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DEPARTMENT OF EDUCATION INVESTIGATION AND AUDIT LEGISLATION

OCTOBER 2 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Health, Education, Labor, and Pensions, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 2829]

The Committee on Health, Education, Labor, and Pensions, to which was referred the bill (S. 2829) to provide for an investigation and audit at the Department of Education, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

CONTENTS

I. PURPOSE

The purpose of S. 2829, which requires the Comptroller General to conduct an investigation for fraud at the Department of Education, is to enhance the detection of waste, fraud, and abuse at the agency.

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II. SUMMARY

S. 2829 requires the Comptroller General to conduct a fraud audit at the Department of Education. The Comptroller General shall determine which accounts are particularly susceptible to waste, fraud, and abuse. A report setting forth the results of the investigation and audit shall be submitted within six months to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the U.S. House of Representatives.

III. COMMITTEE VIEWS

The U.S. Department of Education has shown a pattern of financial mismanagement, disregard for statutory program management requirements, and susceptibility to waste, fraud, and abuse. For the second year in a row, the Department of Education has been unable to address its financial management problems and did not receive a clean audit in either 1998 or 1999. The Department does not have an effective accounting system that complies with Federal financial management statutes and does not expect to have one in place until at least October 2001.

The Government Management Reform Act (GMRA), passed in 1994, mandates annual audits of agency-wide financial statements. The Department of Education has repeatedly failed to receive an unqualified opinion on its financial statements and is routinely cited for material weaknesses in the management and control of its programs.

The magnitude of the problems with the Department of Education's financial management first became evident when the fiscal year 1995 financial statements were audited. The next year, the independent public accountants, Price Warehouse, LLP, were unable to express an opinion on the fiscal year 1996 consolidated financial statements because the Department's documentation of the basis for certain estimates did not provide the auditors with sufficient evidence to conclude whether amounts were materially over- or understated. These estimates effected the liabilities for loan guarantees under the Federal Family Education Loan Program, the allowance for defaulted loans, the allowance for direct loan subsidy costs, and related subsidy expenses. Importantly these same estimates were identified as an issue during the fiscal year 1995 audit and had not been corrected.

New and additional problems arose with the audit of the fiscal year 1997 consolidated financial statements. When asked by Congress why it failed to meet its March 1, 1998 reporting deadline, the Department responded that a reasonable methodology and system still did not exist for estimating the losses incurred on loans made and guaranteed by the agency. The audit was delayed for months while the Department and auditors worked to obtain, validate, and analyze sufficient evidence to support the financial statements. The Department for the first and only time received an unqualified opinion on its financial statements. Despite the intensive manpower put into gathering and validating material for the audit, material weaknesses were once again reported affecting the internal control structure of the Department. These weaknesses affected the ability to prepare reliable loan estimates and the ability to provide timely and effective reconciliation of the Department's Clearing Account cash balance with the Treasury. Further, it was determined that the Department's financial management systems did not comply with Federal financial systems requirements.

The effort to produce and support the fiscal year 1997 financial statements diverted so much manpower that Department reversed the progress made during the previous year and reneged upon its commitment to meet its financial reporting deadlines. The Department failed to properly implement the EDCAPS system and announced in early January that it would not be ready for audit until February 1999. The Department of Education missed this deadline and did not provide trial balance and financial statements until April 1999. When the auditors began reviewing the Department's records they discovered critical limitations in the financial reporting systems. These weaknesses, such as the systems inability to perform a year-end closing process or produce automated consolidated financial statements, were significant factors in the Department's inability to prepare accurate consolidated financial statements. After months of attempting to work with the agency, the auditors reported that the Department could not provide sufficient documentation to support transactions and did not adequately perform reconciliations. The auditors concluded that they could express no opinion regarding the fiscal year 1998 financial statements.

This past year, the Department succeeded in providing audited financial statements to OMB in accordance with the statutory March 1 deadline. While they are to be commended for finally meeting this deadline, the Department of Education received only a qualified opinion from the independent auditor. The auditors disclaimed any opinion on the statements of financing and once again cited the same three material weaknesses in the Report on Internal Controls: financial reporting, reconciliations, and credit reform reporting.

Over the years, the Department has not improved its financial accountability, and has shown a pattern of continued waste, fraud, and abuse. Beginning with its first agency-wide audit in 1995, auditors have reported largely the same serious internal control weaknesses year after year. Of the four material weaknesses cited in the most recent audit, three are repeat conditions from the previous year. The Department has not shown signs that it is improving its financial stewardship.

Failure to address the financial accountability problems identified by the independent auditors and the General Accounting Office create an environment that is highly susceptible to mismanagement, fraud, and abuse. Independent auditors and officials have repeatedly testified before the Congress regarding numerous instances in which this failure to meet even the minimum standards for financial stewardship have encouraged waste, fraud, and abuse at the agency. A recent investigation uncovered a system by which a contract employee charged the Department for over $600,000 in false overtime and provided more than $300,000 in electronic equipment to a Department employee charged with supervising his work. The Department issued at least $50 million in duplicate payments to grantees over the past 2 years, and in 1 recent year alone, the agency awarded $177 million in Pell Grants to students who were over the income eligibility limit. In addition, a "grant back" account was discovered at the Department that contained over $700 million. However, only about two percent of that money was actually recovered grant money. The Department could not account for the additional $700 million or explain why it was in that account. The Department has since redistributed the money without providing evidence that it was distributed to the right accounts.

The committee believes that these instances show that the Department is currently vulnerable to fraud, waste, and abuse. The House of Representatives has already indicated its support for a fraud audit at the Department of Education by passing its own version of this bill on June 13, 2000, by an overwhelming vote of 380–19. The committee believes that a fraud audit should be performed at the Department of Education to ensure that future instances of waste, fraud, and abuse do not occur at taxpayer expense.

IV. SENATE ACTION

On June 29, 2000, Senator Hutchinson introduced S. 2829, which provides for an investigation and audit at the Department of Education.

On September 20, 2000, the Senate Committee on Health, Education, Labor, and Pensions met in Executive Session to consider S. 2829. The committee voted on the following amendment: Senator Hutchinson offered an amendment in the form of a substitute making technical corrections to S. 2829. The amendment was accepted by voice vote and was used as the underlying vehicle.

The committee then voted to report the bill, as amended, by voice vote.

V. SECTION-BY-SECTION ANALYSIS

Section 1. Provides that within 6 months after the date of enactment, the Comptroller General shall conduct and complete a fraud audit of selected accounts at the Department of Education, that the Comptroller General deems to be particularly susceptible to waste, fraud, or abuse. Requires the Comptroller General to submit a report setting forth the results of the investigation and audit to the Committee on Health, Education, Labor, and Pensions of the U.S. Senate and the Committee on Education and the Workforce of the U.S. House of Representatives.

VI. REGULATORY IMPACT STATEMENT

The committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

VII. APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. The purpose of S. 2829, which requires the Comptroller General to conduct an investigation for fraud at the Department of Education, is to enhance the detection of waste, fraud, and abuse at the agency. The bill does not prevent legislative branch employees from receiving benefits of this legislation.

VIII. UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded mandates Reform Act, Public Law 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. The purpose of S. 2829, which requires the Comptroller General to conduct an investigation for fraud at the Department of Education, is to enhance the detection of waste, fraud, and abuse at the agency. As such, the bill does not contain any unfunded mandates.

IX. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 2000.

Hon. JAMES M. JEFFORDS,
Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2829, a bill to provide for an investigation and audit at the Department of Education.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Paul Cullinan.

Sincerely,

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

Enclosure.

S. 2829—A bill to provide for an investigation and audit at the Department of Education

S. 2829 would direct the Comptroller General of the United States to conduct an audit of certain accounts at the Department of Education. Assuming appropriation of the necessary funds, CBO estimates that implementing the bill would cost about $1 million in 2001. Because enactment of S. 2829 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

Based on information from the General Accounting Office (GAO), CBO estimates that the audit would cost between $800,000 and $1 million. Because the audit would have to be completed within six months of the bill's enactment, it would have a relatively restricted scope. It would be oriented toward the department's student financial aid programs and focus on specific areas that GAO identifies as highly susceptible to errors. A preliminary review by GAO staff suggests that the limited audit would require about three full-time equivalent staff-years (for example, six employees working full time for six months) as well as some work by outside contractors.

S. 2829 is similar to H.R. 4079, which was passed by the House of Representatives on June 13, 2000. CBO's estimate for that bill, dated June 8, 2000, is identifical to that for S. 2829.

S. 2829 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no effect on the budgets of state, local, or tribal governments.

The CBO staff contact is Paul Cullinan. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

X. ADDITIONAL VIEWS OF SENATORS KENNEDY, DODD, HARKIN, BINGAMAN, MIKULSKI, WELLSTONE, MURRAY AND REED

We support S. 2829 because we believe in good government and good fiscal management of federal funds. But, we also believe that we need to give credit to the accomplishments in improving the efficiency of the Department of Education over the last seven years.

The Department has an important role in helping states and communities improve American education, helping all children reach high standards, and opening the doors to college. Under the leadership of Secretary of Education Richard W. Riley, the Department has emphasized quality management to ensure that the federal investment in education is used as efficiently and effectively as possible.

A key goal in the Department's management plan is to obtain a uniformly positive audit opinion every year. The Department has made substantial progress in addressing each of the problems outlined by its independent auditor. It is important to note that all of these issues have been technical accounting matters. Not one dime of taxpayers' money has been lost or misplaced.

The Department can now automatically produce all of its financial statements. It provided its auditors within interim sets of statements for March and June. The Department has changed its procedures to ensure that accounting adjustments are recorded in the proper accounting period. The independent auditor can now be certain that transactions are reflected in the appropriate financial statement line. The Department continues to develop subsidiary reports that will enable it to determine whether a transaction was money that flowed to another federal agency or non-governmental entity.

Another sign of progress is the Department's effort to implement its auditor's financial management recommendations. Today the Department has completed action on 112 of 139 recommendations—over 80%. Of the remaining 27 recommendations, Secretary Riley has made their resolution a top priority. He anticipates that work on these items will be quickly completed.

The Department has also made significant progress in other areas that have increased its effectiveness and saved taxpayers billions of dollars. The student loan default rate has now been reduced to a record-low of 6.9 percent, after declining each year from 22.4 percent 8 years ago. As a result, taxpayers have saved billions of dollars. Collections on defaulted loans have tripled, from $1 billion in fiscal year 1993 to over $3 billion in fiscal year 1999.

The Direct Student Loan program has saved taxpayers over $4 billion in the last 5 years, compared to the cost of guaranteed loans. The creation of the National Student Loan Data System has enabled the Department to identify prior defaulters, and prevent the disbursement of as much as $1 billion in grants and loans to ineligible students.

The Department has also down-sized to reduce waste. It now has only two-thirds as many employees administering its programs as in 1980, even though its budget has more than doubled. It has trimmed regulations by one-third, reduced grant application paperwork, and effectively implemented the waivers authorized to remove roadblocks to reform. Customer service ratings for the Department's document distribution center now match those of premier corporations like Federal Express and Nordstrom.

The reality is, most federal agencies are doing a good job. Much of the progress made in recent years is the result of Vice President Gore's reinventing government initiative. He's streamlined the federal workforce, reduced the bureaucracy, and eliminated significant amounts of waste and duplication. The Department of Education and many other federal agencies have benefitted significantly from their efforts, and so have American taxpayers. We should continue to build on these successes in the future.

ED KENNEDY.
TOM HARKIN.
JEFF BINGAMAN.
PATTY MURRAY.
CHRIS DODD.
BARBARA A. MIKULSKI.
PAUL WELLSTONE.
JACK REED.