subpart; and

''(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

''(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each subpanel that reviews an application under this subpart (other than section 663) shall be individuals who are not employees of the Federal Government.

''(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

''(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under this subpart to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

''(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds appropriated to carry out this subpart to pay non-Federal entities for administrative support related to management of applications submitted under this subpart.

''(g) PROGRAM EVALUATION.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

''(h) MINIMUM FUNDING REQUIRED.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

''(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

''(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

''(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

''(2) RATABLE REDUCTION.—If the total amount appropriated to carry out this subpart for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

''(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).

''SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES.

''(a) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is established, in the Institute of Education Sciences established under section 111 of the Education Sciences Reform Act of 2002 (Public Law 107–279; 116 Stat. 1944) (hereinafter in this section referred to as 'the Institute'), the National Center for Special Education Research.

''(B) COMMISSIONER.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research (hereinafter in this section referred to as 'the Commissioner'). The Commissioner shall be appointed by the Director of the Institute (hereinafter in this section referred to as 'the Director') in accordance with section 117 of the Education Sciences Reform Act of 2002. The Commissioner shall have substantial knowledge of the Center's activities, including a high level of expertise in the fields of research and research management.

''(2) APPLICABILITY OF EDUCATION SCIENCE REFORM ACT OF 2002.—Parts A and E of the Education Sciences Reform Act of 2002, as well as the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134 of such Act, shall apply to the Secretary, the Director, and the Commissioner in carrying out this section.

''(b) COMPETITIVE GRANTS.—The Director shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to expand the fundamental knowledge and understanding of the education of infants, toddlers, and children with disabilities in order to improve educational results for such individuals, in accordance with the priorities determined under this section.

''(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include research activities—

''(1) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

''(2) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

''(3) to examine the special needs of preschool-aged children and infants and toddlers with disabilities, including factors that may result in developmental delays;

''(4) to investigate scientifically based related services and interventions that promote participation and progress in the general education curriculum;

''(5) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

''(6) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 1111(b)(2)(B);

''(7) to examine State content standards and alternate assessments for students with a significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate educational settings, and improved post-school results;

''(8) to examine the educational and developmental needs of children with high-incidence and low-incidence disabilities;

''(9) to examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

''(10) to improve reading and literacy skills for children with disabilities;

''(11) to examine and improve secondary and postsecondary education and transitional needs of children with disabilities;

''(12) to examine methods of early intervention for children with disabilities who need significant levels of support;

''(13) to examine universal design concepts in the development of assessments, curricula, and instructional methods as a method to improve educational results for children with disabilities;

''(14) to improve the professional preparation for personnel who provide educational and related services to children with disabilities, including children with low-incidence disabilities, to increase academic achievement of children with disabilities;

''(15) to examine the excess costs of educating a child with a disability and expenses associated with high-cost special education and related services; and

''(16) to examine the special needs of limited English proficient children with disabilities.

''(d) PLAN.—The National Center for Special Education Research shall propose to the Director a research plan, with the advice of the Assistant Secretary for Special Education and Rehabilitative Services, that—

''(1) is consistent with the priorities and mission of the Institute of Educational Sciences and the mission of the Special Education Research Center and includes the activities described in paragraph (3);

''(2) shall be carried out pursuant to subsection (c) and, as appropriate, be updated and modified; and

''(3) carries out specific, long-term research activities that are consistent with the priorities and mission of the Institute of Educational Sciences, and are approved by the Director.

''(e) IMPLEMENTATION.—The National Center for Special Education Research shall implement the plan proposed under subsection (d) to carry out scientifically valid research that—

''(1) is consistent with the purposes of this Act;

''(2) reflects an appropriate balance across all age ranges of children with disabilities;

''(3) provides for research that is objective and that uses measurable indicators to assess its progress and results;

''(4) includes both basic research and applied research, which shall include research conducted through field-initiated studies and which may include ongoing research initiatives;

''(5) ensures that the research conducted under this section is relevant to special education practice and policy;

''(6) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance as well as activities authorized under this part, the findings and results of education research conducted or supported by the National Center for Special Education Research; and

''(7) assist the Director in the preparation of a biennial report, as a described in section 119 of the Education Sciences Reform Act of 2003.

''(f) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require.

''SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION PROJECTS, DISSEMINATION OF INFORMATION, AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH.

''(a) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities including regional resource centers and clearinghouses to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

''(b) REQUIRED ACTIVITIES.—Funds received under this section shall be used to support activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

''(1) implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

''(2) improving the alignment, compatibility, and development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965;

''(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;

''(4) identifying innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and identifying positive academic and social learning opportunities, that—

''(A) provide effective transitions between educational settings or from school to post school settings; and

''(B) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

''(5) demonstrating and applying scientifically based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

''(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

''(1) applying and testing research findings in typical service settings to determine the usefulness, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media;

''(2) supporting and promoting the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

''(3) promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms;

''(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities;

''(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities;

''(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

''(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes;

''(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as the provision of single-State and multi-State technical assistance and in-service training—

''(A) to schools and agencies serving deaf-blind children and their families;

''(B) to programs and agencies serving other groups of children with low-incidence disabilities and their families;

''(C) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

''(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

''(9) demonstrating models of personnel preparation to ensure appropriate placements and services for all students and reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children; and

''(10) disseminating information on how to reduce racial and ethnic disproportionalities identified under section 618.

''(d) BALANCE AMONG ACTIVITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges of children with disabilities.

''(e) LINKING STATES TO INFORMATION SOURCES.—In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall make research and related products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center for Evaluation and Regional Assistance established under the Education Sciences Reform Act.

''(f) APPLICATIONS.—

''(1) IN GENERAL.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) STANDARDS.—To the maximum extent feasible, each applicant shall demonstrate that the project described in its application is supported by scientifically valid research that has been carried out in accordance with the standards for the conduct and evaluation of all relevant research and development established by the National Center for Education Research.

''(3) PRIORITY.—As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment.

''SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

''(a) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities—

''(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities;

''(2) to ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically valid research, to be successful in serving those children;

''(3) to encourage increased focus on academics and core content areas in special education personnel preparation programs;

''(4) to ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom;

''(5) to provide high-quality professional development for principals, superintendents, and other administrators, including training in—

''(A) instructional leadership;

''(B) behavioral supports in the school and classroom;

''(C) paperwork reduction;

''(D) promoting improved collaboration between special education and general education teachers;

''(E) assessment and accountability;

''(F) ensuring effective learning environments; and

''(G) fostering positive relationships with parents; and

''(6) to ensure that all special education teachers teaching in core academic subjects are highly qualified.

''(b) PERSONNEL PREPARATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, including activities for high-incidence and low-incidence disabilities, consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following:

''(A) Promoting activities undertaken by institutions of higher education, local educational agencies, and other local entities—

''(i) to improve and reform their existing programs, and to support effective existing programs, to prepare teachers and related services personnel—

''(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

''(II) to work collaboratively in regular classroom settings; and

''(ii) to incorporate best practices and scientifically based research about preparing personnel—

''(I) so they will have the knowledge and skills to improve educational results for children with disabilities; and

''(II) so they can implement effective teaching strategies and interventions to ensure appropriate identification, and to prevent the misidentification or overidentification, of children as having a disability, especially minority and limited English proficient children.

''(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of highly qualified teachers to reduce shortages in personnel.

''(C) Developing and improving programs for paraprofessionals to assist in the provision of special education, related services, and early intervention services, including interdisciplinary training to enable them to improve early intervention, educational, and transitional results for children with disabilities.

''(D) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel to acquire the collaboration skills necessary to work within teams to improve results for children with disabilities, particularly within the general education curriculum.

''(E) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

''(F) Developing and disseminating models that prepare teachers with strategies, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

''(G) Developing and improving programs to enhance the ability of general education teachers, principals, school administrators, and school board members to improve results for children with disabilities.

''(H) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

''(I) Developing and improving programs to train special education teachers with an expertise in autism spectrum disorders.

''(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low-incidence disabilities.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing persons who—

''(i) have prior training in educational and other related service fields; and

''(ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with low-incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

''(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low-incidence disabilities.

''(C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with low-incidence disabilities through early intervention, educational, and transitional services.

''(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

''(E) Preparing personnel who provide services to deaf and hard-of-hearing children by providing direct language and communication access to the general education curriculum through spoken or signed languages, or other modes of communication.

''(F) Preparing personnel to be qualified educational interpreters, to assist children with low-incidence disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs.

''(3) DEFINITION.—As used in this section, the term 'low-incidence disability' means—

''(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

''(B) a significant cognitive impairment; or

''(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

''(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to applications that propose to prepare personnel in more than one low-incidence disability, such as deafness and blindness.

''(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

''(d) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

''(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

''(e) APPLICATIONS.—

''(1) IN GENERAL.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) IDENTIFIED STATE NEEDS.—

''(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

''(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—Any applicant that is not a local educational agency or a State educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the project.

''(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require applicants to provide assurances from one or more States that such States—

''(A) intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other requirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities; and

''(B) need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under parts B and C.

''(f) SELECTION OF RECIPIENTS.—

''(1) IMPACT OF PROJECT.—In selecting recipients under this section, the Secretary shall consider the impact of the project proposed in the application in meeting the need for personnel identified by the States.

''(2) REQUIREMENT ON APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants under this section only to eligible applicants that meet State and professionally recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

''(3) PREFERENCES.—In selecting recipients under this section, the Secretary may—

''(A) give preference to institutions of higher education that are educating regular education personnel to meet the needs of children with disabilities in integrated settings and educating special education personnel to work in collaboration with regular educators in integrated settings; and

''(B) give preference to institutions of higher education that are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

''(g) SERVICE OBLIGATION.—

''(1) IN GENERAL.—Each application for funds under subsections (b) and (c) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

''(2) LEADERSHIP PREPARATION.—Each application for funds under subsection (d) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently perform work related to their preparation for a period of 2 years for every year for which assistance was received or repay all or part of such costs, in accordance with regulations issued by the Secretary.

''(h) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

''SEC. 666. STUDIES AND EVALUATIONS.

''(a) IN GENERAL.—

''(1) PROGRESS ASSESSMENT.—The Secretary shall, in accordance with the priorities determined under this section and in section 663, directly or through competitive grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

''(A) a free appropriate public education to children with disabilities; and

''(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

''(2) DELEGATION.—Notwithstanding any other provision of law, the Secretary shall designate the Director of the Institute for Education Sciences to carry out this section.

''(3) AUTHORIZED ACTIVITIES.—In carrying out this subsection, the Secretary may support objective studies, evaluations, and assessments, including studies that—

''(A) analyze issues identified in the research agenda in section 663(d);

''(B) meet the standards in section 663(c); and

''(C) undertake one or more of the following:

''(i) An analysis of the measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies

through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities.

''(ii) An analysis of State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities.

''(iii) An assessment of educational and transitional services and results for children with disabilities from minority backgrounds, including—

''(I) data on—

''(aa) the number of minority children who are referred for special education evaluation;

''(bb) the number of minority children who are receiving special education and related services and their educational or other service placement;

''(cc) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

''(dd) the number of minority children who drop out of the educational system without a regular diploma; and

''(II) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students.

''(iv) A measurement of educational and transitional services and results of children with disabilities served under this Act, including longitudinal studies that—

''(I) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

''(II) examine educational results, transition services, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act.

''(v) An identification and report on the placement of children with disabilities by disability category.

''(b) NATIONAL ASSESSMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order—

''(A) to determine the effectiveness of this Act in achieving its purposes;

''(B) to provide timely information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and

''(C) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively.

''(2) PUBLIC COMMENT.—

''(A) PLAN.—Not later than 12 months after the date of enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Secretary shall publish in the Federal Register for public comment a comprehensive plan for developing and conducting the national assessment.

''(B) COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 30 days on such plan.

''(3) SCOPE OF ASSESSMENT.—The national assessment shall assess the—

''(A) implementation of programs assisted under this Act and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable them to reach challenging developmental goals and challenging State academic content standards based on State academic assessments;

''(B) types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

''(C) implementation of the professional development activities assisted under this Act and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and

''(D) effectiveness of schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary in achieving the purposes of this Act by—

''(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to nondisabled children, and the performance of children with disabilities on alternate assessments;

''(ii) improving the participation of children with disabilities in the general education curriculum;

''(iii) improving the transitions of children with disabilities at natural transition points;

''(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

''(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

''(vi) addressing the reading and literacy needs of children with disabilities;

''(vii) reducing the overidentification of children, especially minority and limited English proficient children, as having a disability;

''(viii) improving the participation of parents of children with disabilities in the education of their children; and

''(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities including mediation and voluntary binding arbitration.

''(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—

''(A) an interim report that summarizes the preliminary findings of the assessment not later than 30 months after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003; and

''(B) a final report of the findings of the assessment not later than 5 years after the date of the enactment of such Act.

''(c) ANNUAL REPORT.—The Secretary shall provide an annual report to the Congress that—

''(1) summarizes the research conducted under section 663;

''(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;

''(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

''(4) describes the extent and progress of the national assessment; and

''(5) describes the findings and determinations resulting from reviews of State implementation of this Act.

''SEC. 667. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out sections 663, 664, and 666 $171,861,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out section 665 $90,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.

''Subpart 3—Supports To Improve Results for Children With Disabilities

''SEC. 671. PURPOSES.

''The purposes of this subpart are to ensure that—

''(1) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services;

''(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

''(3) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.

''SEC. 672. PARENT TRAINING AND INFORMATION CENTERS.

''(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

''(b) REQUIRED ACTIVITIES.—Each parent and community training and information center that receives assistance under this section shall—

''(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, including underserved parents and parents of children who may be inappropriately identified, to enable children with disabilities—

''(A) to meet developmental and challenging academic achievement goals that have been established for all children; and

''(B) to be prepared to lead productive independent adult lives to the maximum extent possible;

''(2) ensure that the training and information provided meets the needs of low-income parents and parents of children with limited English proficiency;

''(3) serve the parents of infants, toddlers, and children with the full range of disabilities;

''(4) assist parents—

''(A) to better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

''(B) to communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention, transition services, and related services;

''(C) to participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;

''(D) to obtain appropriate information about the range, type and quality of options, programs, services, and resources available to assist children with disabilities and their families in school and at home;

''(E) to understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

''(F) to participate in activities at the school level which benefit their children;

''(5) assist parents in resolving disputes in the most expeditious way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the use of individualized education program facilitators and mediation and voluntary binding arbitration processes described in section 615(e);

''(6) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act;

''(7) network with appropriate clearinghouses, including organizations conducting national dissemination activities under subpart 2 and the Institute of Educational Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities; and

''(8) annually report to the Secretary on—

''(A) the number and demographics of parents to whom it provided information and training in the most recently concluded fiscal year; and

''(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

''(c) OPTIONAL ACTIVITIES.—A parent training and community and information center that receives assistance under this section may—

''(1) provide information to teachers and other professionals to assist them in improving results for children with disabilities; and

''(2) assist students with disabilities to understand their rights and responsibilities under section 615(l) on reaching the age of majority.

''(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake—

''(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

''(2) to work with community-based organizations, including those that work with low-income parents and parents of children with limited English proficiency.

''(e) DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall make at least 1 award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval.

''(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

''(f) QUARTERLY REVIEW.—

''(1) REQUIREMENTS.—

''(A) MEETINGS.—The board of directors or special governing committee of each organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

''(B) ADVISING BOARD.—Each special governing committee shall directly advise the organization's governing board of its views and recommendations.

''(2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

''(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term 'parent organization' means a private nonprofit organization (other than an institution of higher education) that—

''(1) has a board of directors—

''(A) the majority of whom are parents of children with disabilities ages birth through 26;

''(B) that includes—

''(i) individuals working in the fields of special education, related services, and early intervention; and

''(ii) individuals with disabilities; and

''(C) the parent and professional members of which are broadly representative of the population to be served, including low-income and limited English proficient parents of children with disabilities; or

''(2) has—

''(A) a membership that represents the interests of individuals with disabilities and has established a special governing committee that meets the requirements of paragraph (1); and

''(B) a memorandum of understanding between the special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

''SEC. 673. COMMUNITY PARENT RESOURCE CENTERS.

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

''(1) to meet developmental goals and, to the maximum extent possible, those challenging standards that have been established for all children; and

''(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

''(b) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—

''(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

''(2) carry out the activities required of parent training and information centers under paragraphs (2) through (7) of section 672(b);

''(3) establish cooperative partnerships with the parent training and information centers funded under section 672; and

''(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

''(c) DEFINITION.—As used is this section, the term 'local parent organization' means a parent organization, as defined in section 672(g), that either—

''(1) has a board of directors the majority of whom are from the community to be served; or

''(2) has—

''(A) as a part of its mission, serving the interests of individuals with disabilities from such community; and

''(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

''SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

''(a) IN GENERAL.—The Secretary may, directly or through awards to eligible entities (as defined in section 662(b)), provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 672 and 673.

''(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

''(1) effective coordination of parent training efforts;

''(2) dissemination of scientifically based research and information;

''(3) promotion of the use of technology, including assistive technology devices and assistive technology services;

''(4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities;

''(5) including children with disabilities in general education programs;

''(6) facilitation of transitions from—

''(A) early intervention services to preschool;

''(B) preschool to elementary school;

''(C) elementary school to secondary school; and

''(D) secondary school to postsecondary environments; and

''(7) promotion of alternative methods of dispute resolution, including mediation and voluntary binding arbitration.

''SEC. 675. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

''(a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities (as defined in section 662(b)) to support activities described in subsections (b) and (c).

''(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and utilization of technology.

''(2) AUTHORIZED ACTIVITIES.—The following activities may be carried out under this subsection:

''(A) Conducting research on, and promoting the demonstration and use of—

''(i) innovative and emerging technologies for children with disabilities; and

''(ii) improved transfer of technology from research and development to practice.

''(B) Supporting research, development, and dissemination of technology with universal-design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation.

''(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

''(D) Supporting the implementation of research programs.

''(E) Communicating information on available technology and the uses of such technology to assist children with disabilities.

''(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL ACTIVITIES.—In carrying out this section, the Secretary may support—

''(1) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;

''(2) providing video description, open captioning, or closed captioning of television programs, videos, or other materials with an education-based content for use in the classroom setting when such services are not provided by the producer or distributor of such information, including programs and materials associated with new and emerging technologies such as CDs, DVDs, video streaming, and other forms of multimedia;

''(3) distributing materials described in paragraphs (1) and (2) through such mechanisms as a loan service; and

''(4) providing free educational materials, including textbooks, in accessible media for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools.

''(d) APPLICATIONS.—Any eligible entity (as defined in section 662(b)) that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. For purposes of subsection (c)(4), such entity shall—

''(1) be a national, nonprofit entity with a track record of meeting the needs of students with print disabilities through services described in paragraph (4);

''(2) have the capacity to produce, maintain, and distribute in a timely fashion, up-to-date textbooks in digital audio formats to qualified students; and

''(3) have a demonstrated ability to significantly leverage Federal funds through other public and private contributions, as well as through the expansive use of volunteers.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 674 $32,710,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009. There are authorized to be appropriated to carry out sections

672 and 673 $26,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2009.''.

SEC. 402. CONTINUATION OF FUNDING FOR COMMUNITY PARENT AND RESOURCE CENTERS.

Notwithstanding any other provision of law, the Secretary of Education is authorized to use amounts made available for a fiscal year to carry out subpart 3 of part D of the Individuals with Disabilities Education Act (as added by section 401) to continue to provide funding under grants made to, or contracts or cooperative agreements entered into with, local parent organizations under section 683 of such Act (as such section was in effect on October 1, 2002).

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–79. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 108–79.

AMENDMENT NO. 1 OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Chairman, pursuant to the rule, I offer Amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. CASTLE:

Strike sections 104 through 107 of the bill and insert the following (and conform the table of contents accordingly):

SEC. 104. GAO REPORTS.

(a) PAPERWORK STUDY.—

(1) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable sample of State and local educational agencies relating to such Act, to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to the appropriate congressional committees a report that contains the results of the review under paragraph (1).

(b) DISABILITY DEFINITIONS.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(A) variation among States in definitions, and evaluation processes, relating to the provision of services under the Individuals with Disabilities Education Act to children having conditions described in section 602(a)(3) of such Act using the terms ''emotional disturbance'', ''other health impairments'', and ''specific learning disability''; and

(B) the degree to which these definitions and evaluation processes conform to scientific, peer-reviewed research.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to the appropriate congressional committees a report that contains the results of the review under paragraph (1).

(c) DISTANCE LEARNING PROFESSIONAL DEVELOPMENT PROGRAMS.—

(1) STUDY.—The Comptroller General shall conduct a study on existing or developing professional development programs for special education personnel delivered through the use of technology and distance learning.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.

(d) LIMITED ENGLISH PROFICIENT CHILDREN WITH DISABILITIES.—

(1) STUDY.—The Comptroller General shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.

(e) DEFINITION.—In this section, the term ''appropriate congressional committees'' means the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

In section 611(a)(3) of the Individuals with Disabilities Education Act (as amended by section 201 of the bill), strike ''subparagraphs (A) and (B) of''.

In section 611(e)(3) of the Individuals with Disabilities Education Act (as amended by section 201 of the bill), strike ''4 percent'' and insert ''40 percent''.

In section 611(i)(2) of the Individuals with Disabilities Education Act (as amended by section 201 of the bill), strike ''$13,374,398,000'' and insert ''$13,574,398,000''.

In section 614(a)(1)(D)(i)(I) of the Individuals with Disabilities Education Act (as amended by section 204 of the bill), strike ''602(3)(A) or 602(3)(B)'' and insert ''602(3)''.

In section 614(b)(3)(A)(ii) of the Individuals with Disabilities Education Act (as amended by section 204 of the bill), strike '', to the extent practicable,''.

In section 614(b)(3)(A)(ii) of the Individuals with Disabilities Education Act (as amended by section 204 of the bill), add at the end before the semicolon the following: '', unless it is clearly not feasible to do so''.

Strike subparagraphs (B) and (C) of section 615(f)(3) of the Individuals with Disabilities Education Act (as amended by section 205(f) of the bill), and insert the following:

''(B) SUBJECT MATTER OF HEARING.—No party shall be allowed to raise issues at the due process hearing that were not raised in the complaint, discussed during the meeting conducted pursuant to paragraph (1)(B), or properly disclosed pursuant to paragraph (2), unless both parties agree otherwise.''.

In section 617(b) of the Individuals with Disabilities Education Act (as amended by section 207 of the bill), after ''content,'' insert ''academic achievement standards and assessments,''.

In section 665(c)(2) of the Individuals with Disabilities Education Act (as amended by section 401 of the bill), insert the following:

''(G) Preparing personnel who provide services to children with low-incidence disabilities with limited English proficiency.

In section 665(d)(2)(B) of the Individuals with Disabilities Education Act (as amended by section 401 of the bill), add at the end before the semicolon the following: '', including children with disabilities with limited English proficiency''.

In the matter preceding subclause (I) of section 666(a)(3)(C)(iii) of the Individuals with Disabilities Education Act, strike ''backgrounds, including'' and insert ''backgrounds or are limited English proficient, including''.

In items (aa) through (dd) of section 666(a)(3)(C)(iii)(I) of the Individuals with Disabilities Education Act, strike ''of minority'' each place it appears and insert ''of such''.

In section 666(a)(3)(C)(iii)(II) of the Individuals with Disabilities Education Act, strike ''children with disabilities from minority backgrounds'' and insert ''such children with disabilities''.

In section 675(c)(2) of the Individuals with Disabilities Education Act, strike ''videos, or other materials with an education based content for use in the classroom setting'' and insert ''videos or other materials that would be appropriate for use in the classroom setting, or news (until the end of fiscal year 2006),''.

Strike section 402 of the bill (and conform the table of contents accordingly).

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Nebraska (Mr. OSBORNE), the vice chairman of the Subcommittee on Education Reform.

Mr. OSBORNE. Mr. Chairman, as I have traveled my district, I hear a lot of concerns from teachers, administrators and parents, and the most common concerns that I have heard reflect on excessive paperwork and litigation.

This bill obviously addresses those. We attempt to streamline the administrative process. It provides for less legislation through arbitration.

The second major issue we have talked about a great deal here today is funding. I am convinced that the chairman of the committee, the subcommittee chairman and others, are fully committed to full funding of 40 percent within the next 7 years. The track record pretty much backs this up. In the last 8 years, we have seen a 300 percent increase in funding for IDEA. So we are very convinced that this full funding will occur.

The third issue I would like to address is over identification. We find that some schools have 40 to 50 percent of their student body identified as learning disabled, and, generally speaking, this is simply due to reading difficulties. So if we have adequate Head Start and early learning programs, we can eliminate this process.

Mr. Chairman, I urge support of the bill. It is a good bill, and I appreciate the chairman's offering it.

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we worked with the majority on this amendment. We do not oppose it, and would hope that it could be passed right now.

Mr. Chairman, I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, first I appreciate the bipartisan support for the amendment. Secondly, I think it would be worth taking this 2 minutes to try to read what is actually in this amendment so we will know what we are voting for.

It is a technical amendment, it clarifies and consolidates a series of GAO reports that were added during the consideration of the bill by the Committee on Education and Workforce.

It redefines the percentage of funds that the State can reserve out of its State level activities for programs designed to serve children with disabilities with high cost, special education-related services needs to reflect the common understanding.

It updates authorization levels that were modified by the fiscal year 2004 budget resolution. This level reflects the increased funding in the fiscal year 2004 budget resolution included for IDEA Part B State Grants.

It clarifies that evaluations are provided to children in the language and form designed to obtain useful information and includes longstanding terminology used throughout the implementing regulations and elsewhere in the Act.

It modifies language in the section prohibiting the Federal control of curriculum to ensure that this exact language is included in the No Child Left Behind Act. This is an important change, by the way, that ensures consistent language addressing local control over the curriculum.

It revises language in the Part D programs to ensure that the needs of limited English-proficient children with disabilities are met through the training of school personnel and effective data collection.

It modifies the section regarding support for captioning programs to enable news programs to be captioned until 2006, which is when Federal Communications Commission requirements require all news programs to be captioned.

These amendments, Mr. Chairman, continue our well-balanced approach toward improving IDEA. As with the remainder of the bill, these improvements will result in improved services for students and improved achievement for students.

I urge my colleagues to adopt this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I rise in support of the text any California amendment, but opposing the bill.

I guess some people are wondering why I have concern about this legislation. Having my first two terms in Congress on the Committee on Education and Workforce, but also for many years as a State legislator in the State Senate in Texas on the Education Committee, it has been frustrating, both in Congress and as a legislator dealing with IDEA and the special-ed programs.

For more than a quarter of a century, the Individuals With Disabilities Education Act, IDEA, has helped countless disabled youth to complete their education and become contributing members of our society. I see it every day when I go home every weekend.

Although this program has succeeded in its efforts to ensure that all American children receive a free and appropriate public education, this Congress, and I am not talking about the majority Republican, I am talking about my first term when we were in the majority, although IDEA was not up for reauthorization, we failed to fully fund IDEA. This is my sixth term, and for five of those terms, as Democrats, we have not been in the majority, so somewhere along the way you are going to have to quit pointing back a decade ago and saying ''it is your all's fault.''

I am sure that almost every Member of Congress, at one point or another, expressed their support for full funding of IDEA. But when it comes down to putting our money where our mouths are, we once again come up short.

I know the frustration, because we see it in our schools, we see it on our State level, we see it with our parents, instead of requiring Congress to live up to the promise and fully fund the 40 percent of IDEA costs that we agreed to do originally, this legislation continues to leave the funding subject to the appropriations process.

Children with disabilities have a hard enough time making it in this world. We should not make them compete against all the other very worthwhile projects that we have. We should live up to the promise and provide mandatory funding for IDEA.

We also should not make it harder for students to receive their education by the provisions in this bill on discipline. I do not want somebody bringing guns or knives or scissors to school to hurt someone, but I also know we should not let minor infractions cause a student to be removed from an educational setting that works for them.

Mr. Chairman, I urge opposition to the bill and support for the amendment.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT), a member of the committee.

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Mrs. BIGGERT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of both this amendment and the underlying bill.

We all agree that we need to fully fund IDEA. This legislation will get us there sooner than ever before. We will be at 21 percent, over half of our promise, by 2004. We will reach full funding in 7 years.

But this bill contains more than financial matters. It makes it easier for parents and schools to meet to discuss the needs of a student. It frees teachers and administrators from a mountain of required paperwork that takes time away from their students.

Some parents have expressed concern over the 3-year Individualized Education Plan, or IEP. They are afraid that it may undermine their children's rights. I want to reassure them that this is simply an option. The parents must agree to a 3-year plan. Just like under current law, they can request a new IEP at any time.

Every single one of the due process rights parents have is continued under H.R. 1350. This bill will make special education work for all students.

Ms. WOOLSEY. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin (Mr. KIND), a member of the committee.

Mr. KIND. Mr. Chairman, I thank the gentlewoman from California (Ms. WOOLSEY), my friend and the ranking member of the subcommittee, for yielding me this time and also for the work that she has put in with this important legislation. It has been invaluable. I also want to commend the gentleman from Delaware (Mr. CASTLE), my good friend, the chairman of the subcommittee, with the way he has conducted the process leading up to today's legislation, the outreach he has provided across the aisle and throughout the Nation looking for input on what I think is the most important piece of education legislation that we will be dealing with in this session of Congress. I do support the technical amendment before us right now.

This, Mr. Chairman, is an important piece of education legislation. It is about allowing children with special needs in our country to have access to quality education that the rest of our children now have. I think there was room for improvement on a variety of provisions. I think in a lot of respects this bill moves in the right direction to improving it: streamlining the IEP process, trying to reduce the paperwork burden, trying to increase some flexibility with regard to the disciplinary issues at the local level, and emphasizing the importance of professional development.

I especially appreciate the acceptance of a few amendments that I offered in committee during markup, one that does emphasize professional development and distance learning opportunities for our teachers and administrators, and one that calls for a GAO study that would encompass the entire country to determine what online materials are currently available for our teachers and administrators so that they can upgrade their skills.

But I especially appreciate a new provision that was accepted in committee that I offered that permits States to

establish and implement costs and risk-sharing funds, consortiums and cooperatives to assist students with severe disabilities. This is an area that is the fastest-growing area of education funding at the local level. Children who normally would not have survived to school age are surviving today because of the miracle of the advancement of medical research and technologies. But they are also bringing with them some exceptionally high costs that school districts have borne.

The amendment I put forward allows school districts to address these high-risk and exceptionally expensive students.

We do have to work much harder in this Congress, this year and the years ahead, to try to achieve the full funding which virtually every Member of this body is on record of supporting. I appreciate the fact that the majority party has a 7-year trend line to get to full funding on that. I am a little bit skeptical in regards to the institutional willingness and the willingness of the administration to make sure we achieve full funding. This is the granddaddy of unfunded mandates that our local school districts have been wrestling with since the creation of this bill back in the 1970s. We must do a better job so that we can stop pitting student against student in the classroom and end this controversy where it is merely a matter of political and institutional will to do what I think we all recognize must be done, and that is make sure the resources follow the rhetoric after today's debate. I am confident, in working again with the chairman of the subcommittee and others who are like-minded on this issue, that we are going to focus very closely in regard to the appropriation process and hold people to their word. Because if No Child Left Behind is any indication, I am skeptical that we are going to get there.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of the time.

We have no further speakers, and I think we have 1 minute. I will just close by encouraging all of us to support the technical amendment. I do not think there is any disagreement about that, so we can go on to the other amendments.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–79.

AMENDMENT NO. 2 OFFERED BY MR. VITTER

Mr. VITTER. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. VITTER:

In section 104 of the bill—

(1) in subsection (a), by adding at the end the following new sentence: ''As part of such review, the Comptroller General shall include recommendations to reduce or eliminate the excessive paperwork burdens described in the preceding sentence.''; and

(2) in subsection (b), after ''Act,'' insert ''and once every 2 years thereafter,''.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from Louisiana (Mr. VITTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Chairman, I yield myself such time as I may consume.

I bring before the House an important amendment with regard to a central problem in IDEA and that is the excessive burden of excessive paperwork. I think there is great clarity and great consensus on this point that in the present system there is just too much paperwork required which drains resources and takes up the time of teachers who could otherwise be with students who need their help.

National surveys show that teachers of special needs students spend between a quarter and a third of each work week on regulatory compliance rather than education. That is ridiculous. Parents, overwhelmed by the system's complexity, often turn to IDEA lawyers for advice. That has become the norm rather than the exception. That is ridiculous. Teachers of special needs students always cite excessive paperwork and too many meetings as leading reasons for their decision to cease teaching special needs students, thus exacerbating a serious existing shortage of personnel. In fact, the National Association of Elementary School Principals supports dramatic paperwork reduction, saying that the proposals ''eliminate the dual-discipline system, streamline the due process system, and encourage professional development for principals.''

In light of this background, my amendment is very straightforward. It does two things. Number one, in part A of the GAO review section, it mandates that the review will include recommendations to reduce or eliminate the excessive paperwork burdens. Number two, in part B of that GAO report section, it requires that a GAO report be submitted 2 years after the date of enactment and resubmitted every 2 years. The benefit of this is very clear. We want a regular way to track progress and to demand progress on reducing this excessive paperwork burden.

So in those two simple, but important, ways, this amendment emphasizes the need to reform, streamline, and update the forms and requirements mandated on both teachers and parents.

Mr. Chairman, I would like to thank the committee for all of its hard work in bringing forward a very positive bill.

Mr. Chairman, I reserve the balance of my time.

Mr. KIND. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

There was no objection.

Mr. KIND. Mr. Chairman, I yield myself such time as I may consume, only to say that we have no objection to this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. VITTER. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time. I also want to thank him for his amendment.

I do not want to prolong this debate, because I am in agreement with the other two speakers. But I think it is important to understand the impact of paperwork and the meetings and the whole process of dealing with IDEA. There is not a person in this Chamber who does not wish to help children with disabilities to be educated. But part of the problem is that a lot of the teachers drop out of the system, a lot of them just cannot face all of the bureaucracy that goes along with it. I believe that the Vitter amendment moves strongly in the direction of making sure that we are providing oversight to that and doing that through a GAO report.

I might also, from a personal point of view, just say that I believe it is one of the reasons that I am happy that we do go through this reauthorization process every 5 or 6 years, which is necessary under the discretionary form of spending which we have. I think it is very, very important that we, as Members of Congress, do keep an eye on this. So I do support the amendment, and I encourage all of my colleagues to support it.

Mr. VITTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. VITTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VITTER. Mr. Chairman, I demand a recorded vote; and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana (Mr. VITTER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 108–79.

AMENDMENT NO. 3 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

Mr. BRADLEY of New Hampshire. Mr. Chairman, pursuant to the rule, I offer amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BRADLEY of New Hampshire:

In section 611(e)(2)(A)(i) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill)—

(1) strike ''$500,000'' and insert ''$750,000''; and

(2) strike the parenthetical provision.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from New Hampshire (Mr. BRADLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BRADLEY).

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself such time as I may consume.

There are two ways that States are able to administer IDEA requirements. One way is for States to have $500,000 of administrative funds as part of the grant that are capped, but with an inflation adjustment; or, alternatively, States are able to use up to 20 percent of that grant for administration purposes. However, small States such as mine, New Hampshire, generally do not qualify for this provision to be able to use the 20 percent figure because it is less than the $500,000.

This $500,000 cap, which was authorized as part of the reauthorization law in 1997, therefore places large administrative burdens on small States such as New Hampshire as the accountability standards of not only the Individuals With Disabilities Education Act, but also the No Child Left Behind law have increased. This increases costs to small States, federally mandated costs on States such as mine.

Some of the issues that are involved are greater accountability requirements, improving academic performance, expanded data collection, as well as fiscal accounting requirements.

What my amendment does is lift the cap from $500,000 to $750,000. Amendment No. 3 does not increase costs to the Federal Government, as there is nothing that mandates the expenditure of these funds. Rather, it allows States to spend up to this new cap, as needed, in order to comply with the accountability provisions of this law and the No Child Left Behind law as it affects special education.

So for that reason, Mr. Chairman, I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

There was no objection.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume to say that we do not, on this side of the aisle, oppose the amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by gentleman from New Hampshire (Mr. BRADLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 108–79.

AMENDMENT NO. 4 OFFERED BY MS. WOOLSEY

Ms. WOOLSEY. Mr. Chairman, pursuant to the rule, I offer amendment No. 4.

The CHAIRMAN. Is the gentlewoman from California the designee of the gentlewoman from California (Mrs. DAVIS)?

Ms. WOOLSEY. For the time being, yes.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. WOOLSEY: In section 602(8)(C) of the Individuals with Disabilities Education Act (as proposed to be amended by section 101 of the bill), add at the end before the semicolon the following: ''that is reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum''.

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from California (Ms. WOOLSEY), as the designee of the gentlewoman from California (Mrs. DAVIS), and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Amendment No. 4 would change the definition of a free appropriate public education, the language changed in the Supreme Court decision known as Rowley, which states that the goal of a child with disabilities is the same as all other children, to have educational and related services necessary for that child to access the general curriculum.

Mr. Chairman, I reserve the balance of my time.

□ 1330

The CHAIRMAN. Does any Member seek time in opposition?

Mr. CASTLE. Although I do not oppose the amendment, Mr. Chairman, I ask to claim the time in opposition.

The CHAIRMAN. Without objection, the gentleman from Delaware (Mr. CASTLE) is recognized for the time in opposition.

There was no objection.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had discussions on this, and it is our judgment that this is an amendment we should support. This clarifies what services are required to be provided by school districts. It specifies that the educational program and services provided under it must be reasonably calculated to provide an educational benefit that enables a child with a disability to access the general curriculum.

Children with disabilities should be provided instruction and services at public expense that meet the State's educational standards for the appropriate grade level that are reasonably calculated to enable the child to make progress in the general education curriculum and advance from grade to grade. That is what both No Child Left Behind and IDEA are really all about.

School districts have to provide the necessary services, but the act does not and should not require school districts to provide all services simply because a service exists that might have some benefit.

Essentially, this has been a matter of litigation, and it has been a matter of some interest. Our judgment is that the amendment encompasses improvements to IDEA. For that reason, I would encourage support for it.

Mr. Chairman, I yield back the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

For the purposes of legislative history, the intent of this amendment is to codify the interpretation of FAPE contained in the Supreme Court decision Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982).

Mrs. DAVIS of California. Mr. Chairman, today Ms. WOOLSEY, as my designee, offered a very simple amendment to H.R. 1350, the Individuals with Disabilities Education Act. It does not change the law or the educational or related services that have long been provided in this act to each child with a disability—a free appropriate public education.

The language is simply designed to assure that when parents and teachers sit down at the table to craft an educational program appropriate for an individual child with a disability, everyone is on the same page about the goal.

The 18 words added to the definition are taken directly from an existing Supreme Court decision, Rowley, which provided controlling language on this issue. However, since most of us do not spend our time reading Supreme Court opinions, this places the language into the definition within the law, where it will be easily found. They are words that all of us can understand.

I want to share them with you. The phrase now reads that a ''free appropriate public education means special education and related services that'' are: Free—provided at public expense, under public supervision and without charge; meet the standards of the State education agency; and include an appropriate preschool, elementary, or secondary school education in the State involved. This amendment adds to that sentence the definition ''reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum.''

Educators of special-needs children who requested placement of these words in the law believe it will help them work with parents as part of the child's Individual Education Program teams to be able to test their proposals against a clear standard. It gives parents a tool to assure that school districts are not dumbing down the goals of education for their children as happened too often in the past. It enables all parties to look at the promise and make sure the child''s needs are served.

In response to questions from some Members, I would point out that this does not in any way change the results of that individual program as to whether the child is mainstreamed or not—only that the goal of the child's education is to access the curriculum content offered to all students.

During the long period of time during which the Education Committee members have been struggling with making this reauthorization of IDEA a better bill, there have been some key themes. Funding is, of course, one, including helping local school districts recover costs for non-educational expenses. Some of these issues need continued work as this bill moves ultimately to conference.

However, another theme has been reducing conflict which leads to expensive litigation over choosing the program that will best help the special needs student. I believe that this simple placement of existing language into the context of the definition will help achieve this goal of reducing conflict in providing an appropriate education to each child.

I urge your support of this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WOOLSEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 108–79.

AMENDMENT NO. 5 OFFERED BY MR. DEMINT

Mr. DEMINT. Mr. Chairman, I offer amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. DEMINT:

In section 612(a)(10)(A) of the Individuals with Disabilities Education Act, as proposed to be amended by the bill, add at the end the following:

''(vii) PARENT OPTION PROGRAM.—If a State has established a program described in section 664(c)(11) (whether statewide or in limited areas of the State) that allows a parent of a child with a disability to use public funds to pay some or all of the costs of attendance at a public or private school—

''(I) funds allocated to the State under section 611 may be used to supplement those public funds, if the Federal funds are distributed to parents who make a genuine independent choice as to the appropriate school for their child;

''(II) the authorization of a parent to exercise this option fulfills the State's obligation under paragraph (1) with respect to the child during the period in which the child is enrolled in the selected school; and

''(III) a private school accepting those funds shall be deemed, for both the programs and services delivered to the child, to be providing a free appropriate public education and to be in compliance with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

In section 664(c)(9) of the Individuals with Disabilities Education Act, as proposed to be inserted by the bill, strike ''and'' at the end;

In section 664(c)(10) of the Individuals with Disabilities Education Act, as proposed to be inserted by the bill, strike the period at the end and insert ''; and''.

In section 664(c) of the Individuals with Disabilities Education Act, as proposed to be inserted by the bill, add at the end the following:

''(11) supporting the post-award planning and design, and the initial implementation (which may include costs for informing the community, acquiring necessary equipment and supplies, and other initial operational costs), during a period of not more than 3 years, of State programs that allow the parent of a child with a disability to make a genuine independent choice of the appropriate public or private school for their child, if the program—

''(A) requires that the child—

''(i) have been determined to be a child with a disability in accordance with section 614;

''(ii) have spent the prior school year in attendance at a public elementary or secondary school unless the child was served under section 619 or part C during such year; and

''(iii) have in effect an individualized education program (as defined in section 614(d)(1)(A));

''(B) permits the parent to receive from the eligible entity funds to be used to pay some or all of the costs of attendance at the selected school (which may include tuition, fees, and transportation costs);

''(C) prohibits the selected school from discriminating against eligible students on the basis of race, color, or national origin; and

''(D) requires the selected school to be academically accountable to the parent for meeting the educational needs of the student.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from South Carolina (Mr. DEMINT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise today to ask for Members' consideration of my amendment to promote specialized education and to empower parents with children who have special needs.

I would like to thank the gentleman from Ohio (Chairman BOEHNER) and my colleagues on the Committee on Education and the Workforce for their hard work and determination in bringing this bill to the floor.

Mr. Chairman, I have concerns with special education today. Instead of meeting the needs of the children who are truly disabled, special education is becoming a label for every child that learns differently or has not been taught basic skills. Nearly one in eight of U.S. schoolchildren is currently considered disabled. As a result, education for truly disabled children is becoming less and less special.

My amendment permits States and encourages States to develop new, innovative systems that promote customization of special education. Giving States the flexibility to develop new and innovative approaches to serving the needs of disabled children will help those children receive the customized and truly special education that they deserve.

Children with special needs deserve education services that are customized to their unique needs. This legislation will ultimately provide parents with more resources and opportunities for their children with disabilities. I am confident my colleagues will support giving States the option to develop creative solutions to educating special needs children.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek to control time in opposition?

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the DeMint amendment.

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) is recognized for the time in opposition.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly oppose this amendment. Federal funds should not be used for private school vouchers for any children, but it is particularly dangerous to do this for children with disabilities.

Vouchers undermine the very foundation of IDEA. IDEA guarantees children with disabilities a free and appropriate public education and provides important safeguards to the child and the parents to ensure that education is received.

When a special education child takes a voucher to a private school, all guarantees of rights under IDEA are lost. The McKay voucher program in Florida, which allows children with disabilities to use vouchers to go to private schools, is a perfect example of the pitfalls of an IDEA voucher program.

In the Florida special education voucher program, there are no State reviews of the education and services being provided, and there are no civil rights protections if the parents are not happy with the education and services their child is receiving.

Under the Florida IDEA voucher program, private schools can and do charge parents additional tuition and fees above the voucher, making it difficult or impossible for low-income parents to benefit from a voucher program.

Contrary to what people claim, vouchers do not increase parents' choice. Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason, including the student's disability. So when it comes to vouchers, it is not the parents who have the choice; it is the private school. Whatever choices a private school makes, it does not have to let parents or the public know why.

Vouchers give private schools public taxpayer dollars, but the private schools are not held to any of the same standards of accountability that public schools are held to. Public schools must hold open meetings and make their test scores, dropout rates, and other basic information public. Private schools are subject to no public oversight.

Accountability to the child, to the parents, and to the public is the touchstone of IDEA, and also, supposedly, No Child Left Behind. We must not allow vouchers to jeopardize that accountability. I urge my colleagues to reject this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DEMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank my colleague, the gentleman from South Carolina, for offering this amendment and congratulate him on his effort in promoting new and innovative ways to deal with children with special needs.

These children require the utmost in flexibility in their education; and the amendment before us encourages innovative options and provides States with much-needed flexibility.

The amendment would accomplish three goals. First, it encourages States to establish innovative solutions by providing seed money to develop new programs. Second, it answers the call of parents of children with disabilities to ensure that educational opportunities are not withheld and that States may choose to implement as much or as little flexibility as the State deems appropriate. Third, it allows States to use Federal dollars in flexible programs already utilizing State resources to provide services for children with special needs.

The amendment does not, as has been claimed by some critics, provide vouchers. It simply affords States the flexibility they are seeking to provide individualized options for students with disabilities.

This amendment is not a mandate in any way, shape, or form; but it makes new options available for States who choose, these are only for States who choose, to want to look at new options and new technology and more flexibility in terms of meeting the needs of special needs children, of all of their children in their State.

Each participating State must determine which approach and what type of program will best serve the children with disabilities in their State, including options such as public schools, charter schools, or private schools, whatever is in the best interests of the child. So children with disabilities today deserve every effort that can be made to provide them with a high-quality education, and their options and the options of the States should not be limited.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. CLYBURN).

Mr. CLYBURN. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in opposition to this amendment. Yesterday, it was choice. Today, it is options. Tomorrow, there is no telling what we will call it. But by whatever name we may call it, however we may cloak it, this is about vouchers.

I believe, Mr. Chairman, in innovations, but not innovations that supplant the due process clause of the United States Constitution. That is exactly what this amendment will accomplish.

Let us take, for instance, just the issue of choice, if I might use that term today. I know that the proponents of this amendment talk all the time about providing choice for parents and teachers. This amendment provides little choice for parents and students, but provides the ultimate choice to schools and administrators.

It allows these schools to cream, if I might use that term, off all of those children that may be a little bit disabled; but those children whose parents would like to have them participate who may be a little more disabled than the schools would like to tolerate, this amendment will allow those children to be rejected, and take away any choice or any option from those children to participate.

So, Mr. Chairman, I believe that it is in the best interests of public education and choice for parents that we reject this amendment.

Mr. DEMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it may have been about choice the other day, it may have been about options the other day; it is about children today. No lesser authority than the United States Supreme Court has authorized the portability of Federal funds for students with special education needs.

There is not a Member of this body that does not represent a State that does not have students whose tuition to private schools is paid in full under their eligibility because of IDEA and because the State determines that it cannot meet the needs of those children.

This is not about mandating choice to a parent. This is about giving the option of portability to a public school system that determines that might be necessary in a special ed case; for example, a student with severe hearing disability who goes on to an audio trainer in a rural system who might be able to serve a semester or a year in another institution to learn how to use that audio trainer; or a cerebral palsy student profoundly disabled and handicapped who, through assistive technology, may have the ability to learn how to function in the public school classroom.

Should we say no if a State makes that determination, and a parent chooses, to send most of the money which is theirs, the State's, to follow that student? I think not.

I understand the legitimate debate, and I understand the smokescreens; but I married a special education teacher. I worked all my life with handicapped children. I am not for blind programs that seem to fix things that do not; but I am 100 percent for the flexibility to address the uniquely specified needs, sometimes only temporarily, on behalf of a child who deserves the opportunity to enjoy the richness of life that every one of us without those disabilities enjoys right now in this House.

It is an effort to make a start. It is not a mandate; it is permissive. It is about children and their parents and a better life for both of them.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. DAVIS), a member of the Committee.

Mrs. DAVIS of California. Mr. Chairman, I wanted to address for a moment the issue of accountability within the special education system.

I know when I was a board member in San Diego, I would hear repeatedly about how difficult it was in many cases to keep up without accountability. Yet we know that it is important.

I am pleased that during our discussion on this bill, that we talked about the need to reduce the paperwork and to find ways that we would be accountable, and yet we would make it reasonable and easier for our schools to respond and to address the needs of our children. I commend the chairman, the gentleman from Ohio (Mr. BOEHNER), for that work within the committee.

But please, we need to be careful that we not give up accountability when we suggest that any school would be able to deal with those issues. The people who work with special education in our communities and in our public school systems, they have been doing this for a long time.

□ 1345

They understand the importance of it and they make sure that it works for our children. I cannot imagine what it would be like to throw that open to a tuition system or a voucher system that really had little understanding of that.

Mr. DEMINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding me time and congratulate the chairman of the committee for bringing this piece of legislation forward.

I think the amendment that is being proposed by my colleague is important. It is an important amendment to the underlying legislation. We have made significant progress in the IDEA legislation, and this amendment would take it one step further. Currently, educational choice does exist under IDEA; but too often educational choice exists only for those parents who are wealthy enough to litigate to get their child placed somewhere else. With the important changes in this bill to reduce costly and needless litigation, we must restore to parents opportunities to ensure that their child receives the best education possible.

This amendment is very straightforward. It does not require anything. What it says is it will allow the State to use research and innovation dollars to research and develop new education systems for IDEA children that promote customization.

The intent here is very simple. Let us make sure we get the right program, the right resources, and the right skills necessary and match them with the child and allow the State the opportunity to experiment and innovate to move this process forward. This is a very, very good amendment. I hope that we have the opportunity to put this in place and let the States move forward and help all of our children.

Ms. WOOLSEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, this amendment is a very bad idea. This law was built up about guaranteeing to these children and to their families that they would have certain rights that would provide them an access to a free and appropriate education in the least restrictive environment. And over the years we have built up a system of accountability to make sure that that education was, in fact, provided to these children.

Now we come along with this voucher amendment where immediately upon the exchange of money from the school district to the private school, or from the parent to the private school, those rights are eviscerated. Because this bill deems upon acceptance of the voucher that these children are getting a free and appropriate education. We do not know whether they will or not. If the children decide they are not and they come back to the public school system, does the school system get to bring some of the money back? Is the money stuck over there? Does the school system now have to pony up additional money to educate that child? I think the answer is yes, they do because they have an obligation.

The fact of the matter is these schools, they do not have to accept the child if the disability is too expensive. They do not have to accept the child. They get to pick and choose among the children. The public schools have to take the children as they come to give them a free and appropriate education. These schools do not have to be certified. They do not have to be qualified. They do not have to be State licensed.

What happens to the money? You just get to take this money, the taxpayers' money and not have these accountabilities. I can understand the desire; and, in fact, the law provides for parents who think their children can get a better education at a private school with special skills or special talents or a record of handling these children in the appropriate way. They can petition to go to these schools.

In 1997, we had so many people leaving the system that we said you cannot do that because you are sticking the school district for so much money. And there was no process, there was no determination whether or not this was a suitable placement. Now you can just opt out. If the parent is lucky and if the child is lucky and it works, fine. If it does not, the school district is out the money, the child is out the education, and we are back in the stew.

This is just an unacceptable amendment. Nobody is required to make adequate yearly progress with these children under Leave No Child Behind. There is no accountability under that. There is for the school. There is no accountability in this legislation. There is no accountability under, in many instances, State law. So I do not understand. The President, the Congress decided that we are going to build a system of accountability, and now, still, simply, you can opt out of that.

If students need supplemental services, your legislation provides for supplemental services without limit to provide for that child that is hearing impaired, that is sight impaired, where they can get additional services. I assume that is the purpose of the supplemental services. But this voucher goes far beyond that.

This voucher simply gives some level of scholarship to the parents to take. But that does not mean the parents will get into that school. They may settle for a school that does not quite provide those services. It turns out that does not work, and they are back in the public school system. Meanwhile, the public school system trying to hold on to a critical mass of people skilled to deal with the education of children with disabilities, finds out that the cost per service per child goes up.

Again, as we have seen in the McKay program, about 25 percent of these people go out into those things. They get their scholarships. They go to schools, and they are coming back. We do not know quite why yet they are coming back; but obviously as they come back to the public school system, they are more expensive than when they left.

There ought to be some screen to know that this, in fact, is going to enhance the children's education. We understand and deal with, all the time, parents who want another location for the child. That is not this system. This is just a wide open voucher system without any accountability. It ought to be rejected by the House.

The CHAIRMAN. All time has expired on the opposition side. The gentleman from South Carolina (Mr. DEMINT) is recognized.

Mr. DEMINT. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from South Carolina (Mr. DEMINT) has 2½ minutes.

Mr. DEMINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Chairman, I thank the gentleman for yielding me time.

Florida set an example for the rest of the Nation by creating a program giving parents of children with disabilities the choice they deserve. The John McKay Scholarship Program was put in place to increase parental choice by allowing the parents of children with disabilities who had been attending a public school that was not addressing their needs to decide where their child would excel the most, be it private or parochial. Currently in Florida, those scholarships are funded by the State.

In passing this amendment we would be able to reach more of the 374,000 students in Florida alone who are eligible for these scholarships. Today, over 9,000 students utilize these scholarships to receive the education they would otherwise not be afforded. Fifty percent of those students qualify for free and reduced lunch, a higher percentage of low-income students than in the general education population in Florida. Thanks to these scholarships, we are helping low income students receive services they deserve.

This amendment will allow States to participate if they wish, a chance to benefit from the program like the McKay Scholarship Program; a program, by the way, which has an 89 percent reenrollment rate by those parents who are satisfied with the choice that the McKay scholarship affords them.

Mr. Speaker, Florida has received very positive feedback from these parents and from the educational system, and the McKay scholarship continues to grow. Let us not turn our backs on these children who deserve these educational services and let us continue to help them achieve their goals.

Mr. DEMINT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the concerns of my colleagues on the other side of the aisle, but unfortunately they have apparently read the propaganda from the Teachers' Union rather than reading the legislation itself.

This legislation does not establish a voucher program. It establishes no program at all. It simply encourages the States to innovate in a way that will empower parents with more voluntary choices so that they can meet the needs of their kids. It allows States to expand the rights of parents with more choices, to expand the accountability by giving parents more voluntary options.

Mr. Chairman, this vote today is a vote to empower parents and to do what IDEA is supposed to do, and that is to provide personalized, customized services for children with special needs.

Mr. BACA. Mr. Chairman, I rise in opposition to the DeMint and Musgrave amendments. These are thinly veiled efforts to privatize special education in our public schools by means of vouchers.

Not only would vouchers divert much-needed funds from our public schools, but children with disabilities who attend private schools with these vouchers will be enrolled selectively and that is discriminatory.

The DeMint and Musgrave voucher amendments drain resources for special education costs. Under these amendments, federal funding for special education services for all disabled children would instead be siphoned off to pay for private school tuition. These amendments would take away Federal dollars from public schools, and place additional burdens on schools and communities to serve more children with less funds.

These voucher amendments would allow discrimination by private schools and fail to provide real parental choice. Worried mothers of disabled children from across the country have called my office concerned that this bill and these amendments will make it harder for them to educate their very dear and special children. These children ought not to be ignored because of their special needs. How can we justify to a mother of one of these beautiful children that their kid is not deserving of an adequate education?

No child with a disability would be entitled to go to a private school of their choice under the DeMint or Musgrave amendments. These voucher amendments give veto power to private schools. The schools choose which students they will accept, not the parents.

Children with multiple disabilities and those that require high cost services would likely be excluded from the program. Further, the DeMint voucher program will not pay the entire cost of tuition at a private school, meaning that some families could not afford for their disabled child to go to private school.

For these reasons and the fundamental unfairness of these amendments, I urge my colleagues to oppose these amendments that deprive our Nation's disabled from the education they deserve.

Mr. DEMINT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. DEMINT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. DEMINT) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House report 108–79.

AMENDMENT NO. 6 OFFERED BY MRS. MUSGRAVE

Mrs. MUSGRAVE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. MUSGRAVE:

In section 612(a)(10)(A) of the Individuals with Disabilities Education Act, as proposed to be amended by the bill—

(1) redesignate clause (vi) as clause (vii); and

(2) insert after clause (v) the following:

''(vi) LOCAL EDUCATIONAL AGENCY OPTION.—A local educational agency may elect to fulfill its obligations under this subparagraph to children with disabilities enrolled by their parents in private elementary and secondary schools in the area served by the agency by offering certificates to all such parents for necessary special education and related services, if—

''(I) the certificates offered with respect to each child have an annual aggregate value that is equal to the lesser of—

''(aa) the per-pupil amount derived by dividing the proportionate share of Federal funds calculated under clause (i)(I) by the number of parentally-placed children with disabilities determined under clause (i)(II); and

''(bb) the actual cost of the necessary special education and related services for such child; and

''(II) the certificates may only be redeemed by the parents at eligible special education and related services providers, as determined by the local educational agency, that—

''(aa) provide information to the parents and such agency regarding the progress of the child as a result of the receipt of such services in a format and, to the extent practicable, a language that the parents can understand;

''(bb) meet all applicable Federal, State, and local health, safety, and civil rights laws;

''(cc) demonstrate that the provider has been lawfully operating as a business for not less than 1 year; and

''(dd) provide assurances to such agency that the provider is financially sound, is not in bankruptcy proceedings, and is not the subject of an investigation or legal judgment involving waste, fraud, or abuse on the part of the provider, or any employee of the provider, with respect to funds under the provider's control.

Clause (v)(II) shall not apply special education and related services furnished pursuant to such certificates. At the discretion of the local educational agency, and to the extent consistent with State law, State and local funds may be used to add to the value of such certificates.

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from Colorado (Mrs. MUSGRAVE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this amendment that I am offering today is all about local control. It is all about meeting the needs of a group of children that is in private schools, special ed students that are there; and each one of us would certainly agree that we need to meet the needs of these students. Quite frankly, they are not being met today. Although these children generate funds and are in the count that the public school uses, the Federal dollars flow to the public school, and then these dollars very often do not reach the child in regard to purchasing the special services that they need.

This amendment would rectify that by giving the local school districts an option of issuing a certificate to the parents of these special ed students on an average amount of $1,400 so that the parents could purchase the services that these children need.

This makes great sense since we want to educate all children well. The children in public school have due process right with their parents.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I rise in opposition to the Musgrave amendment and I yield myself such time as I may consume.

Mr. Chairman, I strongly oppose this amendment. Vouchers undermine the very foundation of IDEA. IDEA guarantees children with disabilities a free and appropriate public education and provides important safeguards to the child and the parents to ensure that education is actually received.

When a special education child takes a voucher to a private school, all guarantees and rights under IDEA are lost. The McKay Voucher Program in Florida, which allows children with disabilities to use vouchers to go to private schools, is a perfect example of the pitfalls of an IDEA voucher program gone wrong.

In the Florida special education voucher program, there are no State reviews of the education and services being provided, and there are no civil rights protections if parents are not happy with the education and services their children or their child is receiving. Under the Florida IDEA voucher program, private schools can and do charge parents additional tuition and fees above the voucher making it difficult and usually impossible for low income parents to benefit from vouchers.

Contrary to what some people claim, vouchers do not increase parents' choice. Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason including the student's disability. So when it comes to vouchers, it is not the parents who have the choice. It is the private school.

Mr. Chairman, I reserve the balance of my time.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Chairman, I rise in support of the amendment by the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mr. Chairman, it has been said that the States are the laboratories of the Nation. In Arizona at this time, when the special needs child comes into the public system, oftentimes the public system recognizes that they are not fully capable of meeting that special need at that time and they provide a certificate for that child to go to a private school or a private institution to meet that child's needs.

All the Musgrave amendment really does is to allow this same option, and I emphasize the word ''option,'' to be given to public schools in the context

of the IDEA legislation. This is not a Federal mandate. This is not what people call vouchers. This is simply an option for the local schools to do this. And in those cases where they do, it gives those parents the opportunity to direct the resources on behalf of their child.

Mr. Chairman, no one knows and loves these children more than these parents. Mr. Chairman, I thank the gentlewoman for offering such a noble amendment.

□ 1400

Ms. WOOLSEY. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) has 3 minutes remaining, and the gentlewoman from Colorado (Mrs. MUSGRAVE) has 3 minutes remaining.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PAYNE), a member of the committee.

Mr. PAYNE. Mr. Chairman, I stand in strong opposition to this amendment. Currently, IDEA guarantees every child with a disability a free and an appropriate public education. Diverting public funds to private and parochial schools through vouchers really undermines the public school system, and it undermines that guarantee that we have made to every youngster in this country. Vouchers would subsidize the enrollment of children in private schools that are not accountable nor subject to Federal civil rights laws.

Our Republican colleagues have pushed for accountability in education through the Leave No Child Behind Act; yet if this amendment passes, private schools would not be held to the same standards as public schools. We all know that. Public schools accept all children; but private and religious schools can and often do discriminate by rejecting students due to academic standards, disabilities, behavior problems, religious affiliations, and other criteria.

Public schools are simply that. They are public. Private and parochial are simply that. They are private and they are parochial. Under this amendment, private schools accepting voucher funds would not be required to recognize any of the parental rights contained within IDEA. It would be a step backwards.

We need to move forward in this new millennium. This is directly opposite to what IDEA was created to do, giving parents a voice in their children's education. Voucher programs will not pay for the entire cost; and, therefore, it would simply subsidize those. I strongly urge rejection of this amendment.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank my colleague, the gentlewoman from Colorado, for yielding me this time.

I think this is an excellent amendment. Under current law, school districts are required to identify all children who have disabilities in a district, including private school children. All children. School districts are also obligated to provide special education and related services to these private school children as a group in an amount equal to the proportionate amount of Federal funds generated by these children to the district under IDEA.

Now, what does this mean? It means the school district receives a certain amount of dollars to provide services to these children. Under current law, however, no parentally placed private school child is entitled to individual services, even though the school district receives this money. The only requirement in the law is that the school's disabled population as a group must be helped.

In practicality, what this means is that many of the students who have been placed in a private or parochial school do not get the direct services specific to their needs; and when those services are available, they are often offered at times and at places that are inconvenient to the child's parents.

I support the Federal investment in meeting the education needs of all of our Nation's children with disabilities. Support this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding me this time.

The arguments here are very similar to the previous amendment. One, it is a very bad idea in terms of policy and accountability and responsibility to these children, but it is also a bit of a hoax.

The idea that the parent can take the Federal share of the money, which the gentlewoman says is $1,400, maybe as high as $1,800, and go out and buy the same education they are going to get in the public school system for their children on the school-year basis, well, where does the rest of the money come from? At least if this bill had some intellectual integrity, it would say take all the money the school district is going to spend, take the $6,000 on a national average, give that to the parent and let them try to find this education.

Obviously, if the parent cannot come up with the additional money, they cannot provide for an education. Or if the child is severely disabled, this will not begin to cover those services. Remember, most of the people who go out to get these services end up suing the school district for those services and the school pays the whole amount. They pay $15,000, $20,000, $30,000, $40,000, or $50,000 because of the kind of intense services that these children need in order to qualify to get a free and appropriate education.

That is not what this amendment is about. This is just a shuck and a jive, that somehow you can go out and get these first-class services for a severely disabled child for $1,400. Again, the bill allows for, and I think it makes sense on one level, supplemental services. If $1,400 will buy the kind of services for a child that is moderately disabled or has a reading problem or something, and is labeled as disabled, fine, give them the supplemental services. But the notion someone can go out and buy an education for $1,400 is a hoax on the parents.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

(Mr. SOUDER asked and was given permission to revise and extend his remarks.)

Mr. SOUDER. Mr. Chairman, this is one of the few times I have ever been accused of shucking and jiving. It is not usually what I do for a living.

The gentleman from California (Mr. GEORGE MILLER) has actually made a couple of points that reinforce the point of this amendment. It is absolutely true that school districts have come to us repeatedly and said we do not have enough money to meet the IDEA standards to do the individual development plans and to meet the needs of our special needs students. It is the biggest complaint coming out of every school district in the country.

If the schools actually are paying $6,000 to $7,000 a student, which sometimes, quite frankly, I think is not an accurate claim, then they should be the first ones lining up behind an amendment that says for $1,400 we are going to take $6,000 to $7,000 pressure off your school system. The opposition of those who say that they are against this because there is not enough money, the parent can choose to go to the school. If they cannot get the plan, then they do not get the money.

There are groups in this country, in private schools, who are willing, through churches and others, to put up money to try to address these types of needs. We as a Federal Government are prohibiting them from addressing it and prohibiting those parents from getting the opportunity to meet those needs.

The CHAIRMAN pro tempore (Mr. TERRY). The time of the opposition has expired, and the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Currently, 7 percent of all students enrolled in Catholic schools are identified as disabled. Less than 1 percent of them get services. They generate $10 million in revenue for the schools in IDEA. The schools actually get about $78,000 out of that $10 million generated.

So when we talk about equity issues and we come to this floor to talk about the needs of all children, please consider the fact that these are children

also. They happen to be in a different setting. They happen to be in a school that is not a government school. But that should not determine whether or not they are served.

We have time and time again stood on this floor arguing about whether or not we are really talking about children in these bills that we pass for education or whether or not we are just simply trying to support a particular system, a particular way of educating children. Should our concern not simply be about the children? We hear that word bandied about, so often used to describe our motives here, but when it is a child other than the one the government runs, we say they do not deserve it.

This is a great amendment. I hope we support it.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 108–79.

AMENDMENT NO. 7 OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, pursuant to the rule, I offer amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SHADEGG:

In section 204 of the bill, strike ''Section 614'' and insert ''(a) IN GENERAL.—Section 614''.

In section 204 of the bill, add at the end the following:

(b) FINDINGS; SENSE OF CONGRESS.—

(1) FINDINGS.—Congress finds the following:

(A) Certain of the categories of disability that allow students to qualify for benefits under the Individuals with Disabilities Education Act have not been scientifically established and, as a result, some children who do not have actual learning disabilities are classified as having disabilities under that Act.

(B) Nearly one in eight students is now labeled as disabled.

(C) Over one-half of those students are classified as having learning and behavioral challenges.

(D) Current definitions of disabilities in the Code of Federal Regulations, particularly the definition of ''emotional disturbance'', are vague and ambiguous.

(E) The absence of reliable methods for distinguishing children with a special learning disability from children who have lower than expected achievement leads to over-identification and misidentification of non-disabled students as students with disabilities.

(F) The lack of consistently applied diagnostic criteria for specific learning disabilities makes it possible to diagnose almost any low or underachieving child as a student with a disability.

(G) The President's Commission on Excellence in Special Education (PCESE) found in its July 1, 2002, report, ''A New Era: Revitalizing Special Education for Children and their Families'', that many of the current methods of identifying children with disabilities lack validity and, as a result, thousands of children are misidentified every year, while many others are not identified early enough or at all.

(H) The President's Commission also found that emotional and behavioral difficulties could be prevented through classroom-based approaches involving positive discipline and classroom management.

(I) According to testimony from a March 13, 2003, hearing before the Subcommittee on Education Reform of the Committee on Education and the Workforce of the House of Representatives, students are frequently referred to special education because they are not succeeding in the general education setting, and not because they are actually disabled.

(J) Students with controllable behavioral problems are often classified as having learning disabilities and therefore are not held responsible for their own behavior.

(K) According to testimony by Secretary of Education Rod Paige on October 4, 2001, before the Committee on Education and the Workforce of the House of Representatives, our educational system fails to teach many children fundamental skills like reading, then inappropriately identifies some of them as having disabilities, thus harming the educational future of those children who are misidentified and reducing the resources available to serve children with disabilities.

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

(A) students who have not been diagnosed by a physician or other person certified by a State health board as having a disability (as defined under the Individuals with Disabilities Education Act) should not be classified as children with disabilities for purposes of receiving services under that Act; and

(B) students with behavioral problems who have not been diagnosed by a physician or other person certified by a State health board as having a disability should be subject to the regular school disciplinary code.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Arizona (Mr. SHADEGG) and a Member in opposition each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the purpose of this sense of the Congress amendment is simple and straightforward. It is intended to direct IDEA funds to those kids most in need.

We have a problem in this program at the present time of overidentifying. It has been discussed in the literature. It was discussed in the testimony before the committee. Quite frankly, all too often, sadly, some children are identified as being qualified for this program, and resources are devoted to them, when they are not, in fact, truly disabled.

The purpose of this amendment is to express the sense of the Congress that these resources should go to the truly disabled kids. We do not amend the definition of disabled or mentally ill. We do not attack the definition. We accomplish that by simply saying that the determination of who qualifies to be in the program ought to be made by either a psychiatrist or a psychologist or someone licensed by a State medical board.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition, and I reserve the balance of my time.

Mr. SHADEGG. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY).

(Mr. MURPHY asked and was given permission to revise and extend his remarks.)

Mr. MURPHY. Mr. Chairman, I want to compliment the gentleman from Arizona (Mr. SHADEGG) on the attempts he is making in this amendment because I think it is critically important that we are working to define very carefully those who are going to do evaluations on children.

However, what I would like to suggest is that we continue to work on this, perhaps that we move it to conference and try to refine some of the wording. Because I think some of the aspects that deal with physicians or trying to carefully define who may do these evaluations I believe we will get some more mileage on. It has been an important distinction over the years that I myself, as a psychologist, having done hundreds of these evaluations, have struggled with in trying to come up with the exact way to define special education and learning disabilities and the right tests. It is an issue that the Congress has been dealing with for many years as well and one that I think really requires our continued attention.

So again I compliment the Members for working on this. I hope we can continue to work on this and try to refine some of these definitions so that we can get to this end perhaps by another means.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today to oppose this amendment, and let me just basically state the reason why.

We have in this country right now 4,000 young people who kill themselves every year in suicides. It is the third leading cause of death in this age group. We need to consider that two-thirds of young people who suffer from mental illness never even get help. Why? Because there is a stigma. People do not believe that there is any truth to mental illness.

While I am sure the gentleman who authored this amendment did not intend for the amendment to have this impact, what I worry about is that the impact of this amendment will be to further add to the stigma that exists towards people with mental illness by saying, basically all these kids really need is a good swift kick in the butt

and they ought to pull themselves up by their bootstraps.

The fact of the matter is we know that there are some serious emotional disturbances that these young people are facing. To suggest that teachers right now in the classroom, administrators and principals do not already know which children need special ed and which children do not, I think is using the heavy hand of Congress to micromanage what school districts are trying to do to help these children.

So I would just ask the Members of the House to take a good hard look at this amendment and to consider the ramifications of voting for this because I think there is an unintended effect of passing this amendment that will further stigmatize people with mental illness.

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume to simply comment there is no intent to change the definition of mental illness nor to stigmatize in any way.

Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman from Arizona for yielding me this time.

As a Congress, we have a responsibility to not only fund special education but also to make sure the dollars spent on special education are targeted to the children who really need the extra assistance and learning. Each year, thousands of children are wrongly identified as needing special education while many others are not identified early enough or at all.

□ 1415

Mr. Chairman, this misidentification reduces the resources available to serve children who are actually disabled. Furthermore, it gives some children with controllable but negative behavior the ability to misbehave without fear of punishing.

H.R. 1350 takes important strides in addressing the problem of overidentification and the mislabeling of children with disabilities by way of prereferral services and early intervention strategies.

It also takes important strides in reforming current discipline procedures to make our schools safer for all of our children and teachers.

The Shadegg amendment supports the efforts of this legislation before us, and expresses a sense of Congress on reducing misidentification and ensuring that our schools are safe. I encourage Members to vote for this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Rhode Island (Mr. KENNEDY) because I think this amendment causes a great deal of trouble in terms of the questions of the stigma of people.

I have talked to an awful lot of parents who have great qualms about whether their children should be identified in special education programs, whether to try to get the child into the program when they know the child needs help or not because they are concerned about what that means in the future. We have struggled with this in the committee and on both sides of the aisle, this question of underidentification, overidentification, and of the illnesses that we should be treating in this setting.

I do not think that this language, and maybe it can be improved before the end of this process, but I do not think that this language is proper. It suggests that only a select number of people are fit to pass judgment on whether or not these children are eligible or not, and I think it does create a problem in terms of the question of mental disability and of special education. I hope that we would not agree to this amendment. I think it is very damaging on the front that we have tried to make some progress on with the public.

Mr. SHADEGG. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I would say to the gentleman from California (Mr. GEORGE MILLER), we are not too far off on what we want to do here. Perhaps the gentleman does not like the language exactly like it is, but I am also absolutely certain the gentleman does not want children placed on the disability list when they should not be if it takes away from other children. I think the gentleman from Arizona (Mr. SHADEGG) is doing the right thing. I am sorry it is just a sense of Congress. It should be changed language in this legislation.

The system is suffering. We are putting people in disability situations that are not, and that is harmful, I believe, to the system. There are those that are being wrongfully identified, and I do not know who should make that decision. A physician might be a good possibility. If others are, it might be a smart idea to make sure we are right about them and have people who are certified by the State health board.

Ms. WOOLSEY. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, right now we have no child psychiatrists in this country because there is no reimbursement because we have a discriminatory health care system that does not acknowledge mental illness as a health matter at all. So how we expect a very, very limited number of people who are experts in this area to somehow begin to determine all of these caseloads, I think, is absolutely impractical, unless the gentleman would commit to me that he would work with us to get mental health parity passed so we can get more clinicians in the area of mental health.

Mr. SHADEGG. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me try to conclude this debate in the positive spirit in which it has gone forward. I would be happy to work with Members on the other side of the aisle. The gentleman from Rhode Island said there are no child psychologists in America. I believe that is a misstatement. There are many I know, and work with some in Arizona. I would yield to the gentleman to correct that statement.

Mr. KENNEDY of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. SHADEGG. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Obviously the gentleman understood what I was saying. There are hardly any. Ask any of your friends, and they will say there is a fraction of a percent in this country.

Mr. SHADEGG. Mr. Chairman, reclaiming my time, I understand the point. There are many.

But the point of the debate is that the goal of this sense of Congress amendment is, in fact, to direct the resources that we have for disabled children to those disabled children, and to make sure that we are putting into the program those kids, those young people, those children in our schools most in need. The reality is this is an incredibly important program that I take great pride that the Republican Congress has funded at an exceedingly higher level than it was in the past, but those resources need to go to the children most in need. I urge Members to support it.

Ms. WOOLSEY. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I would like to work with the gentleman to see us be more constructive with our funds. We know there are a lot of ways to identify children that are going to have emotional disturbances and learning disabilities as a result early on before they get put into special education. This Congress and others ought to be focusing more on putting in intervention services for those children. That is where I think our attention should be, not unintentionally making mental illness a stigma.

The CHAIRMAN pro tempore (Mr. TERRY). All time has expired.

The question is on the amendment offered by the gentleman from Arizona (Mr. SHADEGG).

The amendment was agreed to.

It is now in order to consider amendment No. 8 printed in House Report 108–79.

AMENDMENT NO. 8 OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TANCREDO:

Strike subparagraph (A) of section 602(27) of the Individuals with Disabilities Education Act (as proposed to be amended by section 101 of the bill) and insert the following:

''(A) IN GENERAL.—The term 'specific learning disability' means a disorder due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence and not based on subjective criteria.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Colorado (Mr. TANCREDO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I yield myself 1 minute.

Much of the debate over this particular amendment, I think, we have actually heard over the previous amendment. It goes to the same issue, although this is not a sense of Congress, this is an amendment to the bill. It is designed specifically for the purpose of trying to identify those children who are truly in need of the services that we appropriate money for here, and distinguish them from those children who are not, but who are placed into these programs in ever-greater numbers, thereby diluting the pool of resources available to serve children who are truly in need.

This is a problem which has been with us since the beginning of this program. It was hoped it would be addressed in the reauthorization. That did not happen. The reauthorization does, in fact, what the gentleman from Rhode Island (Mr. KENNEDY) was asking for a minute ago, and that is emphasize early identification, and I am all for that. I do not believe that will change the problem.

If children are being misidentified today, they will be misidentified earlier. That is the real problem, misidentification, not the time at which it happens. The problem is with it intrinsically.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to the Tancredo amendment.

The CHAIRMAN pro tempore. The gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment restricts local schools' methods of identifying students as having learning disabilities by redefining the language ''specific learning disability'' as a disorder ''due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence.''

Learning disabilities are not simply a medical condition that can only be determined by a doctor. Current definition includes disorders with psychological processes which have severe impact on learning and behavior. The Tancredo amendment creates a new and very narrow medical condition definition that would actually keep children from getting the special education services that they need, and they need those services so they can learn and be successful in school.

Mr. Chairman, I reserve the balance of my time.

Mr. TANCREDO. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I rise today to talk about a very important issue, and that is overidentification and misidentification of children with suspected learning behavioral disabilities. If schools misdiagnose a child, it not only affects their report card, but it affects their future. We need to make sure that the right children receive special education.

The Tancredo-Graves amendment seeks to address this problem which is driving up the cost of IDEA and putting misdiagnosed kids into special needs programs. The majority of kids with disabilities are medically diagnosed and, therefore, receive special education services. Children with learning and behavioral disorders should be no different.

The bottom line is if a child has a medical disability, whether it be physical, mental, learning or behavioral, it should be diagnosed and have a medical opinion from a medical professional in order to receive the same special education services as those children that are medically diagnosed.

The Tancredo-Graves amendment would protect parents, and most importantly, it would protect children from being labeled with a disability that they may not have.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, this committee has struggled long and hard over many years to try and reduce litigation in this legislation. I think we have a magnet here in terms of litigation. And I also think because the definition of ''medically detectable and diagnosable physiological condition,'' I am not quite sure how we are going to comply with that in the number of conditions that children have. The number of means by which we now diagnose children I am not sure fit within that definition. By the same token, I suggest that does not mean that they are not properly enrolled in these programs and do not have a disability that requires special attention in terms of their ability to get an education. I think this is a really bad amendment, and I would urge Members to oppose it.

Mr. TANCREDO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, let me rise to support this amendment. This language really needs to go to conference. It needs to be in the bill. There are too many people placed in special education that should not be in special education, and that harms the system and it also harms those that should be in special education and the dollars that flow to them. All I am saying is let us put the right people in special ed, and those that should not be there not be there.

This amendment was read earlier stating, ''The term 'specific learning disability' means a disorder due to a medically detectable and diagnosable physiological condition relying on physical and scientific evidence,'' and then the reading stopped. The important part of this language is, and I continue, ''and not based on subjective criteria.'' I do not know that part was not read out, but that is the part that is so important because that is why so many people are in special education that should not be in special education. I urge Members to pass this and we will get into conference and talk further.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

□ 1430

Mr. KENNEDY of Rhode Island. Mr. Chairman, the problem we have in this country right now is not that there are too many people who are overidentifying themselves as having mental illness; it is that it is too few people. And the notion that people are readily just going in there and saying, oh, my child is disabled or I have a mental illness, you have got to be kidding me. Two thirds of those who need the help are not getting it, and if my colleagues think that the people who really are going to be at the lower-end socioeconomic levels are going to be able to go to a doctor, pay for it to try to get identified so they can get this program, who do they think is going to get it under their bill? I will tell them who. People with health insurance and money. They are the only ones who are going to be able to afford to see a doc to get this designation. In addition to that, this mentally detectable and diagnosable, physiological condition, that has got stigma and stereotype written all over it. It is language that is basically for those who are concerned about this issue, code language for discrimination against people with mental illness; and that is a fact. And my colleagues can talk to anyone who leads any mental health organization in this country, NAMI, National Alliance for the Mentally Ill, any of those, and they will say this language here plays upon the age-old stereotype of people with mental illness. And I urge my colleagues to reject this amendment.

Mr. TANCREDO. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. MURPHY).

(Mr. MURPHY asked and was given permission to revise and extend his remarks.)

Mr. MURPHY. Mr. Chairman, I believe the Member is headed in an important direction in terms of identifying a better way of evaluating children. And speaking as the only Member of this Chamber who has done hundreds of these tests, I would like to say medical doctors for the most part do not have the training or the tools to do these evaluations. We need to pursue a clearer definition. I am absolutely in agreement on that, but I am not sure this is the correct way to do this. Even the best neurologists, M.D., can say if brain tissue is malformed or damaged; but they cannot say if the brain is functioning properly and therefore give some explanation or diagnosis of such concerns as Asperger's, autism, or dyslexia at this time.

The CHAIRMAN pro tempore (Mr. TERRY). The gentlewoman from California has 1 minute. The gentleman from Colorado has 1½ minutes.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

I would like to repeat that this amendment creates a very narrow medical condition definition, and it would keep children from getting the special education services they need to learn and to be successful in school.

Mr. Chairman, I yield the balance of my time to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, once again I would just say, as my good friend has just said, the reason that doctors are not trained in identifying mental illness is that we still are living in a country where mental illness is not regarded as part of the body. In other words, brains are not considered an organ of the body currently in this country for purposes of insurance. So why should we be surprised when there are not any doctors out there who can have the training to do this? What the gentleman is doing is not helping us. It is hurting us. So I would just ask my colleagues once again please vote ''no'' on the Tancredo amendment.

Mr. TANCREDO. Mr. Chairman, I yield myself such time as I may consume.

The dictionary definition of physiological psychology, a branch, by the way, of physiology, is that it is concerned with the relationship between the physical functioning of an organism and behavior. So I am quite sure that this definition will cover the kinds of folks, the kinds of problems that my colleague from the other side of the aisle has brought to our attention. It is certainly not my intention to discriminate against them. It is simply my intention to make sure that only the children who need help, be it physical or mental, get that help, and they are now being refused that help. We cannot get them into the program. We cannot give them the help they need because of the many kids who are there who should not be there. I sat through many processes that were designed. As a teacher, I sat through the process designed to determine which kids should go into special ed and which kids should not, and I will tell my colleagues everything in that process is designed to push the kid in. Everybody around that table is usually there to say yes, including the parent, who does want an excuse. More often than not, they do want an excuse for the problems they are having, and a lot of problems are behavioral. There are all kinds of kids in our classrooms today who are there in IDEA classrooms and handicapped education because their IQ does not fit their achievement level. But that is not necessarily a handicap and should not be a definition of a handicapping condition. We have title I for this kind of thing. That is the problem, too many put there subjectively. It is not an attempt to discriminate between mental or physical handicap one iota. I assure my colleagues I have a personal concern about those issues. I assure them.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 2 offered by the gentleman from Louisiana (Mr. VITTER), amendment No. 5 offered by the gentleman from South Carolina (Mr. DEMINT), amendment No. 6 offered by the gentlewoman from Colorado (Mrs. MUSGRAVE), and amendment No. 8 offered by the gentleman from Colorado (Mr. TANCREDO).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. VITTER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 printed in House Report 108–79 offered by the gentleman from Louisiana (Mr. VITTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 413, noes 0, not voting 21, as follows:

[Roll No. 150]

AYES—413

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt

Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—21

Becerra
Cannon
Combest
Dooley (CA)
Dreier
Foley
Frost
Gephardt
Honda
Jackson-Lee (TX)
Kingston
Lampson
McCarthy (MO)
Otter
Owens
Renzi
Rogers (AL)
Slaughter
Snyder
Tiahrt
Whitfield

The CHAIRMAN pro tempore (Mr. TERRY) (during the vote). Members are advised there are 2 minutes remaining on this vote.

□ 1457

Mr. NADLER and Ms. LINDA T. SÁNCHEZ of California changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. LAMPSON. Mr. Chairman, on rollcall No. 150, had I been present, I would have voted ''aye.''

Mr. FOLEY. Mr. Chairman, on rollcall No. 150, I was at the White House for a bill signing. Had I been present, I would have voted ''aye.''

Mr. ROGERS of Alabama. Mr. Chairman, on rollcall No. 150, had I been present, I would have voted ''aye.''

Ms. JACKSON-LEE of Texas. Mr. Chairman, on rollcall No. 150, the Vitter amendment regarding the GAO study on IDEA paperwork, I was unavoidably detained in a business meeting.

If I had been able to be present, I would have voted ''aye'' on rollcall No. 150.

Mr. OTTER. Mr. Chairman, unfortunately I missed the vote on the Vitter amendment to H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003. Had I been present I would have voted for the amendment.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6, rule XVIII, the remainder of this series will be conducted as 5-minute votes.

AMENDMENT NO. 5 OFFERED BY MR. DEMINT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. DEMINT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 182, noes 240, not voting 12, as follows:

[Roll No. 151]

AYES—182

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy
Musgrave
Myrick
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walsh
Wamp
Weldon (FL)
Weller
Wicker
Wolf
Young (AK)

NOES—240

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burr
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Ford
Frank (MA)
Frost
Gerlach
Gonzalez
Gordon
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley (OR)
Houghton
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wilson (NM)
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—12

Becerra
Combest
Dreier
Gephardt
Honda
Kingston
McCarthy (MO)
Owens
Slaughter
Snyder
Whitfield
Wilson (SC)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. TERRY) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1507

Mr. CULBERSON changed his vote from ''aye'' to ''no.''

Mr. SWEENEY changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. WILSON of South Carolina. Mr. Chairman, on rollcall No. 151, had I been present, I would have voted ''aye.''

AMENDMENT NO. 6 OFFERED BY MRS. MUSGRAVE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 6 printed in House Report 108–79 offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 247, not voting 11, as follows:

[Roll No. 152]

AYES—176

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Boehner
Bonilla
Bonner
Bono
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kline
Kolbe
LaHood
Latham
Lewis (KY)
Linder
Lipinski
Lucas (OK)
Manzullo
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Murphy
Musgrave
Myrick
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Putnam
Radanovich
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—247

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Burr
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Ford
Frank (MA)
Frost
Gilchrest
Gonzalez
Gordon
Graves
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley (OR)
Houghton
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Knollenberg
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Rodriguez
Rogers (MI)
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Shuster
Simmons
Simpson
Skelton
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Becerra
Combest
Dreier
Gephardt
Honda
Kingston
McCarthy (MO)
Owens
Slaughter
Snyder
Whitfield

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1514

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1515

AMENDMENT NO. 8 OFFERED BY MR. TANCREDO

The CHAIRMAN pro tempore (Mr. TERRY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 54, noes 367, not voting 13, as follows:

[Roll No. 153]

AYES—54

Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bilirakis
Blunt
Brown (SC)
Buyer
Cannon
Collins
Crenshaw
Cubin
Culberson
Deal (GA)
Doolittle
Duncan
Everett
Flake
Franks (AZ)
Graves
Greenwood
Gutknecht
Hastings (WA)
Hefley
Hensarling
Hostettler
Istook
Jenkins
Jones (NC)
King (IA)
Linder
Manzullo
Moran (KS)
Musgrave
Nethercutt
Norwood
Otter
Paul
Pence
Pitts
Ramstad
Rohrabacher
Royce
Ryun (KS)
Shadegg
Stearns
Tancredo
Taylor (MS)
Taylor (NC)
Tiahrt
Toomey
Wamp
Wicker

NOES—367

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper

Costello	John	Peterson (MN)
Cox	Johnson (CT)	Peterson (PA)
Cramer	Johnson (IL)	Petri
Crane	Johnson, E. B.	Pickering
Crowley	Johnson, Sam	Platts
Cummings	Jones (OH)	Pombo
Cunningham	Kanjorski	Pomeroy
Davis (AL)	Kaptur	Porter
Davis (CA)	Keller	Portman
Davis (FL)	Kelly	Price (NC)
Davis (IL)	Kennedy (MN)	Pryce (OH)
Davis (TN)	Kennedy (RI)	Putnam
Davis, Jo Ann	Kildee	Quinn
Davis, Tom	Kilpatrick	Radanovich
DeFazio	Kind	Rahall
DeGette	King (NY)	Rangel
Delahunt	Kirk	Regula
DeLauro	Kleczka	Rehberg
DeLay	Kline	Renzi
DeMint	Knollenberg	Reyes
Deutsch	Kolbe	Reynolds
Diaz-Balart, L.	Kucinich	Rodriguez
Diaz-Balart, M.	LaHood	Rogers (AL)
Dicks	Lampson	Rogers (KY)
Dingell	Langevin	Rogers (MI)
Doggett	Lantos	Ros-Lehtinen
Dooley (CA)	Larsen (WA)	Ross
Doyle	Larson (CT)	Rothman
Dunn	Latham	Roybal-Allard
Edwards	LaTourette	Ruppersberger
Ehlers	Leach	Ryan (OH)
Emanuel	Lee	Ryan (WI)
Emerson	Levin	Sabo
Engel	Lewis (CA)	Sanchez, Linda T.
English	Lewis (GA)	
Eshoo	Lewis (KY)	Sanchez, Loretta
Etheridge	Lipinski	Sanders
Evans	LoBiondo	Sandlin
Farr	Lofgren	Saxton
Fattah	Lowey	Schakowsky
Feeney	Lucas (KY)	Schiff
Ferguson	Lucas (OK)	Schrock
Filner	Lynch	Scott (GA)
Fletcher	Majette	Scott (VA)
Foley	Maloney	Sensenbrenner
Forbes	Markey	Serrano
Ford	Marshall	Sessions
Fossella	Matheson	Shaw
Frank (MA)	Matsui	Shays
Frelinghuysen	McCarthy (NY)	Sherman
Frost	McCollum	Sherwood
Gallegly	McCotter	Shimkus
Garrett (NJ)	McCrery	Shuster
Gerlach	McDermott	Simmons
Gibbons	McGovern	Simpson
Gilchrest	McHugh	Skelton
Gillmor	McInnis	Smith (MI)
Gingrey	McIntyre	Smith (NJ)
Gonzalez	McKeon	Smith (TX)
Goode	McNulty	Smith (WA)
Goodlatte	Meehan	Solis
Gordon	Meek (FL)	Souder
Goss	Meeks (NY)	Spratt
Granger	Menendez	Stark
Green (TX)	Mica	Stenholm
Green (WI)	Michaud	Strickland
Grijalva	Millender-McDonald	Stupak
Gutierrez		Sullivan
Hall	Miller (FL)	Sweeney
Harman	Miller (MI)	Tanner
Harris	Miller (NC)	Tauscher
Hart	Miller, Gary	Tauzin
Hastings (FL)	Miller, George	Terry
Hayes	Mollohan	Thomas
Hayworth	Moore	Thompson (CA)
Herger	Moran (VA)	Thompson (MS)
Hill	Murphy	Thornberry
Hinchey	Murtha	Tiberi
Hinojosa	Myrick	Tierney
Hobson	Nadler	Towns
Hoeffel	Napolitano	Turner (OH)
Hoekstra	Neal (MA)	Turner (TX)
Holden	Ney	Udall (CO)
Holt	Northup	Udall (NM)
Hooley (OR)	Nunes	Upton
Houghton	Nussle	Van Hollen
Hoyer	Oberstar	Velazquez
Hulshof	Obey	Visclosky
Hunter	Olver	Vitter
Hyde	Ortiz	Walden (OR)
Inslee	Osborne	Walsh
Isakson	Ose	Waters
Israel	Oxley	Watson
Issa	Pallone	Watt
Jackson (IL)	Pascrell	Waxman
Jackson-Lee (TX)	Pastor	Weiner
	Payne	Weldon (FL)
Janklow	Pearce	Weldon (PA)
Jefferson	Pelosi	Wexler
Wilson (NM)	Woolsey	Young (AK)
Wilson (SC)	Wu	Young (FL)
Wolf	Wynn	

NOT VOTING—13

Becerra	Kingston	Snyder
Combest	McCarthy (MO)	Weller
Dreier	Owens	Whitfield
Gephardt	Rush	
Honda	Slaughter	

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1523

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LAHOOD). It is now in order to consider amendment No. 9 printed in House Report 108–79.

AMENDMENT NO. 9 OFFERED BY MR. KIRK

Mr. KIRK. Mr. Chairman, I offer amendment No. 9.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. KIRK:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF CONGRESS RELATING TO SAFE AND DRUG-FREE SCHOOLS.

(a) FINDINGS.—Congress finds the following:

(1) Providing children with disabilities with a safe, productive, and drug-free learning environment is a laudable goal for our Nation's schools.

(2) Schools are a refuge for students, not a place where drugs and violence are to be tolerated.

(3) Every child with a disability in the Nation deserves access to a quality education, including a safe and drug-free learning environment.

(4) Local educational agencies, school boards, schools, teachers, administrators, and students all have a responsibility to keep school facilities, including lockers, drug-free.

(5) Random searches of student lockers to seize any illegal drugs or drug paraphernalia has been known to work as an effective method to address the problem of such drugs and paraphernalia. The time of day in which lockers are to be searched should be left to the discretion of the local educational agency.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that safe and drug-free schools are essential for the learning and development of children with disabilities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Illinois (Mr. KIRK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today to commend the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Mr. CASTLE) for their hard work and dedication to improving our Nation's special education system.

I also want to thank Sage Lansing of my staff for her work on this issue.

Mr. Chairman, this issue of our education system is very important. I had raised an issue of Impact Aid for our military men and women in a conflict that is just ending today, and I hope and pray that the committee takes up that issue at another time.

But I am here to talk about protecting the most vulnerable students in our schools. My amendment before the House recognizes that special education students face various challenges throughout their school day, and not the least of which are the dangers posed by drugs on school property.

My amendment recommends, but does not mandate, that random locker searches are an effective way of reducing the severity of the drug problem in a particular school. The decision to employ this technique is left to the discretion of each school administrator.

Two high schools in my district, Libertyville High School and Vernon Hills High School, have conducted locker searches which have been hailed by parents, students, and staff as an effective and necessary method for indicating to students that the use of and sale of drugs on school property is not to be tolerated. These searches are a proactive technique that will hopefully discourage students from using or selling drugs in school.

A U.S. Supreme Court case entitled New Jersey v. T.L.O. in 1985 set the precedent that school searches fall under the fourth amendment's reasonableness standard. The majority Court opinion said: ''Striking the balance between schoolchildren's legitimate expectations of privacy and a school's equally legitimate need to maintain an environment in which learning can take place requires some easing of the restrictions in which searches by public authorities are ordinarily subject. Thus, school officials need not obtain a warrant before searching a student who is their authority.''

The goal of this amendment is not to infringe upon a student's right to privacy; rather, it is intended to protect the entire school community from the dangers and health problems associated with the use and sale of illegal drugs.

I urge my colleagues to express their support for safe and drug-free schools by supporting the amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

There was no objection.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I would like to thank the gentleman for his amendment.

As chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, few things are as important as trying to maintain order and safety in our schools.

This is a particular opportunity to point out what has been a current interest and the personal interest of the director of SAMSA, Charles Curry, on looking at co-occurring disorders.

Increasingly, we are seeing the narcotics traffickers, particularly in urban centers but also in schools and elsewhere, prey upon the most vulnerable population in this country: those people who have various disabilities. We are seeing in many of the public housing areas now, not only in the United States but around the world, the vulnerability of this population to marketing and aggressive sales.

I think that the point that this amendment makes, that one of the things that keeps our schools safer for these vulnerable students is to make sure that the illegal narcotics stay out of the schools, is very important. We need to have this resolution passed.

I commend the gentleman from Illinois (Mr. KIRK) for calling attention to the specific problem of drugs in schools, but also to the co-occurring disorders that are such a challenge in our society.

Ms. WOOLSEY. Mr. Chairman, I reserve the balance of my time.

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM), the ace of the House.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of this amendment. I thank the gentleman for the caring amendment.

Both my daughters have gone through public school, and most of the Members here have done the same thing. We know that a war on terrorism is a war on drugs, as well.

If one is a mother with a child with special needs, or a child in a mainstream, drugs are a problem. A hearing-impaired child that sells cocaine in my opinion should be held accountable, because it has nothing to do with the actual disability.

This bill goes beyond that. It protects our schools. It makes sure that our schools and our lockers are free not just from drugs but from weapons.

□ 1530

We have seen Columbine and we have seen other issues that have occurred and this helps solve that problem. We spoke yesterday in a bipartisan way about Peter Yarrow and ''Don't Laugh at Me.'' All of these issues are put in place to protect our students and our children, and I commend the gentleman.

Ms. WOOLSEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Illinois (Mr. KIRK).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 10 printed in House Report 108–79.

AMENDMENT NO. 10 OFFERED BY MR. MCKEON

Mr. MCKEON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. MCKEON:

In section 611(f) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill), add at the end the following:

''(4) SPECIAL RULE FOR INCREASED FUNDS.—

''(A) IN GENERAL.—If the amount available for allocations to States under subsection (d)(1) for a fiscal year is equal to or greater than the amount allocated to States for fiscal year 2003, then each State may retain not more than the amount of funds it had reserved under subsection (e)(1)(B) for fiscal year 2003.

''(B) EXCEPTION.—In any fiscal year in which the percentage increase of the amount available for allocations to States under subsection (d)(1) is equal to or greater than the rate of inflation, each State may increase its allocation under subsection (e)(1)(B) by the amount allowed under subsection (e)(4)(B), for the sole purpose of making grants under subsection (e)(4)(A).

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from California (Mr. MCKEON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. MCKEON).

Mr. MCKEON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer an amendment to H.R. 1350, the Improving Education for Children with Disabilities Act of 2003 which will make dramatic improvements to the Nation's special education law.

The amendment that I, along with my colleague, the gentlewoman from California (Ms. WOOLSEY) am offering would amend current law to require that any additional increases in Federal spending above fiscal year 2003 levels be passed down directly to the local level.

Over the past 2 years, the State of California has substituted additional Federal education money for State funds, in most cases to mask the budget deficit. In effect, the State has used Federal dollars as the soul source of increase in special education over the last 2 years, allowing the State to spend the expected increase in Federal dollars to the State on other programs.

In 2003, the State of California received an increase of $151.5 million in Federal funding to go towards educating special needs kids, and in 2004, the State is slated to receive an increase of $82.8 million. This level is likely to be significantly higher for my State if Congress provides the significant increases in special education funding called for in the budget resolution.

Unfortunately, California school children have not seen the benefits of increase in the Federal Government. While this practice may not violate any law, I believe it violates the intent of our recent efforts to increase Federal education funding and is harmful to our Nation's school children.

In a Contra Costa Times article that appeared in February 2002, Sandy Harrison, spokesman for the State finance department, said ''the governor substituted the new Federal funds for State funds because it was a tough budget year.''

Even though the redirection of funds in California was only supposed to be for one year, the State has decided once again to use the Federal money to replace State funding for special education. Of additional concern is that this practice is no longer limited to only the State of California. The States of Kansas, Iowa and Oregon are contemplating similar efforts to retain Federal funding at the State level instead of sending it down to the local level where it can make the most difference.

Over the last few months and even during consideration of the bill by the House Committee on Education and the Workforce, we tried many avenues to deal with this concern. Unfortunately, most were unworkable and would have been difficult to administer.

The one alternative that is easy to administer and immediately solves the problem is to mandate that any additional Federal funding above fiscal year 2003 be distributed straight to the local education agencies.

The McKeon/Woolsey amendment has the strong support of teachers and local school officials, those on the front lines in California who want to ensure that children with disabilities receive the quality education they deserve. For example, the L.A. County Office of Education which serves as the Nation's largest regional education agency, assisting 81 school districts, serving 1.6 million students, responsible for serving 10,000 children with physical and mental disabilities said that this amendment will help us meet our responsibility to provide the highest quality education to our children by ensuring that funding reaches the local level where it is most needed.

They go on to say that the amendment enhances our Nation's investment in the future of our children and the attainment of our dreams and aspirations. By passing H.R. 1350, Congress moves closer to following through on a commitment made over 27 years ago to families and their children with special needs. If States are allowed to usurp Federal funds that are intended to supplement, not replace State funding, this commitment will never be realized.

Special needs children in my State cannot afford to be stripped of this desperately needed funding. Therefore, I am offering this amendment so that

the unprecedented level of funding offered by Congress is not diluted because of States unwillingness to make special education funding a priority.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment, but I do not oppose it.

The CHAIRMAN pro tempore. Without objection, the gentlewoman is recognized for 5 minutes.

There was no objection.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is strong bipartisan support for the McKeon/Woolsey amendment, amendment No. 10, because it guarantees that from now on, all increases in Federal IDEA funds go to local schools where they belong.

My Republican colleague and I came together to offer this amendment because we want to make certain that State do not use Federal increases in IDEA funds to solve their State budget problems. We are aware of at least 4 States, including our own California, that may be considering using IDEA funding increases at the State level for other purposes.

While we all here in this room are sympathetic to State budget problems, we agree that IDEA funding must not be used to solve those problems. The McKeon/Woolsey amendment ensures this will not happen by prohibiting States from keeping increases in IDEA funds for their own use.

Whenever I talk to the educators in my local school districts, the first thing they bring up is IDEA, and the first thing they bring up about IDEA is funding. As we all know, the Federal government has a long way to go to fully fund the Federal share of IDEA. It is our local school districts who fulfill the responsibility of providing every child with a free and appropriate public education. And it is these school districts, not the States, who must benefit from federal IDEA funds.

Local schools desperately need every penny of Federal IDEA funds, and the McKeon/Woolsey amendment makes sure that they get them. I encourage my colleagues to vote aye on the McKeon/Woolsey amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. MCKEON. Mr. Chairman, I yield 1 minute to the gentleman from San Diego, California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I have spent 12 years in this body, both in the authorization and the Committee on Appropriations. My sister-in-law is in charge of all special education in San Diego city schools. She works for Alan Bersin. And what he has stated that he has got two basic problems. One is that it is improper to say that the governor is taking Federal education money and cutting IDEA. What he is doing is reducing the State funds for IDEA and the Federal funds are supposed to go above that to enhance the IDEA funding, and the governor is doing that to balance his budget. This amendment prevents that.

There is much more that we could do in this body. I wish that we could reduce the maximum amount of paperwork. In California it is unbelievable. I wish we could cap lawyer fees, and put the money directly towards students. We cannot do all of those things. We do not have the votes on some of these issues. But this one is not only very thoughtful, and I would like to thank the gentlewoman from California (Ms. WOOLSEY) and the gentleman from California (Mr. MCKEON), it is not only thoughtful, but it is needed to protect the funds that we have appropriated in a bipartisan way for IDEA.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MCKEON).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 108–79.

AMENDMENT NO. 11 OFFERED BY MR. NETHERCUTT

Mr. NETHERCUTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. NETHERCUTT:

In section 635(a)(16)(B) of the Individuals with Disabilities Education Act (as proposed to be amended by section 301 of the bill), add at the end before the period the following: ''or in a setting that is most appropriate, as determined by the parent and the individualized family service plan team''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Washington (Mr. NETHERCUTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the amendment that I propose today is intended to expand the service opportunities available to young children under IDEA in an appropriate facility or facilities in conjunction with a parent and the best recommendations of the individualized family service plan team. It is an expansion of services available to children, not a contraction under IDEA.

The reason for this amendment is for the following purposes: In my district of Spokane, Washington, eastern Washington, the City of Spokane, we have a great facility called the Spokane Guild School. They have a dedicated board of trustees and dedicated volunteers and operational people from Dick Boyser to Rick Melanson and to Jim O'Connell to many, many others who have looked at the services that are provided by the Spokane Guild School and found them to be so superior to other environments that may be available to young children who are experiencing muscular conditions or neuromuscular conditions that need attention at an early intervention age.

So what they have done over the years is determine that perhaps existing law would exclude them from providing services for these precious children because it is not necessarily in a natural environment. But my amendment intends to make sure that the definition of natural environment includes the kind of facilities like this, the Spokane Guild School and many others in our State of Washington, and perhaps around the country, so that the children are benefitted in conjunction with the requests and expectations of parents and the IFSP team. So this is not a threatening amendment. To the disability community it is an enhancement.

About a year or so ago about the request or suggestion of Mr. Melanson and others, we put $500,000 in to make sure that the government of the United States understands the value of this kind of environment for children suffering these kinds of conditions that need desperate help at an early age. We were able to get that money in to do some studies, to make sure that the model that exists in the State of Washington through the Spokane Guild School may be replicated around the rest of the country because it is enhancing for students and little children, not diminishing.

I have had Undersecretary Bob Pasternak from the Department of Education come to our district, and he did so willingly and with a critical eye, but also a welcoming expectation about the great services that are available even though they may not be precisely in a home environment. I will speak for him and say that we were delighted to have him come, and I believe he was delighted to be able to be there.

In the visit that Undersecretary Pasternak made, he made an impression on us as a caring person in the bureaucracy of the Department of Education and in government, but also a person who wants to, in his best expectations, have children served properly who are subject to the IDEA.

So we have a lot to offer in this environment. We have a State legislature in my State, the Senate passed legislation that said, Congress, please allow this expansion or interpretation of IDEA to cover a place like the Spokane Guild School. It passed the House by 96 to nothing. It passed the Senate in our State 49 to nothing. So it is a bipartisan, comprehensive, high-expectation measure that helps children.

□ 1545

So I would just urge the chairman of the Committee on Education and the Workforce and the minority Member, certainly the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Delaware (Mr. CASTLE) are all dedicated to the best interest of young children, and I would

hope this amendment could be accepted. It is a good amendment. It is going to help children at the best level for the parents and for the children and the team that supports the child. I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to the amendment, and I yield myself such time as I may consume to have a colloquy with the gentleman from Washington (Mr. NETHERCUTT).

Mr. Chairman, I first want to thank the gentleman for his amendment and for his support of young children and their families. I understand this amendment retains the integrity of the team process. We want to preserve the team approach and the philosophy that the decisions of the IFSP team are to be made in partnership with the family and the providers in determining together what is appropriate for the child.

I also understand that this amendment is not meant to understate the importance of even the youngest children with disabilities being able to be with their peers in their neighborhoods, child care or Head Start, or in other settings that will give them both the special services they need but the opportunities to be part of their communities. Is this correct?

Mr. NETHERCUTT. Mr. Chairman, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentleman from Washington.

Mr. NETHERCUTT. The gentlewoman is correct. Her interpretation of my amendment is exactly correct, and it is appropriate for children and the team approach to making sure that services for children are properly provided.

Ms. WOOLSEY. Reclaiming my time, Mr. Chairman, I thank the gentleman very much.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from Washington (Mr. NETHERCUTT) has 30 seconds remaining.

Mr. NETHERCUTT. Mr. Chairman, I yield myself the balance of my time to urge passage of this amendment.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, let me suggest to our Members that our friend from the State of Washington makes a valuable contribution to the bill, and I would urge the Members to support his amendment.

Mr. NETHERCUTT. Reclaiming my time, Mr. Chairman, I thank the chairman and thank the minority Members who support this amendment. It is good for children, it is good for IDEA, and is a proper expansion, or I should say interpretation of existing law.

Mr. Chairman, I yield back the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. NETHERCUTT).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 12 printed in House Report 108–79.

AMENDMENT NO. 12 OFFERED BY MRS. DAVIS OF CALIFORNIA

Mrs. DAVIS of California. Mr. Chairman, I offer this amendment on behalf of my colleague, the gentlewoman from California (Ms. LORETTA SANCHEZ).

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mrs. DAVIS of California:

In section 665(b)(2)(I) of the Individuals with Disabilities Education Act (as proposed to be amended by section 401 of the bill), add at the end before the period the following: '', including to train school safety personnel and first responders who work at qualified educational facilities''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentlewoman from California (Mrs. DAVIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Loretta Sanchez amendment would include language in the bill that would authorize the use of funds to develop and improve programs to train school safety personnel and first responders who work at educational facilities in the recognition of autism spectrum disorders.

The goal of the amendment is to train school safety personnel and other first responders to respond appropriately to persons exhibiting behaviors and/or characteristics of developmental disabilities and/or mental illness. We are not asking for additional funds in this amendment, but rather to use those funds that have been designated for this particular purpose.

Mr. Chairman, many years ago, back in the 1960s, I actually worked with autistic children and their families; and I worked with them in an institutionalized arena. I always marvel today that many of those children who I knew in these hospitals in California are now in our public school system. We have many children who years ago could not benefit from the many advantages of our public school system, but they are doing that today.

From time to time, unfortunately, they may display behaviors that people do not understand very well. We have tremendous medicines today, but now and then children either do not get those medications or for one reason or another they are not being as effective as they could be. What we need to be certain of is that people who are in the community can observe these children, can respond to them effectively, can work with bystanders as well who may in fact be troubled by their behaviors.

It is very important that if we have this funding mechanism available, that we utilize it to the best benefit of our children. I am very pleased that the gentlewoman from California (Ms. LORETTA SANCHEZ) has brought this amendment forward. I think it will be of immeasurable benefit. We need to be certain that the kind of aggressive or self-injurious behavior that sometimes is present in these children is dealt with appropriately.

Let us pass this amendment, understand its implications and its benefits, and be certain that children who suffer from autism, and there are many of them today in our country, autism affects nearly 1.5 million people, that these children have people who understand their behaviors, can respond to them, can help them and can help those around them in the school system, associates, friends, neighbors, to better deal with their problem as well.

We have seen that where we have trained our first responders, even in domestic violence, whatever it may be, to deal on the spot with the situation as they see fit, that we have all benefited. I cannot think of any better way to use these funds but in this way, and I am delighted that my colleague, the gentlewoman from California (Ms. LORETTA SANCHEZ), is here to speak further about this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN pro tempore. Without objection, the gentleman from Delaware (Mr. CASTLE) is recognized for 5 minutes.

There was no objection.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Let me say that we, on this side, are in support of this amendment. I met, I think it was just yesterday actually, or the day before, but with family groups in Delaware, my home State, where we are concerned about autism; and this actually is one of the very areas they discussed.

We realize these children are very gifted, and we realize this can be very difficult. I happen to believe this is an amendment that has merit and adds to the bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Chairman, I appreciate the gentleman's remarks and appreciate the gentlewoman from California (Ms. LORETTA SANCHEZ) introducing this amendment.

Autism is one of the most misunderstood maladies that children have and adults have in this country, and it is a growing problem. We have one out of every 200 children in America now becoming autistic. It used to be one in 10,000. It has been multiplied by 50 the number who are affected.

Many of these children do have problems occasionally, where they flap their arms, they will bang their heads against the wall, they will even speak incoherently. It takes somebody who understands to be able to deal with them. It is very difficult on parents, but it is more difficult even for people who are trying to educate these children.

So I think this is a great amendment, and I appreciate the gentleman's comments, and I appreciate the amendment of the gentlewoman from California (Ms. LORETTA SANCHEZ) in introducing this amendment.

The parents of these autistic children for the past 5 or 6 months here in the Congress have been fighting a very difficult battle with pharmaceutical companies, because they think, and I believe, that many of these children were damaged by mercury in some of the vaccines that we had. So they have had a tough fight, and I am glad to see that we are showing a little concern about their problems by having this amendment on the floor; and I assume it will be adopted without any opposition.

So I thank the gentlewoman, and I thank the committee for accepting it.

Mr. CASTLE. Mr. Chairman, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume just to simply say that I appreciate the opportunity to have addressed this bill.

Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. LORETTA SANCHEZ) and ask unanimous consent that she be allowed to control that time in order to speak further about the need for this important amendment.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from California (Ms. LORETTA SANCHEZ) has 2 minutes remaining.

There was no objection.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, autism is currently the third most common developmental disability. It is more common than Downs syndrome. A majority of the public, including those who work in schools, do not really know, when they see it, what is happening. They are unaware of how autism affects people, and they are not trained well in how to work effectively with individuals who have autism.

Autism interferes with the normal development of the brain in areas of reasoning and social interaction, and so people with autism can, in particular in more extreme cases, exhibit unusual responses that most of us may not understand: aggressiveness, for example; committing self-injury to themselves. It is a behavior that is of special concern because in responding to situations, it is difficult. Especially if you are in the classroom or in a school situation, or even in the learning environment, how you respond to the child is important.

It is absolutely necessary to provide funding to train our special ed teachers regarding autism disorders, and it is also important to provide that training to school safety personnel and to other first responders who deal with the school setting.

What we have had in the past are people, law enforcement sometimes, who do not really understand what type of a child this may be. Therefore, they may handle them in a different way, in an incorrect way, where they might be more injurious towards the student. That is why the Sanchez amendment would include language in this bill that would authorize the use of funds to develop and to improve programs to train school safety personnel and first responders who work with our school facilities to recognize autism spectrum disorders.

The goal of the amendment, Mr. Chairman, is to train school safety personnel and other first responders.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time just to say that we are in support of the amendment. We actually think it is a very good amendment on this side. We congratulate the gentlewoman, and we hope that everybody will support it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from California (Ms. Davis).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 13 printed in House Report 108–79.

AMENDMENT NO. 13 OFFERED BY MR. WU

Mr. WU. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. WU:

In section 654(c) of the Individuals with Disabilities Education Act (as proposed to be amended by section 401 of the bill), strike paragraph (2) and insert the following:

''(2) PRIORITY.—The Secretary may give priority to applications—

''(A) on the basis of need; and

''(B) that provide for the establishment of professional development programs regarding methods of early and appropriate identification of children with disabilities.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Oregon (Mr. WU) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Chairman, I yield myself such time as I may consume to simply say that it is my intention to submit a written statement with respect to this amendment, and I will make that request on behalf of the gentlewoman from Oregon (Ms. HOOLEY) as well.

Today, students with learning disabilities represent half of all students served under IDEA.

During the 1990s, the number of students in this category substantially increased by 34%. The President's Commission on Excellence in Special Education asserts that 80% of these students are identified as learning disabled because they have not learned how to read. The report further asserts that up to 40% of learning disabled students are in special education because they were never taught how to read.

These children do not need special education, they need an education.

The problem is that children are being missidentified and over-identified as learning disabled. Moreover, a recent National Research Council report indicates that minority students are over-represented in some special education categories, most notably mental retardation and emotional disturbance.

The role of teacher referral is critical. Unfortunately, many general education teachers are unprepared to identify students who may actually be at risk for a learning disability.

The underlying bill does provide professional development and research funding to reduce the over-identification of children and disabilities, including minority children. Specifically, this bill provides for a competitive grant program. Funding could be used for teacher training in many areas, including how to properly identify students with disabilities.

We must ensure that all states provide identification training. That is why my amendment gives priority to applications that provide for the establishment of professional development programs regarding methods of early and appropriate identification of children with disabilities.

The President's Commission demonstrated that over-identification is a problem that is rampant in our schools. My amendment would provide the necessary training to ensure that teachers, administrators and personnel are better equipped to determine if a child is learning disabled.

I urge my colleagues to support this important amendment.

Mr. Chairman, I might inquire as to whether the gentlewoman from California (Ms. WOOLSEY), our ranking subcommittee chair, or the chairman of the full committee, the gentleman from Ohio (Mr. BOEHNER), would care to take a moment to state their position on this amendment. It is my intention to make no further statements at this point in time.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. WU. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I appreciate the opportunity to work with my friend from Oregon. We have worked on this amendment during committee, and we have worked on it since. The committee and I are in full support of the gentleman's amendment and appreciate the opportunity to work with him to help fine-tune this and would recommend to our colleagues that we adopt the amendment.

Mr. WU. Mr. Chairman, reclaiming my time, I thank the chairman very much.

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. WU. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I would like to say that I support the

gentleman's amendment and congratulate him on introducing it.

Mr. WILSON of South Carolina. Mr. Chairman, I'd like to thank Congressman WU for his amendment that provides greater opportunities to States in reducing over-identification of children with disabilities.

Each school district faces unique challenges in educating its youth. This amendment allows school districts and teachers to improve their ability to appropriately identify special education students. It also provides more support for early intervention so school districts can provide intensive reading and behavioral programs to help reduce the number of children identified as having a learning disability.

Steps like this amendment combined with my bill entitled Teacher Recruitment and Retention Act, which will provide $17,500 in loan forgiveness for Special Education teachers, will demonstrate our resolve to students with disabilities and those who teach them.

Ms. HOOLEY of Oregon. Mr. Chairman, I support his amendment and I support full funding of IDEA.

While I am pleased that this Congress is tackling the issue of special education today, I am disappointed that this bill does not substantively address several important issues including fully funding IDEA and the misidentification of children with disabilities.

Misidentification is a serious problem in our schools. Many general education teachers are not trained to identify learning disabilities and students are placed in special education when all they need is a little extra assistance. Not only is this detrimental to the student, but it diverts precious funding away from students with serious disabilities.

Full funding of IDEA has been one of my top priorities during my time in Congress. When Congress first addressed this issue in 1975, we made a commitment to provide children with disabilities access to a quality public education. But not once in the past 28 years has Congress lived up to its obligation to fund the services it requires states and school districts to provide, despite a commitment that it would do so.

My home state of Oregon, like so many states around the country, is suffering tremendous budget shortfalls. When the federal government doesn't pay its share, the remaining costs don't just disappear. The state and school districts are forced to pick up the additional costs, putting additional strain on our education funding. Living up to our promise and fully funding IDEA would help all States and all students.

It is high time we renew our commitment to all of our nation's children and pay our share of the cost of IDEA.

I urge my colleagues to support the Wu amendment and support full funding of IDEA.

Mr. WU. Mr. Chairman, I thank the gentlewoman from California (Ms. WOOLSEY) very much for her support, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon (Mr. WU).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 14 printed in House Report 108–79.

AMENDMENT NO. 14 OFFERED BY MR. GARRETT OF NEW JERSEY.

Mr. GARRETT of New Jersey. Pursuant to the rule, Mr. Chairman, I offer amendment No. 14.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. GARRETT of New Jersey:

Add at the end of the bill the following new title:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. STUDY AND REPORT ON STATE COSTS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) STUDY.—The Secretary of Education shall conduct a study on the amount of cost to States to comply with the requirements of the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that contains the results of the study conducted under subsection (a).

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today to offer what is probably one of the simpler amendments that we will see today and, hopefully, for that reason, a noncontroversial amendment to H.R. 1350, the Improving Education Results for Children with Disabilities Act of 2003.

□ 1600

Mr. Chairman, before I speak on that amendment, let me offer my gratitude for all the work that the chairman and the ranking member of the committee have expended on this effort and the sponsorship of this legislation. Their efforts and work has basically seen to it that we are addressing the educational needs of all children, including those children with disabilities, to make sure that they receive a quality education. I commend them for their efforts.

My amendment will require that the Secretary of Education, within a 2-year period of time from enactment of this Act, to submit back to Congress a study and that study is to take a look at the cost to the States to comply with this Act. I believe this is necessary because any time that the Federal Government decides that it is going to involve itself with the States and ask the States and the local school boards to affect their education locally, it is imperative that the Federal Government looks to the cost side of the equation and looks to how much cost is being imposed on the local school districts and the States respectively.

I believe after this study, Congress will be in a better position to say how can we go forward and make sure that the goal of this bill is complemented and enacted as both sides of the aisle wish it to be done. I suggest that Members on both sides of the aisle look favorably on this amendment.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. GARRETT of New Jersey. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I think the gentleman from New Jersey (Mr. GARRETT) offers a very good amendment to the bill. We are, over the next 7 years, doubling the amount of money we will be spending on special ed. I think it is right to take a look at what are the total costs associated with this program, and I think the gentleman makes a good addition to the bill, and urge my colleagues to support it.

Mr. Chairman, I include two letters for the RECORD on H.R. 1350.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 29, 2003.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR CHAIRMAN BOEHNER: In recognition of the desire to expedite floor consideration of H.R. 1350, the Improving Education Results in Children with Disabilities Act of 2003, the Committee on the Judiciary hereby waives consideration of the bill. Section 205(i) makes changes to the attorneys' fees provisions for IDEA cases, and these provisions fall within the Committee on the Judiciary's Rule X jurisdiction. However, given the need to expedite this legislation, I will not seek a sequential referral based on their inclusion.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter in the Congressional Record during consideration of H.R. 1350 on the House floor.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, April 29, 2003.

Hon. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: This letter is to confirm our agreement regarding H.R. 1350, ''Improving Education Results for Children With Disabilities Act of 2003,'' which was considered by the Committee on Education and the Workforce on April 9 and 10, 2003. I thank you for working with me, specifically regarding the amendments the Committee included in H.R. 1350, changing the attorney fees of current law in Section 615 of the Individuals with Disabilities Education Act, as included in Section 205(i) of the Committee reported bill, which is also within the jurisdiction of the Committee on the Judiciary.

While this provision is within the jurisdiction of the Committee on the Judiciary, I appreciate your willingness to work with me in moving H.R. 1350 forward without the need for a sequential referral to your Committee. I agree that this procedural route should not be construed to prejudice the jurisdictional interest and prerogatives of the Committee on the Judiciary on this provision or any other similar legislation and will not be considered as precedent for consideration of

matters of jurisdictional interest to your Committee in the future.

I thank you for working with me regarding this matter. I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 1350 on the House floor.

Sincerely,

JOHN A. BOEHNER,
Chairman.

Mr. GARRETT of New Jersey. Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to this amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Chairman, I reserve the balance of my time.

Mr. GARRETT of New Jersey. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The amendment was agreed to.

The CHAIRMAN pro tempore. There being no further amendments in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BURTON of Indiana) having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, pursuant to House Resolution 206, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. WOOLSEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 171, not voting 12, as follows:

[Roll No. 154]

YEAS—251

Aderholt	Franks (AZ)	Musgrave
Akin	Frelinghuysen	Myrick
Andrews	Frost	Nethercutt
Bachus	Gallegly	Ney
Baird	Garrett (NJ)	Northup
Baker	Gerlach	Norwood
Ballenger	Gibbons	Nunes
Barrett (SC)	Gilchrest	Nussle
Barton (TX)	Gillmor	Osborne
Bass	Gingrey	Ose
Beauprez	Goode	Otter
Bell	Goodlatte	Oxley
Bereuter	Goss	Pascrell
Berry	Granger	Pearce
Biggert	Graves	Pence
Bilirakis	Green (WI)	Peterson (PA)
Bishop (UT)	Greenwood	Petri
Blackburn	Gutknecht	Pickering
Blunt	Hall	Pitts
Boehlert	Harman	Platts
Boehner	Harris	Pombo
Bonilla	Hart	Pomeroy
Bonner	Hastings (WA)	Porter
Bono	Hayes	Portman
Boozman	Hayworth	Pryce (OH)
Boswell	Hefley	Putnam
Boyd	Hensarling	Quinn
Bradley (NH)	Herger	Radanovich
Brady (TX)	Hill	Regula
Brown (SC)	Hobson	Rehberg
Brown-Waite, Ginny	Hoekstra	Renzi
Burgess	Hostettler	Reynolds
Burns	Houghton	Rogers (AL)
Burr	Hulshof	Rogers (KY)
Burton (IN)	Hunter	Rogers (MI)
Buyer	Hyde	Rohrabacher
Calvert	Isakson	Ros-Lehtinen
Camp	Israel	Royce
Cannon	Issa	Ryan (WI)
Cantor	Istook	Ryun (KS)
Capito	Janklow	Sabo
Cardoza	Jenkins	Saxton
Carter	Johnson (CT)	Schrock
Case	Johnson, Sam	Sensenbrenner
Castle	Jones (NC)	Sessions
Chabot	Keller	Shadegg
Chocola	Kelly	Shaw
Coble	Kennedy (MN)	Shays
Cole	Kind	Sherwood
Collins	King (IA)	Shimkus
Cox	King (NY)	Shuster
Cramer	Kirk	Simmons
Crane	Kline	Simpson
Crenshaw	Knollenberg	Skelton
Cubin	Kolbe	Smith (MI)
Culberson	Larsen (WA)	Smith (NJ)
Cunningham	Latham	Smith (TX)
Davis, Jo Ann	LaTourette	Smith (WA)
Davis, Tom	Leach	Souder
Deal (GA)	Lewis (CA)	Stearns
DeLay	Lewis (KY)	Stenholm
DeMint	Linder	Sullivan
Diaz-Balart, L.	LoBiondo	Sweeney
Diaz-Balart, M.	Lucas (KY)	Tancredo
Dicks	Lucas (OK)	Tauzin
Dooley (CA)	Majette	Taylor (MS)
Doolittle	Manzullo	Taylor (NC)
Duncan	Marshall	Terry
Dunn	McCollum	Thomas
Edwards	McCotter	Thornberry
Ehlers	McCrery	Tiahrt
Emerson	McHugh	Tiberi
English	McInnis	Toomey
Everett	McIntyre	Turner (OH)
Feeney	McKeon	Turner (TX)
Ferguson	Mica	Upton
Fletcher	Miller (FL)	Vitter
Foley	Miller (MI)	Walden (OR)
Forbes	Moore	Walsh
Fossella	Moran (KS)	Wamp
Gephardt	Murphy	Weldon (FL)
Weldon (PA)	Wilson (NM)	Wu
Weller	Wilson (SC)	Young (AK)
Wicker	Wolf	Young (FL)

NAYS—171

Abercrombie	Hinchey	Neal (MA)
Ackerman	Hinojosa	Oberstar
Alexander	Hoeffel	Obey
Allen	Holden	Olver
Baca	Holt	Ortiz
Baldwin	Hooley (OR)	Pallone
Ballance	Hoyer	Pastor
Bartlett (MD)	Inslee	Paul
Berkley	Jackson (IL)	Payne
Berman	Jackson-Lee (TX)	Pelosi
Bishop (GA)	Jefferson	Peterson (MN)
Bishop (NY)	John	Price (NC)
Blumenauer	Johnson (IL)	Rahall
Boucher	Johnson, E. B.	Ramstad
Brady (PA)	Jones (OH)	Rangel
Brown (OH)	Kanjorski	Reyes
Brown, Corrine	Kaptur	Rodriguez
Capps	Kennedy (RI)	Ross
Capuano	Kildee	Rothman
Cardin	Kilpatrick	Roybal-Allard
Carson (IN)	Kleczka	Ruppersberger
Carson (OK)	Kucinich	Rush
Clay	LaHood	Ryan (OH)
Clyburn	Lampson	Sanchez, Linda T.
Conyers	Langevin	Sanchez, Loretta
Cooper	Lantos	Sanders
Costello	Larson (CT)	Sandlin
Crowley	Lee	Schakowsky
Cummings	Levin	Schiff
Davis (AL)	Lewis (GA)	Scott (GA)
Davis (CA)	Lipinski	Scott (VA)
Davis (FL)	Lofgren	Serrano
Davis (IL)	Lowey	Sherman
Davis (TN)	Lynch	Solis
DeFazio	Maloney	Spratt
DeGette	Markey	Stark
Delahunt	Matheson	Strickland
DeLauro	Matsui	Stupak
Deutsch	McCarthy (NY)	Tanner
Dingell	McDermott	Tauscher
Doggett	McGovern	Thompson (CA)
Doyle	McNulty	Thompson (MS)
Emanuel	Meehan	Tierney
Engel	Meek (FL)	Towns
Eshoo	Meeks (NY)	Udall (CO)
Etheridge	Menendez	Udall (NM)
Farr	Michaud	Van Hollen
Fattah	Millender-McDonald	Velazquez
Filner	Miller (NC)	Visclosky
Flake	Miller, Gary	Waters
Ford	Miller, George	Watson
Frank (MA)	Mollohan	Watt
Gonzalez	Moran (VA)	Waxman
Gordon	Murtha	Weiner
Green (TX)	Nadler	Wexler
Grijalva	Napolitano	Woolsey
Gutierrez	Owens	Wynn
Hastings (FL)	Slaughter	

NOT VOTING—12

Becerra	Gephardt	Owens
Combest	Honda	Slaughter
Dreier	Kingston	Snyder
Evans	McCarthy (MO)	Whitfield

□ 1625

Messrs. LEWIS of Georgia, MILLER of North Carolina, and ROSS changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall votes No. 149, No. 150, No. 151, No. 152, No. 153 and No. 154. If present, I would have voted ''yea'' on roll call No. 150; I would have voted ''nay'' on rollcall votes No. 149, No. 151, No. 152, No. 153 and No. 154.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall votes 149, 150,