Mr. MASCARA. Mr. Speaker, I would like to acknowledge the diligence and hard work of the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT], our ranking member, both of whom who have been in assistance to me in my new assignment to the Subcommittee on Public Buildings and Economic Develop.

Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

□ 1515

Mr. BARRETT of Nebraska. Mr. Speaker, I am pleased to be here today to support H.R. 3400, a bill a name the new U.S. courthouse in Omaha, NE, after Roman Hruska—a great Nebraskan, public servant, and personal friend.

Roman Hruska got his start in public service in his local county's board of commissioners. He then served in the House of Representatives, representing Nebraska's second district. And after serving only 1 year in the House, he was elected to fill a vacancy in the Senate. Senator Hruska served in the Senate from 1954 to 1976, 22 years.

It was during Senator Hruska's tenure in the Senate that he influenced the Nation's judiciary system. As the ranking member on the Senate Judiciary Committee, Senator Hruska had the opportunity to serve on special commissions to revise the Federal appellate court system, reform the Federal criminal code, and to study the causes and prevention of violence.

On a personal level, it was Roman Hruska who encouraged me to enter public service. He was influential in my decision to seek the chairmanship of the Nebraska Republican Party, and later to represent a district in the Nebraska legislature. And after 12 years in the State legislature, I was ready to go home. However, Roman was there, once again, to urge me to run for my current seat in the House of Representatives. He has been a mentor to me, not only by his words, but also by his actions. His reputation for hard work and integrity was earned, and is widely recognized by many Nebraskans.

Senator Hruska, through his work and dedication to an effective judiciary has influenced many Nebraskans in all walks of life. And in the words of Omaha's current mayor, ''There is an abundance of Nebraskan legal professionals whose lives have been profoundly affected by Senator Hruska, and whose career choices have been inspired by him.''

Realizing Congress does not lightly select names to designate Federal buildings, I think H.R. 3400 would honor an influential Nebraskan and inspire us all to seek the same goals of integrity and honesty in our lives. I urge my colleagues to support this bill.

Mr. GILCHREST. Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Ohio [Mr. TRAFICANT], and the gentleman from Pennsylvania [Mr. MASCARA] for their able assistance in naming this Federal building and courthouse after such a distinguished jurist and fine American. I want to thank the gentleman from Nebraska [Mr. BARRETT] for his contribution to this legislation.

Mr. BEREUTER. Mr. Speaker, this Member is pleased to be an original cosponsor of H.R. 3400, legislation to designate the new courthouse in Omaha as the Roman L. Hruska U.S. Courthouse and urges his colleagues to support this bill.

It is most appropriate that the new Omaha courthouse be named after Senator Hruska since he is highly respected for his expertise in judicial policy matters. During his long and distinguished career he served his State and his country in several capacities. While he is a native of David City in the First Congressional District, he began his public service career in Omaha on the Douglas County Board of Commissioners—serving as its chairman. Later he was elected to the House of Representatives in 1952, and then to the Senate where he served from 1954 to 1976. He was the ranking Republican on the Senate Judiciary Committee. He also was the chairman of a Presidential commission to revise the Federal appellate court system. Additionally, he served on commissions to reform the Federal criminal code and to study the causes and prevention of violence.

Mr. Speaker, for the foregoing reasons and many others, naming the new courthouse after Senator Roman Hruska would serve as a continuing tribute to his lifetime of service to Nebraska and his devotion to improving the judicial system. This Member strongly urges the passage of H.R. 3400.

Mr. GILCHREST. Mr. Speaker, I urge my colleagues to vote for the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COBLE). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 3400, as amended.

The question was taken.

Mr. GILCHREST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that Members have 5 legislative days in which to revise and extend their remarks on the bills and resolutions just debated: House Concurrent Resolution 153, House Concurrent Resolution 172, H.R. 3029, H.R. 3186, H.R. 3364, as amended, and H.R. 3400, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IDEA IMPROVEMENT ACT OF 1996

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3268) to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3268

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 ''IDEA Improvement Act of 1996''.

TITLE I—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Parts A through D of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) are amended to read as follows:

''PART A—GENERAL PROVISIONS

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

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

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

''PART A—GENERAL PROVISIONS

''Sec. 601. Short title; table of contents; findings; purposes.
''Sec. 602. Definitions.
''Sec. 603. Office of Special Education Programs.
''Sec. 604. Abrogation of State sovereign immunity.
''Sec. 605. Requirements for prescribing regulations.
''Sec. 606. Employment of individuals with disabilities.

''PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

''Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
''Sec. 612. State requirements.
''Sec. 613. Local educational agency requirements.
''Sec. 614. Evaluations, reevaluations, individualized education programs, and educational placements.
''Sec. 615. Procedural safeguards.
''Sec. 616. Withholding and judicial review.
''Sec. 617. Administration.
''Sec. 618. Program information.
''Sec. 619. Preschool grants.

''PART C—INFANTS AND TODDLERS WITH DISABILITIES

''Sec. 631. Findings and policy.
''Sec. 632. Definitions.
''Sec. 633. General authority.
''Sec. 634. Eligibility.
''Sec. 635. Requirements for Statewide system.
''Sec. 636. Individualized family service plan.
''Sec. 637. State application and assurances.
''Sec. 638. Uses of funds.
''Sec. 639. Procedural safeguards.
''Sec. 640. Payor of last resort.
''Sec. 641. State interagency coordinating council.
''Sec. 642. Federal administration.
''Sec. 643. Allocation of funds.
''Sec. 644. Authorization of appropriations.

''PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

''Sec. 651. Purpose of part.
''Sec. 652. Eligibility for financial assistance.
''Sec. 653. Comprehensive plan.
''Sec. 654. Peer review.
''Sec. 655. Eligible applicants.
''Sec. 656. Applicant and recipient responsibilities.
''Sec. 657. Indirect costs.
''Sec. 658. Program evaluation.

''SUBPART 1—NATIONAL RESEARCH AND IMPROVEMENT ACTIVITIES

''Sec. 661. General authority to make awards.
''Sec. 662. Priorities.
''Sec. 663. National assessment.
''Sec. 664. Authorization of appropriations.

''SUBPART 2—PROFESSIONAL DEVELOPMENT

''Sec. 671. Purpose.
''Sec. 672. Finding.
''Sec. 673. National activities.
''Sec. 674. Professional development for personnel serving low-incidence populations.
''Sec. 675. Leadership personnel.
''Sec. 676. Service obligation.
''Sec. 677. Outreach.

''SUBPART 3—STATE PROGRAM IMPROVEMENT GRANTS FOR CHILDREN WITH DISABILITIES

''Sec. 681. Purpose.
''Sec. 682. Eligibility and collaborative process.
''Sec. 683. State improvement plans.
''Sec. 684. Use of funds.
''Sec. 685. Minimum State allotments.
''Sec. 686. Authorization of appropriations.

''SUBPART 4—PARENT TRAINING

''Sec. 691. Grants for parent training and information centers.
''Sec. 692. Technical assistance for parent training and information centers.
''Sec. 693. Authorization of appropriations.

''(c) FINDINGS.—The 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)—

''(A) the special educational needs of children with disabilities were not being fully met;

''(B) more than one-half of the children with disabilities in the United States did not receive appropriate educational services that would enable such children to have full equality of opportunity;

''(C) 1,000,000 of the children with disabilities in the United States were excluded entirely from the public school system and did not go through the educational process with their peers;

''(D) there were many children with disabilities throughout the United States participating in regular school programs whose disabilities prevented such children from having a successful educational experience because their disabilities were undetected; and

''(E) because of the lack of adequate services within the public school system, families were often forced to find services outside the public school system, often at great distance from their residence and at their own expense.

''(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) However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

''(5) 20 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 in the general curriculum to the maximum extent possible;

''(B) 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, educational service agency, State, and Federal school improvement efforts in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

''(D) providing appropriate special education and related services and aids and supports in the regular classroom to such children, whenever appropriate;

''(E) supporting high-quality, intensive professional development for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them—

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

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

''(F) providing incentives for whole-school approaches and early intervention to reduce the need to label children as disabled in order to address their learning needs; and

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

''(6) While States, local educational agencies, and educational service agencies are responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a 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.

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

''(B) America's racial profile is rapidly changing. Between 1980 and 1990, the rate of increase in the population for white Americans was 6 percent, while the rate of increase for racial and ethnic minorities was much higher: 53 percent for Hispanics, 13.2 percent for African-Americans, and 107.8 percent for Asians.

''(C) By the year 2000, this Nation will have 275,000,000 people, nearly one of every three of whom will be either African-American, Hispanic, Asian-American, or American Indian.

''(D) Taken together as a group, minority children are comprising an ever larger percentage of public school students. Large city school populations are overwhelmingly minority, e.g., for fall 1993, the figure for Miami was 84 percent; Chicago, 89 percent; Philadelphia, 78 percent; Baltimore, 84 percent; Houston, 88 percent; and Los Angeles, 88 percent.

''(E) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

''(F) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education. The Department of Education has found that services provided to limited English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

''(8)(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) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

''(D) Although African-Americans represent 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

''(E) The drop out rate is 68 percent higher for minorities than for whites.

''(F) More than 50 percent of minority students in large cities drop out of school.

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

''(B) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

''(C) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

''(D) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

''(E) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

''(F) As recently as 1991, Historically Black Colleges and Universities enrolled 44 percent of the African-American teacher trainees in the Nation. However, in 1993, Historically Black Colleges and Universities received only 4 percent of the discretionary funds for special education and related services personnel training under this Act.

''(G) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

''(H) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

''(10) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

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

''(1) 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 employment and independent living;

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

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

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

''SEC. 602. DEFINITIONS.

''As used in this title:

''(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, 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 TO 9.—The term 'child with a disability' for a child aged 3 to 9, inclusive, 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 day or residential school which provides elementary education, as determined under State law, policy, or procedure.

''(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 audio-visual 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 which 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; or

''(iii) under part A of title VII of such Act; and

''(B) any State or local funds expended for programs that would qualify for assistance under any such part.

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

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

''(11) 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) and that includes—

''(A) a statement of the child's present levels of educational performance, including—

''(i) how the child's disability affects the child's involvement and progress in the general curriculum; or

''(ii) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

''(B) a statement of measurable annual goals, including benchmarks or short-term objectives, related to—

''(i) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and

''(ii) meeting each of the child's other educational needs that result from the child's disability;

''(C) a statement of how the classroom was adapted before the student was referred for identification as a child with a disability;

''(D) a justification of the extent, if any, to which the child will not be educated with nondisabled children;

''(E) a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and any program modifications or support for school personnel necessary for the child—

''(i) to progress toward the attainment of the annual goals described in subparagraph (B); and

''(ii) to be involved and progress in the general curriculum in accordance with subparagraph (A) and to participate in extracurricular and other nonacademic activities;

''(F)(i) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and

''(ii) if the individualized education program 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—

''(I) why that assessment is not appropriate for the child; and

''(II) how the child will be assessed;

''(G) the projected date for the beginning of the services and modifications described in subparagraph (E), and the anticipated frequency, location, and duration of those services and modifications;

''(H)(i) 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 or school-to-work program);

''(ii) 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

''(iii) beginning at least one 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(m); and

''(I) a statement of—

''(i) how the child's progress toward the annual goals described in subparagraph (B) will be measured; and

''(ii) 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—

''(I) their child's progress toward the annual goals described in subparagraph (B); and

''(II) the extent to which that progress is sufficient to enable the child to achieve the objectives by the end of the year.

''(12) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

''(A) the parents of a child with a disability;

''(B) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

''(C) at least one special education teacher, or where appropriate, at least one special education provider of such child;

''(D) 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 curriculum; and

''(iii) is knowledgeable about the availability of resources of the local educational agency;

''(E) whenever appropriate, the child with a disability; and

''(F) at the discretion of the parent or the agency, other individuals who have special expertise or knowledge regarding the abilities and disability or disabilities of the child, including, as appropriate, related services personnel who are or who will be working with the child.

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

''(A) has the meaning given that term in section 1201(a) 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.

''(14) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means—

''(A) 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 a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools;

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

''(C) an educational service agency.

''(15) 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, and includes American Sign Language.

''(16) 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.

''(17) PARENT.—The term 'parent' includes a legal guardian or surrogate parent.

''(18) PARENT ORGANIZATION.—The term 'parent organization' means a private nonprofit organization (but not including an institution of higher education) that—

''(A) has a board of directors—

''(i) the majority of whom are parents of children with disabilities;

''(ii) that includes—

''(I) individuals working in the fields of special education, related services, and early intervention; and

''(II) individuals with disabilities; and

''(iii) the parent and professional members of which are broadly representative of the population to be served; or

''(B)(i) represents the interests of individuals with disabilities and has established a special governing committee which meets the requirements of subparagraph (A); and

''(ii) has a memorandum of understanding between the special governing committee and the board of directors of the organization which clearly outlines the relationship between the board and the committee and the decisionmaking responsibilities and authority of each.

''(19) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center that—

''(A) provides training and information that meets the training and information needs of parents of children with disabilities living in the area served by the center; and

''(B) assists parents—

''(i) to better understand the nature of their children's disabilities and their educational and developmental needs;

''(ii) to communicate effectively with personnel responsible for providing special education, early intervention, and related services;

''(iii) to participate in decisionmaking processes and the development of the IEP;

''(iv) to obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

''(v) to understand the programs under this title for the education of, and the provision of early intervention services to, children with disabilities; and

''(vi) to participate in school reform activities.

''(20) 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.

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

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

''(23) 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.

''(24) 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.

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

''(26) 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.

''(27) 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)(4).

''(28) TERRITORY.—The term 'territory' means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

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

''(A) are designed within an outcome-oriented process, which promotes movement 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) are based upon the individual child's needs, taking into account the child's preferences and interests; and

''(C) include 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 title and other programs and activities concerning the education and training 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 title.

"SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.

''(a) IN GENERAL.—A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this title.

''(b) REMEDIES.—In a suit against a State for a violation of this title, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public entity other than a State.

''(c) EFFECTIVE DATE.—The provisions of subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.

"SEC. 605. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

''(a) PUBLIC-COMMENT PERIOD.—The Secretary shall provide a public-comment period of at least 90 days on any regulation proposed under part B or part C of this title on which an opportunity for public comment is otherwise required by law.

''(b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this title which would procedurally or substantively lessen the protections provided to children with disabilities under this title, 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, timeliness, 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) 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 identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate.

''(3) RESTRICTIONS ON USE OF CORRESPONDENCE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an item of correspondence published and disseminated under paragraph (1) may not be used in the following:

''(i) An administrative or due process action commenced under section 615.

''(ii) A compliance review or other action relating to a State educational agency conducted by the Department of Education.

''(iii) A compliance review or other action relating to a local educational agency or other agency conducted by a State educational agency.

''(B) EXCEPTIONS.—A restriction on the use of an item of correspondence under subparagraph (A) shall not apply if the item of correspondence—

''(i) is directly related to the particular fact situation, practice, or policy at issue under clause (i) or (iii) of subparagraph (A);

''(ii)(I) was originally directed to one of the parties to the action under subparagraph (A)(i); or

''(II) was originally directed to the particular local educational agency or other agency under subparagraph (A)(iii); or

''(iii) was originally directed to the particular State educational agency under subparagraph (A)(ii).

"SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

''The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act.

"PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

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

''(a) AUTHORIZATION.—The Secretary of Education shall provide grants to States and provide amounts to the Secretary of the Interior for the purpose of providing special education and related services to children with disabilities in accordance with this part.

''(b) ALLOTMENT AMONG STATES.—

''(1) RESERVATION FOR THE TERRITORIES.—

''(A) IN GENERAL.—Of the amount appropriated pursuant to subsection (e) to carry out this part for a fiscal year, the Secretary shall allot not more than one percent among the territories in accordance with this paragraph.

''(B) BASIS FOR ALLOTMENT.—The Secretary shall allot to each territory an amount that bears the same proportion to the amount appropriated pursuant to subsection (e) for a fiscal year as the number of individuals aged 3 to 21, inclusive, residing in such territory bears to the aggregate number of such individuals residing in all such territories.

''(C) PROHIBITION ON CONSOLIDATION OF GRANTS.—Section 501 of Public Law 95–134 (48 U.S.C. 1469a; relating to the consolidation of one or more grants provided to certain territories) shall not apply with respect to amounts provided to a territory under a grant under this part.

''(2) SECRETARY OF THE INTERIOR.—Of the amount appropriated pursuant to subsection (e) to carry out this part for a fiscal year, the Secretary shall provide to the Secretary of the Interior an amount equal to 1.226 percent to carry out subsection (d) (relating to special education and related services for Indian children with disabilities).

''(3) STATES.—

''(A) IN GENERAL.—After determining the amount to be allotted to the territories under paragraph (1) and the amount to be provided to the Secretary of the Interior under paragraph (2) for a fiscal year, the Secretary shall allot the remaining amount to the remaining States in accordance with this paragraph.

''(B) BASIS FOR ALLOTMENT.—Except as provided in subparagraph (D), the Secretary shall allot to each State an amount equal to the sum of the following amounts:

''(i) The amount equal to—

''(I) 85 percent of the remaining amount described in subparagraph (A); multiplied by

''(II) the child population percentage of the State (as determined under subparagraph (C)(i)).

''(ii) The amount equal to—

''(I) 15 percent of the remaining amount described in subparagraph (A); multiplied by

''(II) the child poverty percentage of the State (as determined under subparagraph (C)(ii)).

''(C) DETERMINATION OF CHILD POPULATION PERCENTAGE AND CHILD POVERTY PERCENTAGE.—

''(i) CHILD POPULATION PERCENTAGE.—The child population percentage shall be determined by comparing—

''(I) the number of children aged 3 to 21, inclusive, in the State who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education; to

''(II) the number of such children in the remaining States.

''(ii) CHILD POVERTY PERCENTAGE.—The child poverty percentage shall be determined by comparing—

''(I) the number of children aged 3 to 21, inclusive, in the State living in poverty who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education; to

''(II) the number of such children in the remaining States.

''(D) TRANSITION FORMULA.—For each of the fiscal years 1997 through 2005, the Secretary shall allot the remaining amount to the remaining States in accordance with the following:

''(i) FISCAL YEAR 1997.—For fiscal year 1997, the Secretary shall allot to each remaining State the sum of—

''(I) 10 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 90 percent multiplied by the amount determined for such State under subparagraph (E).

''(ii) FISCAL YEAR 1998.—For fiscal year 1998, the Secretary shall allot to each remaining State the sum of—

''(I) 20 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 80 percent multiplied by the amount determined for such State under subparagraph (E).

''(iii) FISCAL YEAR 1999.—For fiscal year 1999, the Secretary shall allot to each remaining State the sum of—

''(I) 30 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 70 percent multiplied by the amount determined for such State under subparagraph (E).

''(iv) FISCAL YEAR 2000.—For fiscal year 2000, the Secretary shall allot to each remaining State the sum of—

''(I) 40 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 60 percent multiplied by the amount determined for such State under subparagraph (E).

''(v) FISCAL YEAR 2001.—For fiscal year 2001, the Secretary shall allot to each remaining State the sum of—

''(I) 50 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 50 percent multiplied by the amount determined for such State under subparagraph (E).

''(vi) FISCAL YEAR 2002.—For fiscal year 2002, the Secretary shall allot to each remaining State the sum of—

''(I) 60 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 40 percent multiplied by the amount determined for such State under subparagraph (E).

''(vii) FISCAL YEAR 2003.—For fiscal year 2003, the Secretary shall allot to each remaining State the sum of—

''(I) 70 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 30 percent multiplied by the amount determined for such State under subparagraph (E).

''(viii) FISCAL YEAR 2004.—For fiscal year 2004, the Secretary shall allot to each remaining State the sum of—

''(I) 80 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 20 percent multiplied by the amount determined for such State under subparagraph (E).

''(ix) FISCAL YEAR 2005.—For fiscal year 2005, the Secretary shall allot to each remaining State the sum of—

''(I) 90 percent multiplied by the amount determined for such State under subparagraph (B); and

''(II) 10 percent multiplied by the amount determined for such State under subparagraph (E).

''(E) BASE AMOUNT FOR 1996.—

''(i) IN GENERAL.—Subject to clause (ii), the amount determined under this subparagraph for a State is the amount that bears the same proportion to the remaining amount (described in subparagraph (A)) for the fiscal year under subparagraph (D) as the amount received by the State under this section for fiscal year 1996 bears to the aggregate of the amounts received by the remaining States (described in subparagraph (A)) under this section for fiscal year 1996.

''(ii) REDUCTION IN AMOUNT.—If the State received an amount under this section for fiscal year 1996 on the basis of children aged 3 to 5, inclusive, in such State, but the State does not make a free appropriate public education available to all children with disabilities aged 3 to 5, inclusive, in the State at the time a determination is made under subparagraph (C), the Secretary shall reduce, on a proportional basis, the amount under clause (i) for purposes of allotting amounts under such subparagraph.

''(F) INCREASE IN ALLOTMENT AMOUNT DURING TRANSITION YEARS.—

''(i) IN GENERAL.— For each of the fiscal years 1997 through 2005, if the amount determined for a State under subparagraph (D) is an amount that is less than the amount received by the State under this section for fiscal year 1996 and—

''(I) the amount of the difference between such two amounts is less than an amount equal to 10 percent of the amount received by the State for fiscal year 1996, then the amount allotted to the State for the fiscal year shall be equal to the amount received by the State for fiscal year 1996; or

''(II) the amount of the difference between such two amounts is equal to or greater than an amount equal to 10 percent of the amount received by the State for fiscal year 1996, then the amount allotted to the State for the fiscal year shall be equal to the sum of (aa) the amount determined for the State under subparagraph (D), and (bb) the amount equal to 10 percent of the amount received by the State for fiscal year 1996.

''(ii) ADJUSTMENT.—If amounts are allotted to one or more States under clause (i) for a fiscal year, the Secretary shall reduce, on a proportional basis, the amounts allotted to the remaining States for which the amount determined under subparagraph (D) is an amount that is greater than the amount received by such States under this section for fiscal year 1996.

''(G) MINIMUM ALLOTMENT.—For each fiscal year for which one of the conditions of subparagraph (F) is met (or such subparagraph does not apply) and subject to the availability of appropriations, for fiscal year 1997 and each subsequent fiscal year, the amount allotted to each remaining State (described in subparagraph (A)) shall not be less than an amount equal to one-third of one percent of the remaining amount (described in subparagraph (A)) for the fiscal year.

''(H) MAXIMUM ALLOTMENT.—

''(i) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, the amount allotted to each remaining State (described in subparagraph (A)) under this paragraph shall not be more than an amount equal to

''(I) the sum of—

''(aa) the number of children with disabilities in the State, aged 6 through 21, who are receiving special education and related services, as determined under clause (ii); and

''(bb) if the State is eligible for a grant under section 619, the number of such children in the State, aged 3 through 5; multiplied by

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

''(ii) DETERMINATION OF NUMBER OF CHILDREN.—The number of children with disabilities receiving special education and related services in any fiscal year shall be equal to the number of such children receiving special education and related services on December 1 of the fiscal year preceding the fiscal year for which the determination is made.

''(iii) AVERAGE PER PUPIL EXPENDITURE.—For purposes of clause (i)(II), the term 'average per pupil expenditure', in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for purposes of this subparagraph, means the fifty States and the District of Columbia), as the case may be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

''(4) SPECIAL RULE WITH RESPECT TO PUERTO RICO.—

''(A) IN GENERAL.—Except as provided subparagraph (B) and notwithstanding paragraph (3), the amount allotted to Puerto Rico for a fiscal year shall bear the same or lower proportion to the remaining amount (described in paragraph (3)(A)) as the amount received by Puerto Rico under this section for fiscal year 1996 bears to the aggregate of the amounts received by the remaining States (as described in paragraph (3)(A)) under this section for fiscal year 1996.

''(B) INCREASE IN ALLOTMENT AMOUNT DURING CERTAIN FISCAL YEARS.—For each fiscal year for which the minimum allotment requirement under paragraph (3)(G) is met, the amount allotted to Puerto Rico for that fiscal year shall be equal to—

''(i) subject to clause (ii), the sum of—

''(I) the amount determined for Puerto Rico under subparagraph (A); and

''(II) the amount equal to 10 percent of such amount determined for Puerto Rico under subparagraph (A); or

''(ii) if the amount determined for Puerto Rico under clause (i) is greater than the amount determined for Puerto Rico under paragraph (3), the amount determined for Puerto Rico under paragraph (3).

''(C) ADJUSTMENT IN AMOUNTS TO REMAINING STATES.—If the amount allotted to Puerto Rico for a fiscal year is determined under subparagraph (A) or (B)(i), the Secretary shall reallot to the remaining States (as described in paragraph (3)(A)), on a proportional basis, any amount not otherwise allotted to Puerto Rico.

''(5) USE OF MOST RECENT POPULATION DATA.—For the purpose of providing grants under this part, the Secretary shall use the most recent population data and data on children aged 3 to 21, inclusive, living in poverty that are available and satisfactory to the Secretary.

''(c) USE OF FUNDS BY STATE.—

''(1) RESERVATION FOR STATE ACTIVITIES.—

''(A) IN GENERAL.—Subject to subparagraph (D), a State may reserve not more than 25 percent of the amount allotted to the State under paragraph (1) or (3) of subsection (b) for a fiscal year for administration and other State-level activities in accordance with subparagraphs (B) and (C).

''(B) STATE ADMINISTRATION.—

''(i) IN GENERAL.—For the purpose of administering programs under this part, 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 territory may use up to 3 percent of the amount allotted to the territory for a fiscal year, or $35,000, whichever is greater; and

''(II) each remaining State may use up to 3 percent of the amount allotted to the State for a fiscal year, or $450,000, whichever is greater.

''(ii) USE OF AMOUNTS FOR ADMINISTRATION OF PART C.—If the State educational agency is the lead agency for the State under part C, amounts described in clause (i) may also be used for the administration of part C.

''(C) OTHER STATE-LEVEL ACTIVITIES.—A State shall use any amounts reserved under subparagraph (A) for a fiscal year that are not used for administration under subparagraph (B) for such fiscal year—

''(i) for support and direct services, including technical assistance and personnel development and training;

''(ii) for administrative costs of monitoring and complaint investigation, but only to the extent that such costs exceed the costs incurred for those activities during fiscal year 1985;

''(iii) to establish and implement the mediation process required by section 615(d), including providing for the costs of mediators and support personnel;

''(iv) to assist local educational agencies in meeting personnel shortages;

''(v) to develop a State improvement plan under part D;

''(vi) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(14) and to support implementation of the State improvement plan under part D if the State receives funds under that part; or

''(vii) to supplement other amounts 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 (such system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under part C).

''(D) REPORT ON USE OF AMOUNTS.—The State shall, as part of the information required to be submitted under section 612, submit a description of—

''(i) how amounts reserved under subparagraph (A) will be used to meet the requirements of this part;

''(ii) how such amounts will be allocated among the activities described in subparagraphs (B) and (C) to meet State priorities based on input from local educational agencies; and

''(iii) what percentage of such amounts, if any, will be distributed to local educational agencies by formula.

''(2) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES AND CERTAIN STATE AGENCIES.—

''(A) IN GENERAL.—The State shall provide at least 75 percent of the amount received under a grant for a fiscal year to local educational agencies in the State that have established their eligibility under section 613, and to State agencies that received funds under section 614A(a) (as such section was in effect on the day before the date of the enactment of the IDEA Improvement Act of 1996) for fiscal year 1996 and have established their eligibility under section 613, for use in accordance with this part.

''(B) METHODS OF DISTRIBUTION.—A State may provide amounts under subparagraph (A) to local educational agencies and State agencies described under such subparagraph on the basis of—

''(i) school-age population;

''(ii) school enrollment;

''(iii) numbers of children with disabilities receiving a free appropriate public education;

''(iv) allocations for previous fiscal years;

''(v) any two or more of the factors described in clauses (i) through (iv); or

''(vi) poverty, in combination with one or more of the factors described in clauses (i) through (iv).

''(C) FORMER CHAPTER 1 STATE AGENCIES.—

''(i) IN GENERAL.—To the extent necessary for each of the fiscal years 1997, 1998, and 1999, the State shall use amounts that are available under paragraph (1)(A) to ensure that each State agency that received amounts in fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994) receives, from the combination of funds under paragraph (1)(A) and funds provided under subparagraph (A), an amount equal to—

''(I) the number of children with disabilities, aged 6 to 21, inclusive, to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, subject to the methods of distribution under subparagraph (B); multiplied by

''(II) the per-child amount provided under such subpart for fiscal year 1994.

''(ii) ADDITIONAL USE OF AMOUNTS.—The State may use amounts described in clause (i) to ensure that each local educational agency that received fiscal year 1994 funds under that subpart for children who had transferred from a State-operated or State-supported school or program assisted under that subpart receives, from the combination of funds available under paragraph (1)(A) and funds provided under subparagraph (A), an amount for each such child, aged 3 to 21, inclusive, to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, equal to the per-child amount the agency received under that subpart for fiscal year 1994.

''(iii) DETERMINATION OF NUMBER OF CHILDREN.—The number of children counted under clause (i)(I) shall not exceed the number of children aged 3 to 21, inclusive, for whom the agency received amounts in fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994).

''(D) REALLOCATION OF AMOUNTS.—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 amounts received under a grant under this part that are not needed by that local agency 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.

''(d) 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 (b)(2) for that fiscal year.

''(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students ages 3 to 5, inclusive, who are enrolled in programs affiliated with 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 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 TO 5.—

''(A) IN GENERAL.—With funds appropriated under subsection (e), 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 to 5, inclusive, 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 (b)(2).

''(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 to 5, inclusive, residing on reservations as reported annually divided by the total of such 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 to 5, inclusive, 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) BIENNIAL 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 a biennial 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 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial 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 such a plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based upon 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. Such plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, children, and youth with disabilities, to tribes, and to other interested parties.

''(5) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(18), the Secretary of the Interior shall establish, not later than 6 months after the date of the enactment of the IDEA Improvement Act of 1996, under the Bureau of Indian Affairs (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 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 BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, children, and youth 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, children, and youth 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).

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part (except for section 619; relating to preschool grants), there are authorized to be appropriated to the Secretary such sums as may be necessary.

''SEC. 612. STATE REQUIREMENTS.

''(a) IN GENERAL.—A State shall be eligible to receive a grant under this part for a fiscal year if, except as provided in subsection (c), the State submits to the Secretary information that demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following requirements:

''(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.

''(B) LIMITATION.—Subparagraph (A) shall not apply with respect to children with disabilities aged 3 to 5 and children with disabilities aged 18 to 21 to the extent that such application to those children would be inconsistent with State law or practice, or the order of any court, relating to the provision of public education to children in such age ranges.

''(2) CHILD FIND.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of such disabilities, and who are in need of special education and related services, are identified, located, and evaluated and that a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

''(3) 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).

''(4) LEAST RESTRICTIVE ENVIRONMENT.—

''(A) IN GENERAL.—To the maximum extent appropriate—

''(i) children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled; and

''(ii) 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 means that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

''(B) ADDITIONAL REQUIREMENT.—

''(i) IN GENERAL.—The State's method of distributing funds shall not result in placements that violate the requirements of subparagraph (A).

''(ii) EXCEPTION.—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.

''(5) 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 assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities 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.

''(6) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614.

''(7) CONFIDENTIALITY.—Agencies in the State comply with section 617(c) (relating to the confidentiality of records and information).

''(8) 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 transition to those preschool programs in a manner consistent with section 637(a)(7). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(1)(B) and 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 by the designated lead agency under section 637(a)(7).

''(9) CHILDREN IN PRIVATE SCHOOLS.—

''(A) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part by providing for such children special education and related services, except if the Secretary has arranged for services to such children under subsection (f).

''(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 they are placed in, or referred to, such schools or facilities by the State or a local educational agency in order to comply with this part or with any other provision of law requiring the provision of special education and related services to all children with disabilities in the State.

''(ii) ADDITIONAL REQUIREMENTS.—In all cases described in clause (i)—

''(I) children with disabilities are placed in, or referred to, only those private schools and facilities that the State educational agency

determines meet standards that apply to State and local educational agencies; and

''(II) children served in such private schools or facilities retain access to a free appropriate public education in accordance with this part.

''(C) PAYMENT FOR EDUCATION OF CHILDREN PLACED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

''(i) IN GENERAL.—If the parents of a child with a disability that had previously received special education and related services under the authority of a public agency have enrolled their child in a private elementary or secondary school without the consent of or referral by the public agency, as a result of mediation described in section 615(d), or as a result of a decision rendered under the procedural safeguards of section 615, the public agency may be required to reimburse the parents for the cost of the enrollment, except that the cost of the reimbursement may be reduced or denied—

''(I) if, at least 10 school days prior to the removal of the child from the public school, the parents did not give a written statement of their concerns to the public agency and notice that they intend to place their child in a private school at public expense;

''(II) if, prior to the removal of the child from the public school, the parents did not make the child available for an initial assessment and evaluation by the local educational agency prior to enrollment in the private school; or

''(III) at the discretion of the judge.

''(ii) EXCEPTION.—Notwithstanding the notice requirement in clause (i)(I), the cost of the reimbursement may not be reduced or denied for failure to provide such notice if—

''(I) the parent is illiterate or cannot write in English;

''(II) compliance with clause (i)(I) would likely result in physical or serious emotional harm to the child;

''(III) the school prevented the parent from providing such notice; or

''(IV) the parent had not received notice, pursuant to section 615(d), of the notice requirement in clause (i)(I).

''(10) 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.

''(11) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—

''(A) ESTABLISHING RESPONSIBILITY FOR SERVICES.—The Chief Executive Officer or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the appropriate educational agency within the State, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:

''(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local education agency (or the State agency responsible for developing the child's IEP).

''(ii) CONDITIONS AND TERMS OF REIMBURSEMENT.—The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.

''(iii) INTERAGENCY DISPUTES.—Procedures for resolving interagency disputes (including procedures under which local education agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

''(iv) COORDINATION OF SERVICES PROCEDURES.—Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in subparagraph (B)(i).

''(B) OBLIGATION OF PUBLIC AGENCY.—

''(i) IN GENERAL.—If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in sections 602(1) relating to assistive technology devices, 602(2) relating to assistive technology services, 602(20) relating to related services, 602(27) related to supplementary aids and services, and 602(29) relating to transition services) that are necessary for ensuring a free appropriate public education to children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

''(ii) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—If a public agency other than an educational agency fails to provide or pay for the special education and related services described in clause (i), the local educational agency (or State agency responsibility for developing the child's IEP) shall provide or pay for such services to the child. Such local education agency or State agency may then claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local education agency or State agency pursuant to the terms of the interagency agreement described in subparagraph (A)(i) according to the procedures established in such agreement pursuant to subparagraph (A)(ii).

''(C) SPECIAL RULE.—The requirements of subparagraph (A) may be met through—

''(i) State statute or regulation;

''(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

''(iii) other appropriate methods as determined by the Chief Executive Officer or designee of the officer.

''(12) 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.

''(13) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State has established and implemented, consistent with the purposes of this title and section 635(a)(7), a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education and related services personnel necessary to carry out this part, including—

''(A) a statewide, coordinated personnel-development plan that meets the personnel development requirements of a State improvement plan under section 683; or

''(B) a personnel-development plan, developed in consultation with parents of children with disabilities, State and local educational agencies, institutions of higher education, and professional associations that—

''(i) addresses current and projected needs for special education and related services personnel throughout the State;

''(ii) addresses the need for the pre-service and in-service preparation of personnel throughout the State, including regular education personnel, to provide educational services to children with disabilities;

''(iii) includes a system or procedures for recruiting, preparing, and retaining qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the field of special education and related services; and

''(iv) is integrated, to the maximum extent possible, with other professional development plans and activities.

''(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) 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;

''(ii) to the extent the standards described in subparagraph (A) are not based on the highest requirements in the State applicable to a specific profession or discipline, the State is taking steps to require retraining or hiring of personnel that meet appropriate professional requirements in the State; 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) EXCEPTION.—If the State determines that, within a geographic area of the State there is a shortage of an appropriate number and type of personnel to provide the special education and related services to children with disabilities within such area, and the appropriate public agency has taken steps to recruit and hire such personnel, the State may, subject to public comment and review, temporarily suspend the standards of subparagraph (B)(ii)—

''(i) consistent with State law, for the purpose of recruiting and hiring for such shortage areas the most qualified available individuals who are making progress in applicable coursework; and

''(ii) for a period not to exceed 3 years.

''(15) PERFORMANCE GOALS AND INDICATORS.—The State—

''(A) has established goals for the performance of children with disabilities in the State that—

''(i) will promote the purposes of this title, as stated in section 601(d); and

''(ii) are consistent, to the maximum extent appropriate, with other goals and standards established by the State;

''(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;

''(C) will, every two years, 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); and

''(D) based on its assessment of that progress, will revise its State improvement plan under part D as may be needed to improve its performance, if the State receives assistance under such part.

''(16) PARTICIPATION IN ASSESSMENTS.—

''(A) IN GENERAL.—Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. As appropriate, the State or local educational agency—

''(i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and

''(ii) develops and, beginning not later than July 1, 1999, conducts those alternate assessments.

''(B) REPORTS.—The State 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.

''(ii) The number of those children participating in alternate assessments.

''(iii) The performance of those children on regular assessments (beginning not later than July 1, 1997) and on alternate assessments (not later than July 1, 1999), if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.

''(17) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—

''(A) IN GENERAL.—The State ensures that amounts provided under a grant to the State under this part, except as provided in subparagraph (B), will be used to supplement State, local, and other Federal funds (including funds not under the direct control of State or local educational agencies) expended for special education and related services, and not to supplant those funds.

''(B) WAIVER.—The Secretary may waive, in whole or in part, the requirements of subparagraph (A) if the Secretary determines that the State has provided clear evidence that all children with disabilities in the State have available a free appropriate public education or that, such a waiver would allow the State to improve the delivery of special education and related services to children with disabilities in the State.

''(18) 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.

''(19) 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;

''(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) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

''(ix) 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.

''(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—

''(I) the education of children with disabilities; and

''(II) the procedures for distribution of amounts received by the State under a grant under this part;

''(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.

''(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.—

''(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 date of the enactment of the IDEA Improvement Act of 1996, 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.—The Secretary may require a State to amend its application at any time as a result of the Secretary's compliance reviews under parts B and C. The Secretary shall reduce or shall not provide any further payments to the State educational agency until the Secretary is satisfied that the State educational agency is complying with that requirement.

''(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.—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 within the State.

''(f) BY-PASS FOR CHILDREN IN PRIVATE SCHOOLS.—

''(1) IN GENERAL.—If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(9), the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements which shall be subject to the requirements of such subsection.

''(2) PAYMENTS.—

''(A) DETERMINATION OF AMOUNTS.—If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing—

''(i) the total amount received by the State under this part for such fiscal year; by

''(ii) the number of children with disabilities served in the prior year, as reported to the Secretary by the State under section 618.

''(B) WITHHOLDING OF CERTAIN AMOUNTS.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of services described in subparagraph (A).

''(C) PERIOD OF PAYMENTS.—The period under which payments are made under subparagraph (A) shall continue until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(9).

''(3) NOTICE AND HEARING.—

''(A) IN GENERAL.—The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to

appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

''(B) REVIEW OF ACTION.—If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28, United States Code.

''(C) REVIEW OF FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(D) JURISDICTION OF COURT OF APPEALS; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of a petition under subparagraph (B), the United States court of appeals shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''SEC. 613. LOCAL EDUCATIONAL AGENCY REQUIREMENTS.

''(a) IN GENERAL.—A local educational agency shall be eligible for assistance under this part for any fiscal year if, except as provided in subsection (b), such agency submits to the State educational agency information that demonstrates to the satisfaction of the State educational agency the following:

''(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—

''(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;

''(iii) except as provided in subparagraph (B), may not be used to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from State or local funds below the level of those expenditures for the preceding fiscal year;

''(iv) may be used, notwithstanding clause (i) or any other provision of this part, for the costs of special education and related services provided in a regular class or other education related setting to a child with a disability in accordance with the child's individualized education program, even if one or more nondisabled children benefit from those services; and

''(v) may be used, in accordance with subsection (f) and notwithstanding clause (i) or any other provision of this part, to develop and implement a coordinated services system.

''(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local education agency may reduce the level of expenditures where such reduction is attributable to—

''(i) the departure, by retirement or otherwise, 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.

''(3) 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 (14) and (15) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

''(4) 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.

''(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 date of the enactment of IDEA Improvement Act of 1996, 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 the such agency submits to the State educational agency such modifications as the local educational agency deems necessary.

''(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—The State educational agency may require a local educational agency to amend its application at anytime as a result of the compliance reviews of the State educational agency under parts B and C. This paragraph 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.

''(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 such 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) 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.

''(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(c) 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)(4).

''(f) COORDINATED SERVICES SYSTEM.—

''(1) IN GENERAL.—A local educational agency may not use more than 5 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and

implement a coordinated services system designed to improve results for children and families, including children with disabilities and their families.

''(2) ACTIVITIES.—In implementing a coordinated services system under this subsection, a local educational agency may carry out activities which include—

''(A) improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for results;

''(B) service coordination and case management that facilitates the linkage of individualized education programs under this part and individualized family service plans under part C with individualized service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation), title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (supplemental security income);

''(C) developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under this title; and

''(D) interagency personnel development for individuals working on coordinated services.

''(3) COORDINATION WITH CERTAIN PROJECTS UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—If a local educational agency is carrying out a coordinated services project under title XI of the Elementary and Secondary Education Act of 1965 and a coordinated services project under this part in the same schools, such agency shall use amounts under this subsection in accordance with the requirements of that title.

''(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(c) 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.

''SEC. 614. EVALUATIONS, REEVALUATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

''(a) EVALUATIONS AND REEVALUATIONS.—

''(1) INITIAL EVALUATIONS.—

''(A) IN GENERAL.—A State educational agency, other State agency, or local educational agency shall conduct an 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) 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.

''(C) PARENTAL CONSENT.—

''(i) IN GENERAL.—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 an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

''(ii) REFUSAL.—If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615(e).

''(2) REEVALUATIONS.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted—

''(A) if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years; and

''(B) in accordance with subsections (b) and (c).

''(b) EVALUATION PROCEDURES.—

''(1) NOTICE.—The local educational agency shall provide notice to the parents 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 a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and 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 curriculum or, for preschool children, to participate in appropriate activities;

''(B) not use any single procedure 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) tests and other evaluation materials 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; and

''(ii) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

''(B) any standardized tests that are given to the child—

''(i) have been validated for the specific purpose for which they are used;

''(ii) are administered by qualified personnel; and

''(iii) are administered in accordance with any instructions provided by the producer of such tests; and

''(C) the child is assessed in all areas of suspected disability.

''(4) DETERMINATION OF ELIGIBILITY.—Upon completion of administration of tests and other evaluation materials—

''(A) the determination of whether the child is a child with a disability as defined in section 602(3) or section 602(3)(B) will 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 based on any of the following:

''(A) Lack of instruction, including instruction in reading or math.

''(B) Limited English proficiency.

''(C) Cultural or environmental factors.

''(D) Economic disadvantage.

''(c) REEVALUATION PROCEDURES.—

''(1) IN GENERAL.—As part of any reevaluation to assess a child under this section, the individualized education program team and other qualified professionals, as appropriate, shall—

''(A) review existing evaluation data on the child, including current classroom-based assessments and teacher and related services providers observation; 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 continues to have a disability, as described in section 602(3)(A)(i) or section 602(3)(B);

''(ii) the child's present levels of performance and educational needs; and

''(iii)(I) whether the child continues to need special education and related services; and

''(II) if so, any additions or modifications to the special education and related services to enable the child to meet the objectives set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum.

''(2) TESTS AND OTHER EVALUATION MATERIALS.—The local educational agency shall administer such tests and other evaluation materials as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

''(3) REQUIREMENTS IF ADDITIONAL DATA NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determines that no additional data are needed to determine whether the child continues to be a child with a disability, 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

''(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

''(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

''(1) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

''(A) IN GENERAL.—At the beginning of each school year, each local educational agency, or State educational 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 section 602(11).

''(B) PROGRAM FOR CHILD AGED 3 TO 5.—In the case of a child with a disability aged 3 to 5, inclusive, an individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, 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.

''(2) DEVELOPMENT OF IEP.—

''(A) IN GENERAL.—An individualized education program team shall develop the IEP described in paragraph (1). In developing such IEP, the IEP Team, subject to subparagraph (B), shall—

''(i) consider the child's strengths and the parents' concerns for enhancing their child's education;

''(ii) consider the results of the initial evaluation or most recent reevaluation;

''(iii) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavior management interventions and strategies to help the child behave in an appropriate and responsible manner conducive to learning;

''(iv) 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;

''(v) in the case of a child who is blind or visually impaired, provide for instruction in braille and the use of braille unless all members of the IEP Team concur that, 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), instruction in braille or the use of braille is not appropriate for the child;

''(vi) consider the communication needs of the child, and in the case of a child who is deaf, hard-of-hearing, blind, or communicatively disabled, consider the language and communication needs of the child; and

''(vii) consider whether the child requires assistive technology services or devices.

''(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavior-management interventions and strategies consistent with subparagraph (A)(iii) of this paragraph, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with section 602(11)(E).

''(3) REVIEW AND REVISION OF IEP.—

''(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (C), the IEP Team—

''(i) reviews each IEP at least once a year to determine whether the annual goals for the child are being achieved; and

''(ii) revises the IEP to address—

''(I) any lack of expected progress toward the annual goals and in the general 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 section 602(11)(F)(ii); or

''(IV) the child's anticipated needs as otherwise appropriate.

''(B) CERTAIN CHILDREN WITH DISABILITIES.—

''(i) IN GENERAL.—In the case of a child with a disability who has demonstrated a pattern of behavior that significantly impairs the education of the child, or the education of the classmates of the child, and the ability of the teacher of the child to teach, if such teacher initiates or requests an IEP meeting, then the appropriate authority shall convene an IEP meeting to review the child's educational program, related services, supplementary aids and services, and placement.

''(ii) REVIEW OF IEP.—In carrying out a review of the IEP of the child, the IEP Team shall determine—

''(I) the appropriateness of the current IEP of the child;

''(II) whether or not special education and related services have been appropriately provided to the child;

''(III) whether or not other supplementary aids or services, including teacher training, are needed to address the behavior of the child; and

''(IV) subject to clauses (iii) and (iv), whether or not the placement of the child should be changed.

''(iii) DETERMINATION OF CHANGE IN PLACEMENT.—Prior to proposing a change in the placement of the child, the IEP Team shall first consider and then document the following:

''(I) The cumulative record over a reasonable period of time describing the frequent behaviors exhibited by the child that significantly impairs the education of the child, the education of the classmates of the child, and the ability of the teacher of the child to teach.

''(II) Documentation of the efforts made to address the behavior of the child, the use of supplementary services or strategies (including the use of behavior management plans) that have been implemented over a reasonable period of time and have failed to address the behavior of the child in a manner that would enable the child to remain in the current educational placement of the child without significantly impairing the education of the child, the education of the classmates of the child, and the ability of the teacher of the child to teach.

''(III) The training made available to the teacher or teachers of the child.

''(iv) EXPEDITED DUE PROCESS HEARING.—If the IEP Team determines that a change in placement of the child is appropriate, and the parents of the child disagree with such determination, then either party may request an expedited due process hearing in accordance with section 615(f)(2).

''(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the review and revision of the IEP of the child.

''(4) 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 section 602(11)(F)(ii), 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.

''(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed—

''(A) to decrease the amount of information that a parent receives concerning the progress of the child of such parent; or

''(B) to increase the amount of paperwork for the teachers, related services personnel, and administrators of such child.

''(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.

''SEC. 615. PROCEDURAL SAFEGUARDS.

''(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to assure 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.—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 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 assure 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 in accordance with subsection (e);

''(6) an opportunity to present complaints 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;

''(7) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall remain confidential)—

''(A) to the State educational agency or local educational agency, as the case may be, in the complaint filed under paragraph (6); and

''(B) that shall include—

''(i) the name of the child, the address of the residence of the child, and the name of the school at which the child is attending;

''(ii) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

''(iii) the proposed resolution of the problem; 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.—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;

''(3) a description of any other options that the agency considered and the reasons why those options were rejected;

''(4) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

''(5) a description of any other factors that are relevant to the agency's proposal or refusal; and

''(6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this title 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.

''(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 for evaluation;

''(B) upon each notification of an individualized education program meeting and upon reevaluation of the child; and

''(C) upon registration of a complaint under subsection (b)(6).

''(2) CONTENTS.—The procedural safeguards notice shall include a full explanation of the procedural safeguards written in the native language of the parents, unless 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;

''(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;

''(K) State-level appeals (if applicable in that State);

''(L) civil actions; and

''(M) attorney's fees.

''(e) MEDIATION.—

''(1) 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 the provision of free appropriate public education to children with disabilities by any such State educational agency or local educational agency to resolve such disputes through a mediation process.

''(2) REQUIREMENTS.—Such procedures shall meet the following requirements:

''(A) The procedures shall ensure that the mediation process—

''(i) is voluntary on the part of the parents and may be terminated by either party after a good faith effort has been made by the party terminating the mediation process; and

''(ii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

''(B) 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.

''(C) The State shall bear the cost of the mediation process.

''(D) 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.

''(E) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

''(F) 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.

''(G) The State shall determine whether or not attorneys may attend or otherwise participate in the mediation process after offering the opportunity for parents and representatives of school districts to participate in the mediation process prior to any due process filing without attorneys present.

''(f) IMPARTIAL DUE PROCESS HEARING.—

''(1) IN GENERAL.—Whenever a complaint has been received under section 614(d)(3)(B), or subsection (b)(6) or (k) of this section, the parents involved in such complaint shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

''(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

''(A) IN GENERAL.—At least 10 school days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations and recommendations based on the offering party's evaluations which the party intends to use at the hearing.

''(B) PROHIBITION.—Any party which fails to meet the requirement of subparagraph (A) shall be barred from introducing such evaluations and recommendations at such hearing.

''(3) LIMITATION ON CONDUCT OF HEARING.—A hearing conducted pursuant to paragraph (1) may not be conducted by an employee of the State educational agency or the local educational agency involved in the education or care of the child.

''(4) ADDITIONAL REQUIREMENTS WITH RESPECT TO HEARINGS FOR CERTAIN CHILDREN WITH DISABILITIES.—A hearing conducted pursuant to paragraph (1) that is based upon a complaint received under section 614(d)(3)(B) shall, in addition to the requirements contained in this subsection, comply with the following additional requirements:

''(A) In determining whether or not the decision by the IEP Team to change the placement of the child is justified and appropriate, the hearing officer shall, at a minimum, review the information under clause (iii) of such section.

''(B) The child shall remain in the current educational placement of the child until the hearing officer reaches a final decision under this subsection.

''(C) The hearing officer shall make a determination of findings and reach a final decision not later than 20 days after the first day of the hearing, or, at the discretion of the hearing officer, not later than 30 days after such first day of the hearing.

''(D) The placement of the child, including the placement of the child during any due process or judicial proceeding, shall be determined in accordance with the final decision of the hearing officer under this subsection, unless the parents and the State or local educational agency agree otherwise.

''(g) APPEAL.—If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.

''(h) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f), or an appeal conducted pursuant to subsection (g), shall be accorded—

''(1) the right to be accompanied and advised by counsel and 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(c) (relating to the confidentiality of data, information, and records) and shall also be transmitted to the advisory panel established pursuant to section 612(a)(18)).

''(i) ADMINISTRATIVE PROCEDURES.—

''(1) IN GENERAL.—A decision made in a hearing conducted pursuant to subsection (f) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2) of this subsection.

''(2) RIGHT TO BRING CIVIL ACTION.—

''(A) IN GENERAL.—Any party aggrieved by the findings and decision made under subsection (f) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

''(B) ADDITIONAL REQUIREMENTS.—In any action brought under this paragraph the court—

''(i) shall receive the records of the administrative proceedings;

''(ii) shall hear additional evidence at the request of a party; and

''(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

''(3) JURISDICTION OF DISTRICT COURTS; ATTORNEYS' FEES.—

''(A) IN GENERAL.—The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

''(B) AWARD OF ATTORNEYS' FEES.—In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child or youth with a disability who is the prevailing party.

''(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—Fees awarded under this paragraph shall be based on rates prevailing in the community 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.

''(D) PROHIBITION OF ATTORNEYS' FEES AND RELATED COSTS FOR CERTAIN SERVICES.—(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent if—

''(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

''(II) the offer is not accepted within 10 days; and

''(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

''(ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of a judicial action or proceeding.

''(E) EXCEPTION TO PROHIBITION ON ATTORNEYS' FEES AND RELATED COSTS.—Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

''(F) REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—Except as provided in subparagraph (G), whenever the court finds that—

''(i) the parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

''(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill and experience;

''(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding;

''(iv) the attorney representing the parent did not provide to the school district the appropriate information in the due process complaint in accordance with subsection (b)(7); or

''(v) the amount of attorneys' fees requested is not consistent with the extent of the success of the parents;

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this subsection.

''(G) EXCEPTION TO REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

''(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (k), 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.—

''(1) AUTHORITY OF SCHOOL PERSONNEL.—School personnel under this section may, to the same extent as a court, order a change in the placement of a child with a disability—

''(A) 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); and

''(B) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than an additional 45 school days if—

''(i) the child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency;

''(ii) the child possesses or uses illegal drugs or sells or solicits the sale of medications or illegal drugs while at school or a school function under the jurisdiction of a State or local educational agency; or

''(iii) the child causes serious injury while at school or at a school function under the jurisdiction of a State or a local educational agency.

''(2) AUTHORITY OF HEARING OFFICER.—A hearing officer under this section may, to the same extent as a court, order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if—

''(A) the maintenance of the current placement of such child is substantially likely to result in injury to the child or to others; and

''(B) the hearing officer—

''(i) determines that the public agency has demonstrated by substantial evidence that the requirement of subparagraph (A) has been met;

''(ii) considers the appropriateness of the child's current placement; and

''(iii) considers whether the public agency has made reasonable efforts to minimize the risk of harm including the use of supplementary aids and services.

''(3) DETERMINATION OF SETTING.—The alternative educational setting described in paragraph (1) or paragraph (2) shall be determined by the individualized education program team.

''(4) MANIFESTATION DETERMINATION REVIEW.—

''(A) IN GENERAL.—If a change in placement or disciplinary proceeding, including expulsion, is contemplated as a result of an action described in paragraph (1) or paragraph (2)—

''(i) not later than 3 school days after the date on which such action has been taken the parents shall be notified of such action; and

''(ii) not later than 15 school days after the date on which such action has been taken a review shall be conducted of the relationship between the child's disability and the behavior described in paragraph (1).

''(B) INDIVIDUALS TO CARRY OUT REVIEW.—A review described in subparagraph (A) shall be conducted by the IEP Team and other qualified personnel.

''(C) CONDUCT OF REVIEW.—

''(i) IN GENERAL.—In carrying out a review described in subparagraph (A), the individuals described in subparagraph (B) shall consider appropriate factors, including—

''(I) the appropriateness of the child's placement;

''(II) the consistency of the implementation of the child's entire IEP, including the technical soundness of the behavior strategies used;

''(III) evaluation and diagnostic results, which may include any such results supplied by the parents or guardian of the child; and

''(IV) observations of the child.

''(ii) ADDITIONAL REQUIREMENTS.—The IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team first determines that the disability—

''(I) did not impair the ability of the child to understand the impact and consequences of the behavior; and

''(II) did not impair the ability of the child to control the behavior.

''(5) DETERMINATION THAT BEHAVIOR WAS MANIFESTATION OF DISABILITY.—If the result of the review described in paragraph (4) is a determination that the behavior of the child with a disability was a manifestation of such child's disability and the parents of such child agree with such determination, the educational placement of such child may be changed. If the parents do not agree with such determination or with such changed educational placement, an immediate appeal may be made to a hearing officer to determine whether the child's placement should be changed. Any party aggrieved by the determination of the hearing officer may initiate a due process hearing as described in subsection (f).

''(6) DETERMINATION THAT BEHAVIOR WAS NOT MANIFESTATION OF DISABILITY.—

''(A) IN GENERAL.—If the result of the review described in paragraph (4) is a determination that the behavior of the child with a disability was not a manifestation of such child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied in the same manner in which they would be applied to children without disabilities. If the parents do not agree with such application, a due process hearing, as described in subsection (f), may be initiated. Any determination under paragraph (4) that a child's behavior was not a manifestation of a disability shall be reviewed by a hearing officer under subsection (f), whether or not the child's parents request a hearing, before educational services to the child may be terminated under this paragraph. During the pendency of such due process procedures, the child shall continue to receive educational services in the alternative educational setting.

''(B) SPECIAL RULE.—Where application of the relevant disciplinary procedures in subparagraph (A) would result in the expulsion of the child without the receipt of educational services, the child may be expelled only if—

''(i) the child carries a weapon to school or to a school function under the jurisdiction of a State or local educational agency; or

''(ii) the child possesses or uses illegal drugs or sells or solicits the sale of medications or illegal drugs while at school or a school function under the jurisdiction of a State or local educational agency.

''(7) EXPEDITED HEARING.—The State or local educational agency shall arrange for an expedited hearing in any case described in this subsection when requested by the parent.

''(8) ADDITIONAL REQUIREMENTS.—

''(A) MAINTENANCE OF ALTERNATIVE EDUCATIONAL SETTING.— If the parent of a child described in this section requests a hearing pursuant to subsection (f), the child shall remain in the alternative educational setting in which such child was placed during the pendency of any proceedings under this subsection, unless the parents and the State or local educational agency agree otherwise.

''(B) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

''(i) 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 violated any rule or code of conduct of the local educational agency, including any behavior described in paragraph (1), may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this subparagraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

''(ii) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if—

''(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 subclause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

''(II) the behavior of the child demonstrates the need for such services;

''(III) the parent of the child has requested an evaluation of the child pursuant to section 614; or

''(IV) the teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior of the child to the director of special education of such agency or to other personnel of the agency.

''(iii) 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 clause (ii)) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities, who engaged in comparable behaviors consistent with paragraph (2).

''(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), 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 the provisions of this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

''(C) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—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.

''(9) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

''(A) ILLEGAL DRUG.—The term 'illegal drug'—

''(i) means a controlled substance within the meaning of any of paragraphs (1) through (5) of section 202 of the Controlled Substances Act (21 U.S.C 812); but

''(ii) does not include a controlled substance within the meaning of paragraphs (1) through (5) of section 202 of such Act if—

''(I) such controlled substance is legally possessed or used under the supervision of a licensed health care professional; or

''(II) such controlled substance is legally possessed or used under any other authority under such Act or under any other provision of Federal law.

''(B) SERIOUS INJURY.—The term 'serious injury' means an injury that involves substantial risk of death, extreme physical pain, obvious or protracted disfigurement, loss of the use of bodily members or organs, broken bones, or significant endangerment to an individual's emotional health or safety that is the result of a physical or verbal assault.

''(C) WEAPON.—The term 'weapon' has the meaning given the term 'dangerous weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

''(l) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part.

''(m) 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 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 another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.

''SEC. 616. WITHHOLDING AND JUDICIAL REVIEW.

''(a) WITHHOLDING OF PAYMENTS.—

''(1) IN GENERAL.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or State agency affected by any failure described in subparagraph (B)), finds—

''(A) that there has been a failure by the State to comply substantially with any provision of this part; or

''(B) that there is a failure to comply with any condition of a local educational agency's or State agency's eligibility under this part;

the Secretary shall, after notifying the State educational agency, withhold any further payments to the State under this part.

''(2) NATURE OF WITHHOLDING.—If the Secretary withholds further payments under paragraph (1), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State agencies affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in subparagraph (A) or (B) of paragraph (1), no further payments shall be made to the State under this part, or payments by the State educational agency under this part shall be limited to local educational agencies and State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (1) shall, by means of a 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.

''(b) JUDICIAL REVIEW.—

''(1) IN GENERAL.—If any State is dissatisfied with the Secretary's final action with respect to the eligibility of the State under section 612, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

''(2) JURISDICTION; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(3) STANDARD OF REVIEW.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''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) RULES AND REGULATIONS.—In carrying out the provisions of this part, the Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this Act.

''(c) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with the provisions of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to assure 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 the provisions of this part.

''(d) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities authorized by subsection (a) and section 618 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.

''SEC. 618. PROGRAM INFORMATION.

''(a) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data, which may be based on a sampling of data, each year to the Secretary on—

''(1) the number of children, categorized by race, ethnicity, gender, and disability, who are receiving—

''(A) a free appropriate public education; or

''(B) early intervention services because—

''(i) such children have developmental delays; or

''(ii) such children have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay;

''(2) the progress of the State, and of the children with disabilities in the State, toward meeting the goals established under section 612(14);

''(3) the types of early intervention services provided to such children;

''(4) the number of children with disabilities, categorized by race, ethnicity, gender, and disability—

''(A) participating in regular education programs;

''(B) in separate classes, separate schools or facilities, or public or private residential facilities;

''(C) who have been otherwise removed from the regular education environment; and

''(D) in various early intervention settings;

''(5) for each year of age from age 14 to 21, the number of children with disabilities, categorized by race, ethnicity, gender, and disability, who, because of program completion or for other reasons, stopped receiving special education, and the reasons why such children stopped receiving such special education;

''(6)(A) the number of children with disabilities, categorized by race, ethnicity, gender, and disability, who, under section 615(k), are removed to an interim alternative educational setting;

''(B) the acts or items precipitating such removals; and

''(C) the number of children with disabilities who are expelled from school without receiving services; and

''(7) any other information required by the Secretary.

''(b) 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 is occurring in 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); and

''(B) the placement in particular educational settings of such children.

''(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, 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.

''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 to 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 to 5, inclusive, residing in the State.

''(c) AMOUNT.—

''(1) IN GENERAL.—From the amount appropriated for any fiscal year pursuant to the authorization of appropriations under subsection (m), the Secretary shall allot to each eligible State the amount it received for fiscal year 1996 under this section (as this section was in effect on the day before the date of the enactment of the IDEA Improvement Act of 1996).

''(2) INSUFFICIENT FUNDS.—

''(A) IN GENERAL.—If the amount appropriated under subsection (m) for a fiscal year is insufficient to make the full allotments described in paragraph (1), the Secretary shall—

''(i) first, reduce the allocation to any State whose number of children aged 3 to 5, inclusive, is less than the number of such children in such State in fiscal year 1995 by the same percentage by which such number of children declined from the number of children in fiscal year 1995; and

''(ii) second, if necessary, ratably reduce the allocations of all States, including those allocations reduced under clause (i).

''(B) AVAILABILITY OF ADDITIONAL FUNDS.—If additional funds become available to make allocations under this section, the allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

''(d) ALLOTMENT OF REMAINING FUNDS.—After making allotments under subsection (c), the Secretary shall allot any remaining funds to eligible States on the basis of their relative population of children aged 3 to 5, inclusive.

''(e) SPECIAL RULE WITH RESPECT TO PUERTO RICO.—Notwithstanding any other provision of this subsection, the amount allotted to Puerto Rico for a fiscal year shall bear the same or lower proportion to the amount appropriated pursuant to subsection (m) as the amount received by Puerto Rico under this section for fiscal year 1996 bears to the aggregate of the amounts received by all States under this section for fiscal year 1996.

''(f) DETERMINATION OF POPULATION FIGURES.—For the purpose of providing grants under this section, the Secretary shall use the most recent population data that are available and satisfactory to the Secretary.

''(g) RESERVATION FOR STATE ACTIVITIES.—A State may reserve not more than 25 percent of the amount allotted to the State under this section for a fiscal year for administration and other State-level activities in accordance with subsections (h) and (i).

''(h) STATE ADMINISTRATION.—

''(1) IN GENERAL.—A State may use up to 3 percent of the amount allotted to the State under this section for a fiscal year 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.

''(2) USE OF AMOUNTS FOR ADMINISTRATION OF PART C.—If the State educational agency is the lead agency for the State under part C, amounts described in paragraph (1) may also be used for the administration of such part C.

''(i) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds it retains under subsection (g) and does not use for administration under subsection (h)—

''(1) for support services (including establishing and implementing the mediation process required by section 615(d)), 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 to 5, inclusive;

''(2) for direct services for children eligible for services under this section;

''(3) to develop a State improvement plan under part D;

''(4) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(14) and to support implementation of the State improvement plan under part D if the State receives funds under that part; or

''(5) 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.

''(j) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) REQUIREMENT TO MAKE SUBGRANTS.—Each State that receives a grant under this section for any fiscal year shall distribute at least 75 percent of the grant funds to local educational agencies in the State, and to State agencies that received funds under section 614A(a) (as such section was in effect on the day before the date of the enactment of the IDEA Improvement Act of 1996) for fiscal year 1996, that have established their eligibility under section 613.

''(2) METHODS OF DISTRIBUTION.—A State may distribute funds under paragraph (1) on the basis of—

''(A) total school age population;

''(B) school enrollment;

''(C) numbers of children with disabilities aged 3 to 5, inclusive, receiving a free appropriate public education;

''(D) allocations for previous fiscal years;

''(E) any two or more of the factors described in subparagraphs (A) through (D); or

''(F) poverty, in combination with one or more of the factors described in subparagraphs (A) through (D).

''(k) 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.

''(l) PROHIBITION ON CONSOLIDATION OF GRANTS FOR TERRITORIES.—The provisions of section 501 of Public Law 95–134 (48 U.S.C. 1469a; relating to the consolidation of one or more grants provided to certain territories) shall not apply with respect to amounts provided to a territory under a grant under this section.

''(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary such sums as may be necessary.

''PART C—INFANTS AND TODDLERS WITH DISABILITIES

''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 therefore the policy of the United States to provide financial assistance to States—

''(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system of 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); and

''(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.

''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 which—

''(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 meet the developmental needs of an infant or toddler with a disability 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, 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) nutritionists;

''(ix) family therapists;

''(x) orientation and mobility specialists; and

''(xi) 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; and

''(B) may also include, at a State's discretion, at-risk infants and toddlers.

''SEC. 633. GENERAL AUTHORITY.

''The Secretary shall, in accordance with this part, make grants to States (from their allocations 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 demonstrate 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 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.

''(3) 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.

''(4) 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.

''(5) 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 (8) to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers.

''(6) A central directory which includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

''(7) 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 is consistent with the comprehensive system of personnel development described in section 612(a)(13) (or with the personnel development requirements for State improvement plans under section 683) and may include—

''(A) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

''(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part;

''(C) training personnel to work in rural and inner city areas; and

''(D) training personnel to coordinate transition services for infants and toddlers served under this part from an early intervention program under this part to preschool or other appropriate services.

''(8) 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—

''(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services; and

''(B) subject to subsection (b), to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State;

except that nothing in this part, including this paragraph, prohibits the use of paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, to assist in the provision of early intervention services to infants and toddlers with disabilities under this part.

''(9) 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)(1) to the appropriate agencies;

''(D) the development of procedures to ensure that services are provided to infants and toddlers 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.

''(10) 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.

''(11) A procedure for securing timely reimbursement of funds used under this part in accordance with section 640(a).

''(12) Procedural safeguards with respect to programs under this part, as required by section 639.

''(13) A system for compiling data requested by the Secretary under section 618 that relates to this part.

''(14) A State interagency coordinating council that meets the requirements of section 641.

''(15) 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 such infant or toddler in a natural environment.

''(b) MODIFICATION OF PERSONNEL REQUIREMENT.—If a State determines that the requirement of subsection (a)(8)(B) would significantly inhibit the ability of the State to contract with, or employ, an appropriate number and types of personnel to provide early intervention services to infants and toddlers with disabilities in a geographic region, the State may, subject to public notice and comment, temporarily suspend the requirement for the region, in a manner consistent with State law and for a period not exceeding 3 years, with respect to the most qualified available individuals in shortage areas who are making annual progress in applicable coursework.

''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).

''(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 such 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 outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

''(4) a statement of specific early intervention services 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 shall appropriately be provided, including a justification of the extent, if any, to which such services will not be provided in a natural environment;

''(6) the projected dates for initiation of services and the anticipated duration of such 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; 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 such parents shall be obtained prior to the provision of early intervention services described in such plan. If such parents do not provide such consent with respect to a particular early intervention service, then the early intervention services to which such 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. Such 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 a person responsible for assigning financial responsibility among appropriate agencies;

''(3) information demonstrating eligibility of the State under section 634, including—

''(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and

''(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

''(4) a description of the uses for which funds will be expended in accordance with this part;

''(5) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

''(6) 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;

''(7) 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) 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 such 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 such 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; and

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

''(b) ASSURANCES.—The application described in subsection (a) shall contain the following:

''(1) A satisfactory assurance that the State will—

''(A) make 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) keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part.

''(2) A satisfactory assurance that Federal funds made available under section 633 will be used to supplement and increase the level of State and local funds expended for infants and toddlers with disabilities and their families under this part and in no case to supplant such State and local funds.

''(3) 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 part H (as in effect before the date of the enactment of the IDEA Improvement Act of 1996), 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.

''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; and

''(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.

''SEC. 639. PROCEDURAL SAFEGUARDS.

''(a) MINIMUM PROCEDURES.—The procedural safeguards required to be included in a statewide system under section 635(a)(10) shall provide, at a minimum, the following:

''(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

''(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

''(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

''(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

''(5) Procedures to protect the rights of the infant or toddler whenever the parents of the child are not known or cannot be found or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State or any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

''(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

''(7) Procedures designed to assure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

''(8) The right of parents to use mediation in accordance with section 615(e), except that—

''(A) any reference in such section 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)(8);

''(B) any reference in such section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this part, as the case may be; and

''(C) any reference in such section to the provision of free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

''(b) SERVICES DURING PENDENCY OF PROCEEDINGS.—During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

''SEC. 640. PAYOR OF LAST RESORT.

''(a) NONSUBSTITUTION.—Funds provided under section 643 may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

''(b) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for infants or toddlers with disabilities) within the State.

''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(b)(8) 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 INSURANCE.—At least one member shall be from the agency responsible for the State governance of insurance, especially in the area of health insurance.

''(H) HEAD START AGENCY.—A representative from a Head Start agency or program in the State.

''(I) A representative from a State agency responsible for child care.

''(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 funded school, from the Indian Health Service or the tribe/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 such 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(b)(8) in the performance of the responsibilities set out 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 aged birth to 5, inclusive.

''(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter which 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, 618, and 620 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)(8);

''(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 TERRITORIES.—

''(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 territories, 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 of such children served by all tribes, tribal organizations, or consortia.

''(3) INFORMATION.—To receive a payment under this paragraph, the tribe, tribal organization, or consortia shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be allocated under paragraph (2).

''(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortia 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 consortia 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 consortia shall make a biennial 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 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(f)(3)(D). 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), (3), and (4), 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 paragraphs (3) and (4), no State shall receive an amount under this section for any fiscal year that is less than the greatest of—

''(A) one-half of one percent of the remaining amount described in paragraph (1); or

''(B) $500,000.

''(3) SPECIAL RULE FOR 1997 THROUGH 1999.—

''(A) IN GENERAL.—Except as provided in paragraph (4), no State may receive an amount under this section for any of the fiscal years 1997 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

''(i) part H (as in effect on the day before the date of the enactment of the IDEA Improvement Act of 1996); and

''(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994) for children with disabilities under 3 years of age.

''(B) EXCEPTION.—If, for fiscal year 1998 or 1999, the number of infants and toddlers in a State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for the State shall be reduced by the same percentage by which the number of such infants and toddlers so declined.

''(4) 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 allocations to such States for such year.

''(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

''(5) 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 such sums as may be necessary for each of the fiscal years 1997 through 2001.

''PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

''SEC. 651. PURPOSE OF PART.

''The purpose of this part is to support national, State, and local activities aimed at improving educational, early intervention, and transitional services and opportunities for children with disabilities.

''SEC. 652. ELIGIBILITY FOR FINANCIAL ASSISTANCE.

''No State, State educational agency, local educational agency, educational service agency, or other public institution or agency may receive a grant, contract, or cooperative agreement under this part which relates exclusively to programs, projects, and activities for children aged 3 to 5, inclusive, unless the State, or, in the case of an agency or institution, the State in which the agency or institution is located, is eligible to receive a grant under section 619.

''SEC. 653. COMPREHENSIVE PLAN.

''(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for ongoing activities conducted by the Secretary under this part.

''(b) USE OF KNOWLEDGE IN DEVELOPING PLAN.—To the maximum extent appropriate, the Secretary shall ensure that the plan is based upon the knowledge gained from research on practices that have been proven effective in improving the achievement of children with disabilities.

''(c) CONSULTATION.—In developing the plan, the Secretary shall consult the following persons:

''(1) Individuals with disabilities.

''(2) Parents of children with disabilities.

''(3) Representatives of State and local educational agencies and educational service agencies.

''(4) Private schools.

''(5) Institutions of higher education.

''(6) Other Federal agencies.

''(7) The National Council on Disability.

''(8) National organizations with an interest in, and expertise in, providing services to children with disabilities and their families.

''(9) Any other professionals determined appropriate by the Secretary.

''(d) DEADLINE.—The plan shall be developed not later than the date that is 12 months after the date of the enactment of the IDEA Improvement Act of 1996.

"SEC. 654. PEER REVIEW.

''(a) IN GENERAL.—The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate an application under this part that requests more than $75,000 in Federal financial assistance.

''(b) COMPOSITION OF PANEL.—A majority of a panel described in subsection (a) shall be composed of individuals who are not employees of the Federal Government.

''(c) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this part to pay the expenses and fees of panel members who are not employees of the Federal Government.

"SEC. 655. ELIGIBLE APPLICANTS.

''Except as otherwise provided in this part, the persons who, and the agencies that, may apply for receipt of grants, contracts, or cooperative agreements under this part are the following:

''(1) Institutions of higher education.

''(2) State educational agencies.

''(3) Local educational agencies.

''(4) Educational service agencies.

''(5) Other public agencies.

''(6) Private nonprofit organizations.

''(7) Indian tribes and tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act).

''(8) For-profit organizations.

"SEC. 656. APPLICANT AND RECIPIENT RESPONSIBILITIES.

''(a) GENERAL REQUIREMENTS ON APPLICANTS AND RECIPIENTS.—The Secretary may not make a grant to, or enter into a contract or cooperative agreement with, a person or agency under this part unless—

''(1) the person or agency involves individuals with disabilities, and parents of children with disabilities, in planning, implementing, and evaluating activities conducted under the grant, contract, or agreement;

''(2) the person or agency, where appropriate, evaluates the potential for replication and widespread adoption of such activities; and

''(3) the person or agency prepares their findings and work product in a format useful for a specific audience specified by the Secretary, such as parents, administrators, teachers, early intervention personnel, related services personnel, or individuals with disabilities.

''(b) ADDITIONAL REQUIREMENTS IMPOSED AT DISCRETION OF SECRETARY.—The Secretary may require that a person who, or agency that, is awarded a grant, contract, or cooperative agreement under this part—

''(1) assume a portion of the cost of carrying out the grant, contract, or agreement;

''(2) disseminate the findings and work product of the person or agency; and

''(3) collaborate with other such persons and agencies.

"SEC. 657. INDIRECT COSTS.

''The Secretary—

''(1) may not permit any recipient of Federal funds under this part to use more than 25 percent of such funds for indirect costs; and

''(2) may further limit the extent to which any such recipient may use such funds for such costs.

"SEC. 658. PROGRAM EVALUATION.

''The Secretary may use funds appropriated to carry out this part to evaluate any activity carried out under this part.

"Subpart 1—National Research and Improvement Activities

"SEC. 661. GENERAL AUTHORITY TO MAKE AWARDS.

''The Secretary may make grants to, and enter into contracts and cooperative agreements with, eligible entities to carry out research and improvement activities that further the purpose of this part and are consistent with the priorities established under section 662.

"SEC. 662. PRIORITIES.

''(a) IN GENERAL.—In making awards under this subpart, the Secretary may, without regard to the rule making procedures under section 553 of title 5, United States Code, limit such awards to, or otherwise give priority to—

''(1) projects that address the improvement of the academic performance of children with disabilities;

''(2) projects that address one or more—

''(A) age ranges;

''(B) disabilities;

''(C) grades in school;

''(D) types of educational placements or early intervention environments;

''(E) types of services; or

''(F) content areas such as reading;

''(3) projects that address the needs of children based on the severity of their disability;

''(4) 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) particular types of geographic areas, such as inner-city or rural areas; or

''(G) institutionalized children in juvenile and adult correctional institutions;

''(5) any activity that is expressly authorized in this title;

''(6) a large-scale longitudinal study designed to provide information on the long-term impact of education agency disciplinary procedures on children with disabilities;

''(7) research and development projects including—

''(A) projects that advance knowledge about—

''(i) teaching and learning practices, and assessment techniques, instruments, and strategies, including behavioral strategies, that lead to improved results for children with disabilities;

''(ii) the developmental and learning characteristics of children with disabilities in a manner that will improve the design and effectiveness of interventions and instruction; or

''(iii) the coordination of education with health and social services;

''(B) large-scale longitudinal studies designed to produce information on the long-term impact of early intervention and education on results for individuals with disabilities;

''(C) model demonstration projects to apply and test research findings in typical service settings to determine the usability, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools such as textbooks, media, and other materials; and

''(D) projects which apply research and other knowledge to improve educational results for children with disabilities by—

''(i) synthesizing useful research and educational products;

''(ii) ensuring that such research and products are in appropriate formats for distribution to administrators, teachers, parents, and individuals with disabilities; or

''(iii) making such research and products available through libraries, electronic networks, parent training projects, and other information sources, including the National Information Dissemination System under part D of title IX of Public Law 103–227;

''(8) projects which provide technical assistance to—

''(A) States—

''(i) to link States to other technical assistance resources, including special and general education resources; or

''(ii) in gaining access to information, including information on research and best practices; or

''(B) State educational agencies, State lead agencies serving infants and toddlers with disabilities under part C, and other organizations and agencies that play a critical role in providing for the participation of children with disabilities in State and local assessments;

''(9) activities to produce, and promote the use of, knowledge to address the special needs of children who have a high likelihood of needing special education and related services in order to reduce, through early intervention, the need for special education services later in life;

''(10) educational media activities including—

''(A) through September 30, 1998, video description, open captioning, or closed captioning;

''(B) video description, open captioning, or closed captioning of educational, news, and informational materials;

''(C) through September 30, 1998, distribution of captioned and described materials and videos;

''(D) distribution of captioned and described educational, news, and informational materials and videos; and

''(E) recording free educational materials, including textbooks, for visually impaired and print-disabled students in elementary, secondary, post-secondary, and graduate schools; and

''(11) projects to assist institutions of higher education in appropriately serving students with disabilities, including deaf students.

''(b) DEFINITION.—As used in this section, the term 'low-incidence disability' means—

''(1) a visual impairment, a hearing impairment, or simultaneous visual and hearing impairments;

''(2) a significant cognitive impairment; or

''(3) any impairment for which a small number of personnel, with highly specialized skills and knowledge, are needed nationwide in order for all children with disabilities who have the impairment to receive early intervention services or a free appropriate public education.

''(c) REPORT.—If the Secretary awards a grant, contract, or cooperative agreement under this subpart prior to February 1, 1998 with respect to an educational media activity described in subparagraph (A) or (C) of subsection (a)(10), the Secretary, after consulting with the chairman of the Federal Communications Commission, shall submit to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate, not later than April 15, 1998, a report on the progress that the Federal Communications Commission is making towards meeting the requirements imposed on the Commission under section 713 of the Communications Act of 1934 (47 U.S.C. 613).

"SEC. 663. NATIONAL ASSESSMENT.

''(a) PURPOSE OF ASSESSMENT.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this title in order—

''(1) to determine the effectiveness of the title in achieving the purposes of the title;

''(2) to provide information to the President, the Congress, the States, local educational agencies, and the public on how to implement the title more effectively; and

''(3) to provide the President and the Congress with information that will be useful in developing legislation to achieve the purposes of this title more effectively.

''(b) CONSULTATION.—The Secretary shall plan, review, and conduct the national assessment under this section in consultation with researchers, State practitioners, local practitioners, parents of children with disabilities, individuals with disabilities, and other appropriate individuals.

''(c) SCOPE OF ASSESSMENT.—The national assessment shall examine how well schools, local educational agencies, States, other recipients of assistance under this title, and the Secretary are achieving the purposes of this title, including—

''(1) the performance of children with disabilities in general scholastic activities and assessments as compared to nondisabled children;

''(2) providing for the participation of children with disabilities in the general education curriculum;

''(3) helping children with disabilities make successful transitions from—

''(A) early intervention services to preschool education;

''(B) preschool education to elementary school; and

''(C) secondary school to adult life;

''(4) placing and serving children with disabilities, including children from underserved populations, in the least restrictive environment appropriate;

''(5) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

''(6) assessing the use of disciplinary measures, and the effect of such use, with children with disabilities as compared to nondisabled children;

''(7) coordinating services provided under this title with each other, with other educational and pupil services (including preschool services), and with health and social services funded from other sources;

''(8) addressing the participation of parents of children with disabilities in the education of their children; and

''(9) resolving disagreements between education personnel and parents through activities such as mediation.

''(d) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the Congress—

''(1) an interim report that summarizes the preliminary findings of the assessment not later than October 1, 1998; and

''(2) a final report of the findings of the assessment not later than October 1, 2000.

''SEC. 664. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1997 through 2001.

''(b) MINIMUM AMOUNTS.—Subject to subsection (c), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart to address the following needs:

''(1) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

''(2) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

''(c) RATABLE REDUCTION.—If the total amount appropriated to carry out this subpart for any fiscal year is less than $135,600,000, the amounts listed in subsection (b) shall be ratably reduced.

''Subpart 2—Professional Development

''SEC. 671. PURPOSE.

''The purpose of this subpart is to help ensure that—

''(1) personnel responsible for serving children with disabilities, including general and special education personnel, related services personnel, and early intervention personnel, have the knowledge and skills necessary to help such children—

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

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

''(2) there are adequate numbers of such personnel to meet the needs of children with disabilities; and

''(3) the skills and knowledge of personnel responsible for serving children with disabilities reflect the best practices, as determined through research and experience, particularly with respect to the inclusion of children with disabilities in the regular education environment.

''SEC. 672. FINDING.

''The Congress finds that the conditions noted in paragraphs (7) through (10) of section 601(c) can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

''(1) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

''(2) Focusing such policy on—

''(A) the recruitment of minorities into teaching; and

''(B) financially assisting Historically Black Colleges and Universities and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

''SEC. 673. NATIONAL ACTIVITIES.

''(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities of national significance that—

''(1) have broad applicability; and

''(2) will help ensure that the purpose of this subpart is met.

''(b) AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support any activity that is consistent with subsection (a), including—

''(1) the development, evaluation, demonstration, or dissemination of effective personnel preparation practices for personnel to work with children with disabilities;

''(2) promoting the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

''(3) developing and disseminating models that prepare teachers with strategies, including behavioral management techniques, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom; and

''(4) supporting Historically Black Colleges and Universities and institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel.

''SEC. 674. PROFESSIONAL DEVELOPMENT FOR PERSONNEL SERVING LOW-INCIDENCE POPULATIONS.

''(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, eligible entities to meet the purpose of this subpart by supporting preparation for personnel who will provide educational and related services to children with low-incidence disabilities and personnel who will provide early intervention services to infants and toddlers with disabilities.

''(b) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—Individuals who may be prepared pursuant to this section include personnel who—

''(A) are currently prepared in the fields of educational, related, or early intervention services; and

''(B) are studying—

''(i) to obtain degrees, certification, licensure, or endorsements in one or more of such fields; or

''(ii) to meet competency requirements in one or more of such fields.

''(2) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under this section.

''(c) APPLICATIONS.—Any application for assistance under this section shall propose to provide preparation that addresses a significant need, as shown by letters from one or more States stating that the State—

''(1) intends to accept successful completion of the proposed personnel preparation as meeting State personnel standards for serving children with low-incidence disabilities, or for serving infants and toddlers with disabilities; and

''(2) needs personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the State's comprehensive system of personnel development under part B or C, or in the State's State improvement plan under subpart 3.

''(d) DEFINITION.—For purposes of this section, the term 'low-incidence disability' has the meaning given such term in section 662(b).

''SEC. 675. LEADERSHIP PERSONNEL.

''(a) PROGRAM AUTHORIZED.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, eligible entities to meet the purpose of this subpart by preparing educational, related service, and early intervention leadership personnel (including teacher-preparation faculty, administrators, researchers, supervisors, and principals) so that they are prepared to help children with disabilities—

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

''(2) be prepared to lead productive, independent adult lives to the maximum extent possible.

''(b) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary may support any activity that is consistent with subsection (a), including—

''(A) preparation of personnel at the advanced graduate, doctoral, or post-doctoral levels; and

''(B) professional development of leadership personnel.

''(2) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under this section.

''(c) PREFERENCES.—In making awards under this section, the Secretary shall give preference to projects at institutions of higher education that have successfully integrated the professional development of general and special education personnel.

''SEC. 676. SERVICE OBLIGATION.

''Each application for funds under section 674 or 675 shall include an assurance that the applicant will ensure that individuals who are prepared under the proposed project will subsequently perform work related to their preparation or repay all or part of the cost of such preparation.

''SEC. 677. OUTREACH.

''(a) PLAN FOR OUTREACH SERVICES.—The Secretary shall develop a plan for providing

outreach services to the entities and populations described in subsection (b) in order to increase the participation of such entities and populations in competitions for grants, contracts, and cooperative agreements under this subpart.

''(b) ENTITIES AND POPULATIONS DESCRIBED.—The entities and populations referred to in subsection (a) are—

''(1) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

''(2) eligible institutions, as defined in section 312 of the Higher Education Act of 1965;

''(3) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

''(4) underrepresented populations.

''(c) FUNDING.—For the purpose of implementing the plan required under subsection (a), the Secretary shall, for each of the fiscal years 1997 through 2002, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out this subpart.

''(d) DILIGENCE.—The Secretary shall exercise the utmost authority, resourcefulness, and diligence of the Secretary to meet the requirements of this section.

''(e) REPORT.—Not later than January 31 of each year, beginning with fiscal year 1997 and ending with fiscal year 2002, the Secretary shall submit to the Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year. The report shall include—

''(1) a full explanation of any progress toward meeting the goals of this section; and

''(2) a plan to meet the goals, if necessary.

''(f) UNDERREPRESENTED POPULATIONS DEFINED.—For purposes of this section, the term 'underrepresented populations' means populations such as minorities, the poor, individuals with limited English proficiency, and individuals with disabilities.

''Subpart 3—State Program Improvement Grants for Children with Disabilities

''SEC. 681. PURPOSE.

''The purpose of this subpart is to assist States in reforming and improving their systems for providing educational and early intervention services, particularly their systems for professional development, to improve the achievement of children with disabilities.

''SEC. 682. ELIGIBILITY AND COLLABORATIVE PROCESS.

''(a) ELIGIBLE APPLICANTS.—A State may apply for a grant under this subpart for a grant period that is not less than one year, but is not greater than 4 years.

''(b) CERTIFICATION THAT COLLABORATIVE PROCESS HAS BEEN USED.—A State that desires to receive a grant under this subpart shall certify to the Secretary that a collaborative process with persons described in subsection (c) has been used in developing the State improvement plan described in section 683.

''(c) COLLABORATIVE PROCESS PARTICIPANTS.—

''(1) REQUIRED PARTICIPANTS.—The collaborative process referred to in subsection (b) is a State process for making decisions which includes as participants, at a minimum, the Governor of the State and representatives, appointed by such Governor, of—

''(A) parents of children with disabilities;

''(B) parents of nondisabled children;

''(C) individuals with disabilities;

''(D) organizations representing individuals with disabilities and their parents;

''(E) community-based and other nonprofit organizations related to the education and employment of individuals with disabilities;

''(F) the lead State agency official or officials for part C;

''(G) local educational agencies;

''(H) general and special education teachers;

''(I) the State educational agency;

''(J) the State advisory panel established under part B; and

''(K) the State interagency coordinating council established under part C.

''(2) OPTIONAL PARTICIPANTS.—The collaborative process may include, at the Governor's discretion, representatives, appointed by the Governor, of—

''(A) individuals knowledgeable about vocational education;

''(B) the State agency for higher education;

''(C) institutions of higher education;

''(D) schools of education;

''(E) the State vocational rehabilitation agency;

''(F) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice; and

''(G) any other individuals designated by the Governor.

''SEC. 683. STATE IMPROVEMENT PLANS.

''(a) IN GENERAL.—A State that desires to receive a grant under this subpart shall submit to the Secretary a State improvement plan that is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965 and the Rehabilitation Act of 1973, as appropriate.

''(b) DETERMINING CHILD AND PROGRAM NEEDS.—

''(1) IN GENERAL.—Each State improvement plan shall identify those critical aspects of early intervention, general education, and special education programs (including professional development, based on an assessment of State and local needs) that must be improved to enable children with disabilities to meet the goals established by the State under section 612(a)(14).

''(2) REQUIRED ANALYSES.—To meet the requirement of paragraph (1), the State improvement plan shall include at least—

''(A) an analysis of all information, reasonably available to the State, on the performance of children with disabilities in the State, including—

''(i) their performance on State assessments and other performance indicators established for all children, including drop-out rates and graduation rates;

''(ii) their participation in postsecondary education and employment; and

''(iii) how their performance on the assessments and indicators described in clause (i) compares to that of non-disabled children;

''(B) an analysis of State and local needs for professional development for personnel to serve children with disabilities that includes, at a minimum, relevant information on current and anticipated personnel shortages, and on the extent of certification or retraining necessary to eliminate such shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs; and

''(C) a summary of the information and analysis provided by the State to the Secretary under parts B and C on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities.

''(c) IMPROVEMENT STRATEGIES.—Each State improvement plan shall—

''(1) describe the strategies the State will use to address the needs identified under subsection (b)(1), including—

''(A) how it will hold school districts and schools accountable for educational progress of children with disabilities;

''(B) how it will provide technical assistance to school districts and schools to improve results for children with disabilities;

''(C) how it will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide early intervention services, special education, general education, or related services) have the skills and knowledge necessary to meet the needs of children with disabilities, including a description of how—

''(i) the State will prepare general education and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities, including how the State will work with other States on common certification criteria;

''(ii) the State will prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;

''(iii) the State will work with institutions of higher education and other entities that prepare (on both a pre-service and an in-service basis) personnel who work with children with disabilities to ensure that such institutions and entities develop the capacity to support professional development programs which reflect actual education practices and techniques;

''(iv) the State's requirements for licensure of teachers and administrators, including certification and recertification, will be modified to support an adequate supply of personnel with the necessary skills and knowledge (including, where appropriate, strategies for developing reciprocal certification agreements and common certification requirements with other States); and

''(v) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation;

''(D) how it will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel;

''(E) strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel; and

''(F) how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective; and

''(2) describe how the improvement strategies under paragraph (1) will be coordinated with public and private sector resources.

''(d) REPORTING PROCEDURES.—Each State that receives a grant under this subpart shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently that annually.

''(e) PLAN APPROVAL.—The Secretary shall approve a State improvement plan under this section if it—

''(1) meets the requirements of this part;

''(2) has been developed in accordance with the requirements of section 682; and

''(3) in the opinion of the Secretary, has a reasonable chance of achieving the purposes of the grant.

''(f) PLAN AMENDMENTS.—

''(1) MODIFICATIONS MADE BY STATE.—Subject to paragraph (2), a plan 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 to a plan to the

same extent and in the same manner as this section applies to the original plan.

''(2) MODIFICATIONS REQUIRED BY SECRETARY.—The Secretary may require a State to amend its State improvement plan at any time as a result of the Secretary's compliance reviews under parts B and C. The Secretary may not provide further funding under this subpart to the State until such amendments are made.

''SEC. 684. USE OF FUNDS.

''(a) IN GENERAL.—A State that receives a grant under this subpart may use the grant to carry out any activities that are described in the State improvement plan and that are consistent with the purpose of this subpart. Such activities may include the awarding of subgrants, but only if the subgrants are made to local educational agencies. Any such local educational agency may award subgrants to any person. Such activities may also include the awarding of contracts to appropriate entities.

''(b) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State that receives a grant under this subpart shall use not less than 75 percent of the funds it receives under the grant for any fiscal year to ensure that there is a sufficient supply of personnel who have the skills and knowledge necessary to enable children with disabilities to meet developmental goals and to meet the needs of such children, including working with other States on common certification criteria.

''(c) GRANTS TO TERRITORIES.—The provisions of Public Law 95–134, permitting the consolidation of grants to the territories, shall not apply to funds received under this subpart.

''SEC. 685. MINIMUM STATE ALLOTMENTS.

''A State that receives a grant under this subpart shall receive an amount that is—

''(1) not less than $200,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

''(2) not less than $40,000, in the case of a territory.

''SEC. 686. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1997 through 2001.

''Subpart 4—Parent Training

''SEC. 691. GRANTS FOR 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 subpart.

''(b) REQUIRED ACTIVITIES.—A parent training and information center that receives assistance under this section shall—

''(1) assist parents to understand the availability of, and how effectively to use, procedural safeguards under this title, including the use of alternative methods of dispute resolution, such as mediation;

''(2) serve the parents of children with the full range of disabilities; and

''(3) annually report to the Secretary on—

''(A) the number 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 of children with disabilities, including underserved parents of children with disabilities.

''(c) OPTIONAL ACTIVITIES.—A parent training and information center that receives assistance under this section may—

''(1) provide information to teachers and other professionals who provide special education and related services to children with disabilities;

''(2) assist students with disabilities to understand their rights and responsibilities under section 615(j) on reaching the age of majority; and

''(3) establish cooperative partnerships with parent organizations, and other organizations assisting families of children with disabilities, in the community.

''(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the applicant will undertake to—

''(1) ensure that the needs for training and information of parents of underserved children with disabilities in the area to be served are effectively met; and

''(2) work with community-based organizations.

''(e) DISTRIBUTION OF FUNDS.—

''(1) INITIAL AWARDS.—

''(A) IN GENERAL.—The Secretary shall make at least one 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.

''(B) 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.

''(2) ADDITIONAL AWARDS.—

''(A) IN GENERAL.—The Secretary may make additional awards to community-based parent organizations in each State.

''(B) SELECTION REQUIREMENT.—The Secretary may make additional awards in a manner that ensures that parents of children with disabilities in low-income, high-density, and rural areas have access to parent training and information centers that provide appropriate training and information.

''SEC. 692. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

''(a) PROGRAM AUTHORIZED.—The Secretary may provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under section 691.

''(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 information;

''(3) evaluation by the center of itself;

''(4) promotion of the use of technology, including assistive technology devices and assistive technology services;

''(5) reaching underserved populations;

''(6) including children with disabilities in general education programs;

''(7) facilitation of transitions from—

''(A) early intervention services to preschool;

''(B) preschool to school; and

''(C) secondary school to postsecondary environments; and

''(8) promotion of alternative methods of dispute resolution.

''SEC. 693. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1997 through 2001.''.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. AMENDMENT TO ESEA TO COORDINATE IDEA AND SCHOOLWIDE PROGRAMS.

Section 1114(a)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314(a)(4)) is amended—

(1) in subparagraph (A), by striking ''Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act),'' and inserting ''Secretary,''; and

(2) in subparagraph (B), by inserting ''special education and related services under an individualized education program, procedural safeguards,'' after ''civil rights,''.

SEC. 202. EFFECTIVE DATES.

(a) PARTS A, B, AND C.—Except as provided in subsection (b), parts A, B, and C of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on July 1, 1997.

(b) SECTION 605.—Section 605 of such Act, as amended by title I, shall take effect upon the enactment of this Act.

(c) PART D.—Part D of such Act, as amended by title I, shall take effect on October 1, 1997.

SEC. 203. REPEALERS.

(a) PART I.—Part I of the Individuals with Disabilities Education Act is hereby repealed.

(b) PART H.—Effective July 1, 1997, part H of such Act is hereby repealed.

(c) PARTS E, F, AND G.—Effective October 1, 1997, parts E, F, and G of such Act are hereby repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. KILDEE] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

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

Mr. Speaker, I rise in support of H.R. 3268, the IDEA Improvement Act, which amends the Individuals with Disabilities Education Act.

This bill will take major steps toward better education for children with disabilities and, as a result, will increase the ability of these children to become productive, fully participating citizens in their communities. This legislation will improve special education by doing the following:

Placing an emphasis on what is best educationally for children with disabilities instead of burdensome paperwork requirements; giving teachers more flexibility and schools lower costs; enhancing parental input; and making schools safer for students and teachers.

There are many important changes to IDEA in this legislation. I might add that after 1½ years of work by the committee, the disabilities community and the education community asked if they could recommend some changes to the legislation.

We told them they could have a week to suggest changes to the legislation if they brought together all of the leaders of the disability and education communities. I did not know what they would recommend, but they managed to put together a strong package of suggestions under the leadership of Madeline Will and Patti Smith. This legislation includes the vast majority of the changes recommended by that large group of education, disability, and parent organizations, who worked together closely in the past weeks to recommend improvements to our legislation prior to our committee markup.

I have strong letters of support for the bill from groups like the National

School Boards Association and the National Association of Elementary School Principals. They term this legislation an ''excellent step'' and a bill which ''contains many improvements and reforms that will improve services for students with disabilities.''

I include those for the RECORD:

NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS,
Alexandria, VA, June 5, 1996.

Hon. RANDY CUNNINGHAM,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CUNNINGHAM: On behalf of the National Association of Elementary School Principals, I am writing to urge you to work to bring H.R. 3268, the Idea Improvement Act of 1996, to the House floor as soon as possible. We believe it would be beneficial to bring the bill up for floor consideration under suspension of the rules.

NAESP supports the bill that emerged from the Economic and Educational Opportunities Committee because we consider it to be an improvement over current law. We believe that IDEA is a well-intended law that needs to be updated to address the realities of today's schools. H.R. 3268 is an excellent step in that direction, particularly with respect to its school safety provisions.

We hope you will do what you can to foster the timely consideration of IDEA by the full House of Representatives. Thank you for your attention to this matter.

Sincerely,

SALLY N. MCCONNELL,
Director of Government Relations.

NASBA,
June 7, 1996.

Hon. WILLIAM F. GOODLING,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE GOODLING: The National School Boards Association (NSBA), on behalf of the more than 95,000 local school board members, believes the Individuals with Disabilities Education Act (IDEA) is a valuable law that has provided millions of students with disabilities the opportunities they need to achieve their potential. H.R. 3268 reauthorizing IDEA contains many improvements and reforms that will improve services for students with disabilities and make special education programs work more effectively across the country. It is also carefully crafted compromise legislation that incorporates many recommendations of both parents groups and educators. For these reasons, NSBA urges members of Congress to vote for the legislation.

H.R. 3268 addresses many of the key school safety provisions raised by NSBA, and local educators across the country. H.R. 3268 will make it significantly easier for school officials to protect the safety of all students and school personnel. Specifically, H.R. 3268 will make additional behavioral interventions available to students; and in the modest number of cases where such interventions are not successful, dangerous students could be educated in more appropriate placements.

The legislation also contains several provisions designed to provide schools with greater flexibility in administering the law, and to provide additional funding sources for financing special education services. For example, H.R. 3268 will make more resources available for educating students by reforming the overly adversarial dispute resolution process. As this legislation proceeds toward enactment, NSBA also will work to secure additional changes that are needed to control the costs of IDEA.

H.R. 3268 will help improve school safety for all students, result in improved services for students, and take important steps to reduce the litigiousness of IDEA. We urge your support for this legislation. For further information, please contact William Bruno, Director of Federal Programs.

Sincerely,

SAMMY J. QUINTANA,
President.
THOMAS A. SHANNON,
Executive Director.

Mr. Speaker, the changes in the IDEA Improvement Act will have a positive, measurable impact on the lives of millions of students with disabilities. When enacted, the bill will help children with disabilities learn more and learn better, which should be the ultimate test of any education law. Students with disabilities will now be expected, to the maximum extent possible, to meet the same high educational expectations that have been set for all students by States and local schools.

There will be an emphasis on what works instead of filling out paperwork. No longer will teachers be forced to complete massive piles of unnecessary, federally required forms and data collection sheets. These changes will mean more time for teachers to dedicate to their students, and fewer resources wasted on process for its own sake.

The IDEA Improvement Act will help cut costly referrals to special education by emphasizing basic academics in the general education classroom. In the 1993–94 school year, 2.44 million of our Nation's 4.79 million special education children were there because they have learning disabilities. Many of these problems could be addressed with better academics in the early grades.

Under our bill, following every evaluation of a child for special education services, school personnel will need to consider whether the child's problems are the result of lack of previous instruction. Too often, children whose problems come from a lack of reading skills enter special education because they were not properly taught how to read in their primary years.

The IDEA Improvement Act will eliminate many of the financial incentives for overidentifying children as disabled. The change in the Federal formula, which I will talk about shortly, will reduce the Federal bonus for identifying additional children as disabled. The legislation will also ensure that States do not use placement-driven funding formulas that tie funds to the physical location of the child. These formulas currently drive overidentification and costs.

The legislation will also help ensure that assignment to special education is not permanent. Children are often referred to special education in early grades and then never leave. Once identified and placed in special education these children remain there throughout their primary and secondary education. Part of the problem lies with the child not keeping pace academically with his peers. Special education plans often have no link to the general education curriculum. Therefore, children remain in special education because they lose contact with what other children their age are learning and can no longer keep up. This legislation will ensure that the general curriculum is part of every child's education plan or justifies why it is not.

The bill will assure parents' ability to participate in key decision-making meetings about their children's education and ensure that they will have better access to their child's school records. They will also be updated no less regularly than the parents of nondisabled students through parent-teacher conferences and report cards.

The bill ensures that States will offer mediation services to resolve disputes. This change will encourage parents and schools to work out differences in a less adversarial manner. Currently, if the parents and the school cannot resolve their differences in the IEP meeting they have no choice but to file for a due process hearing and attorneys become involved. Providing mediation early in the process will cut the costs related to litigation.

Local principals and school administrators will be given more flexibility. There will be simplified accounting and flexibility in local planning. No longer will accounting rules prevent even incidental benefits to other, nondisabled children for fear of lost Federal funding.

The bill will make schools safer for all students, disabled and nondisabled, and for their teachers. We will enable schools to quickly remove violent students and those who bring weapons or drugs to school, regardless of their disability status.

The bill will ensure that such children can quickly be moved to alternative placements for 45 days, during which time the child's teachers, principal, and parents can decide what changes, if any, should be made to the child's IEP and placement.

The legislation will also ensure that disability status will not affect the school's general disciplinary procedures. In discipline cases, the child's individualized education program team will determine whether the child's actions were a result of their disability. If it was not, schools will need to take the same action with disabled children as they would with any other child.

Part C, the infants and toddlers program, has been changed to strengthen the intent of past Congress to promote early intervention services to infants and toddlers in natural environment settings. Under this bill, State policies and procedures implementing this program will direct the provision of services in natural settings. This requirement will not mean that all services, such as physical therapy, must be provided in the child's home. Rather, if the infant's or toddler's IFSP team chooses to provide services in a restricted setting the child's individualized family services plan will need to

justify why this location is most appropriate.

Early intervention services were not intended to be provided using a medical model. Early intervention services should enhance the learning and development of the infant or toddler with a disability, and the ability of the family to meet the special needs of their child. To accomplish this the family must be trained to provide as many of the child's services as possible.

Center or clinic based programs are very expensive. This emphasis on natural settings, besides being the most appropriate location for providing services to infants and toddlers, will lower the costs for the States as they implement these changes. This issue of where services will be provided and the costs relating to the different choices is one which will continue to be worked out as we proceed to conference.

Finally, I would like to talk about the formula which will determine the Federal appropriation each State will receive. Let me say first of all—no State will lose funds for 3 years. Forty-six States lose no funds through the first 6 years of the transition to the new formula. This bill phases in the process from allocating funds to the States based on a child count of children with disabilities to a population-based formula for a factor for poverty. The new formula is based 85 percent on the number of children in the State and 15 percent on State poverty statistics.

This is a major step in the move to reduce the overidentification of children as disabled, particularly African-American males who have been pushed into the special education system in disproportionate numbers. The Clinton administration recognized the problem with the current system in its bill, suggesting a population-based formula with new funding. Many of my Democrat colleagues also recognized the importance of this change when they introduced that bill last year as H.R. 1986.

In 1994, the Department of Education's inspector general recommended changing the formula in a manner similar to the way we have changed it in this bill. They called the current formula a bounty system that encourages putting children in special education when they should not be.

Before I conclude, I want to note that this legislation represents over a year of hard work by the members of this committee.

□ 1530

But I would like to thank one colleague in particular for his dedication to the bill. The subcommittee chairman, the gentleman from California, Mr. DUKE CUNNINGHAM, has led this bill through its yearlong journey to a vote today. He has dedicated many hours to crafting an outstanding piece of intricate and comprehensive legislation. Mr. CUNNINGHAM has my sincere thanks.

I would also like to thank Mr. GREENWOOD, Mr. GUNDERSON, Mr. TALENT, Mr. SOUDER, Mr. RIGGS, Mr. CLAY, Mr. KILDEE, and Mr. MILLER, and all others who have worked in a bipartisan manner to improve the IDEA, and particularly the staffs headed by Todd Jones on our side and Sarah Davis on the other side.

The IDEA Improvement Act is the most important change to America's special education system since the passage of Public Law 94–142 in 1975. Overall, America's special education system as has been structured has not accomplished what has been necessary to educate our children with disabilities. There is broad agreement on the need to change. Results are important. Accountability is important. I believe this bill will help give America's children with disabilities what they were promised 21 years ago: the real opportunity to receive a quality education. I ask that my statement be included in the RECORD.

Mr. Speaker, thank you for permitting me to present for consideration H.R. 3268, the IDEA Improvement Act, which amends the Individuals With Disabilities Education Act. This bill will take major steps toward better education for children with disabilities, and as a result will increase the ability of these children to become productive, fully participating citizens in their communities.

This legislation will improve special education by: placing an emphasis on what is best educationally for children with disabilities instead of burdensome paperwork requirements; giving teachers more flexibility and schools lower costs; enhancing parental input; and making schools safer for students and teachers.

There are many important changes to IDEA in this legislation. It includes the vast majority of the changes recommended by a large group of education, disability, and parent organizations, who worked together closely in the past weeks to recommend improvements to our legislation prior to our committee markup. That cooperation itself is historic. Never before have so many groups with such divergent viewpoints come together on behalf of children with disabilities. I hope the result is an ongoing dialog and continuing effort to meet the needs of our children.

I have strong letters of support for the bill from the National School Boards Association and the National Association of Elementary School Principals. They term this legislation an ''excellent step'' and a bill which ''contains many improvements and reforms that will improve services for students with disabilities.'' I would ask that they be entered in the RECORD.

The changes in the IDEA Improvement Act will have a real and positive impact on the lives of millions of students with disabilities. When enacted, the bill will help children with disabilities learn more and learn better, which should be the ultimate test of any education law. Students with disabilities will now be expected, to the maximum extent possible, to meet the same high educational expectations which have been set for all students by States and local schools. There will be an emphasis on what works instead of filling out paperwork. No longer will teachers be forced to complete massive piles of unnecessary, federally required forms and data collection sheets. These changes will mean more time for teachers to dedicate to their students, and fewer resources wasted on process for its own sake.

The IDEA Improvement Act will help cut costly referrals to special education by emphasizing basic academics in the general education classroom. In the 1993–94 school year, 2.44 million of our Nation's 4.79 million special education children were there because they have learning disabilities. Many of these problems could be addressed with better academics in the early grades.

The IDEA Improvement Act has addressed this issue in several ways. First, following every evaluation of a child for special education services, school personnel will need to consider whether the child's problems are the result of lack of previous instruction. Too often, children whose primary problems result from a lack of reading skills enter special education because their problem was not properly addressed with basic academics. This change will result in fewer children being improperly identified as disabled because their actual need, lack of skills, will be noted and addressed in a general education setting.

Second, the bill's discretionary training program will provide necessary training for general education teachers that is not being provided today. Current federal training grant programs ultimately focus their resources on preservice for special education teachers, because universities that receive the grants are deciding what the priorities for training are. While such training is important, where local teachers and schools are given the opportunity to decide what priorities are most important, they consistently cite in-service training, particularly for general education teachers, and pre-service training for early grade general education and reading teachers. This bill will refocus Federal efforts by putting the decision making power with States and local schools, who are in a better position to recognize and serve their local needs. This will mean teachers with better skills in the critical early grades, which will lead to better taught children and ultimately, fewer special education referrals.

Third, the IDEA Improvement Act will eliminate many of the financial incentives for overidentifying children as disabled. The change in the Federal formula, which I will talk about shortly, will reduce the Federal bonus for identifying additional children as disabled. Hopefully, States will follow suit, moving toward similar formulas. The legislation will also ensure that States do not use placement-drive funding formulas that tie funds to physical location of the child. Such incentives encourage children to be placed in more restrictive settings, from which they are less likely to ever leave. They also encourage placement in special education in the first place, particularly children with mild disabilities that might best be served in general education classrooms with more assistance, instead of separate classrooms.

The legislation will also help ensure that assignment to special education is not permanent. Children are often referred to special education in early grades and then never leave. Part of the problem lies with the child not keeping pace academically with their peers. Special education plans often have no link to the general curriculum. Therefore, children remain in special education because they

lose contact with what other children their age are learning and can no longer keep up. This legislation will ensure that the general curriculum is part of every child's individualized education program [IEP] or justified why it is not.

The bill will assure parents' ability to participate in key decision-making meetings about their children's education and they will have better access to school records. They will also be updated no less regularly than the parents of nondisabled students through parent-teacher conferences and report cards. Parents will be in a better position to know about their child's education, and will be able to ensure that their views are part of the IEP team's decision making process.

The bill ensures that States will offer mediation services to resolve disputes. Mediation has proved successful in the nearly three-quarters of the States that have adopted it. This change will encourage parents and schools to work out differences in a less adversarial manner. The bill will also eliminate attorney's fees for participating in IEP meetings, unless they have been ordered to by a court or hearing officer. The purpose of this change is to return IEP meetings to their original purpose, discussing the child's needs.

Our legislation will reduce litigation under IDEA by ensuring that schools have proper notice of a parent's concerns prior to a due process action commencing. In cases where parents and schools disagree with the child's IEP, the school will have real notice of the parent's concerns prior to due process. We hope that this will lead to earlier resolution of such disputes without actual due process or litigation.

Local principals and school administrators will be given more flexibility. There will be simplified accounting and flexibility in local planning. No longer will accounting rules prevent even incidental benefits to other, nondisabled children for fear of lost Federal funding.

The bill will make schools safer for all students, disabled and nondisabled, and for their teachers. Expanding upon current procedures for students with firearms, we will enable schools to quickly remove violent students and those who bring weapons or drugs to school, regardless of their disability status. The bill will ensure that such children can quickly be moved to alternative placements for 45 days, during which time the child's teachers, principal, and parents can decide what changes, if any, should be made to the child's IEP and placement.

The legislation will also ensure that disability status will not affect the school's general disciplinary procedures where appropriate. In discipline cases, the child's individualized education program team will determine whether the child's actions were a manifestation of his or her disability. If they were not, schools will need to take the same action with disabled children as they would with any other child. This would include expulsion in weapons and drug cases where that is permitted by local or State law.

Part C, the infants and toddlers program, has been changed to strengthen the intent of past Congresses to promote early intervention services to infants and toddlers in natural environments. Under this bill, State policies and procedures implementing this program will direct the provision of services in natural settings. This requirement will not mean that all services, such as physical therapy, must be provided in the child's home. Rather, if the infant's or toddler's IFSP team chooses to provide services in a more restrictive setting, the child's individualized family services plan will need to justify why this location is most appropriate.

Early intervention services were not intended to be provided using a medical model. Early intervention services should enhance the learning and development of the infant or toddler with a disability, and the ability of the family to meet the special needs of their child. Center or clinic based programs are very expensive. This emphasis on natural settings, besides being the most appropriate location for providing services to infants and toddlers, will lower the costs for the States as they implement these changes. The issue of where services will be provided and the costs relating to the different choices is one which will continue to be worked out as we proceed to conference.

Finally, I would like to talk about the formula which will determine how much of the Federal appropriation each State will receive. Let me say first of all no State will lose funds for 2 years; 49 States lose no funds through the first 5 years of the transition to the new formula. This bill moves from allocating funds to the States based on a child count of children with disabilities to a population-based formula with a factor for poverty. The new formula is based 85 percent on the number in the State and 15 percent on State poverty statistics. This is a major step in the move to reduce the overidentification of children as disabled, particularly African-American males who have been pushed into the special education system in disproportionate numbers.

The Clinton administration recognized the problem with the current system in its bill, suggesting a population-based formula with future funding. Many of my Democrat colleagues also recognized the importance of this change when they introduced that bill last year as H.R. 1986. In 1994, the Department of Education's Inspector General recommended changing the formula exactly as we have changed it in this bill. They called the current formula a bounty system that encourages putting children in special education when they should not be.

Obviously, when a change this large is undertaken, some States will gain in the count and others will be reduced. In an effort to hold the negative impact on States to a minimum, the first 10-percent of the funds which a State would lose will be held harmless. In effect this means that during the transition to the new formula, any State which loses 10 percent or less will see no reduction in funding. Those States that would lose more than 10 percent are held harmless for that 10 percent. For example, if a State's 1996 allocation were to be $120 million, and the transition formula would allocate $104 million to the State in 2002, that State would still receive $116 million; that is, the $104 million allocation plus 10 percent of the 1996 allocation, which amounts to $12 million.

Aside from the part C and funding formula changes, there are several other small and technical changes in today's bill from the bill reported out of committee last month. These include: noting the role of education service agencies in the findings and purposes, and updating some of the statistics used in the findings; ensuring that knowledge about the child or special expertise is required to be on the IEP team, not special knowledge or special expertise; properly placing one of Mr. MILLER's markup amendments within the procedural safeguards section; making the language in Mrs. MINK's amendment consistent with the terms used in the bill; ensuring that the professional standards suspension provision only applies to the highest standard provision, not to all professional standards; ensuring that the Secretary has the authority to actually make awards and grants under part D, subpart 1; and making technical and cross-reference changes to implement the intent of the bill.

Before I conclude, I want to note that this legislation represents over a year of hard work by the members of this committee. But I would like to thank one colleague in particular for his dedication to this bill. Subcommittee Chairman DUKE CUNNINGHAM has led this bill through its year long journey to our vote today. He has dedicated many hours to crafting an outstanding piece of intricate and comprehensive legislation. Mr. CUNNINGHAM has my sincere thanks.

I also want to thank Mr. GREENWOOD, Mr. GUNDERSON, Mr. TALENT, Mr. SOUDER, Mr. RIGGS, Mr. CLAY, Mr. KILDEE, Mr. MILLER, and all the others who have worked in a bipartisan manner to improve the IDEA.

The IDEA Improvement Act is the most important change to the America's special education system since the passage of Public Law 94–142 in 1975. Overall, America's special education system as it has been structured has not accomplished what is necessary to educate our children with disabilities. There is broad agreement on the need to change. Results are important. Accountability is important. I believe this bill will help give America's children with disabilities what they were promised 21 years ago: the real opportunity to receive a quality public education.

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

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

Mr. Speaker, I rise today in support of H.R. 3268, the IDEA Improvement Act of 1996, and urge my colleagues in the House to do the same.

This is a relatively young law. In fact, we have recently celebrated the 20th anniversary of the historic enactment of this bill. It seems almost impossible to imagine, Mr. Speaker, that just two short decades ago children were routinely excluded from one of our most important institutions in this country, public schools. IDEA and the improvements we are proposing to make in this reauthorization are among the proudest legacies of this Congress and our committee. And let me say to my good friend, the gentleman from Pennsylvania [Mr. GOODLING], that although this has been sometimes a very difficult process, it has been a very productive process, and I want to thank the gentleman for his patience and his determination, that we designed a reauthorization bill that could gain bipartisan support.

I would also like to thank my subcommittee chairman, the gentleman from California, Mr. DUKE CUNNINGHAM, who is tireless in his desire to find common ground between a

myriad of conflicting viewpoints and approaches.

Finally, I would like to express my gratitude to the participants of the IDEA consensus group for their remarkable devotion to the children and families served by this law. This law is as virtuous as it is because of them, and I thank them for the hundreds of hours they committed to helping us fashion a proposal which we have before us today.

I would like to say a word about one of the improvements in this bill. When this bill is signed into law it will require new interagency agreements that will provide a means of improving related services to disabled students by sharing costs across the widest possible fiscal base. There are many Federal, State, county, and municipal agencies that could provide related services for disabled students, but currently do not. The principal reason why all appropriate agencies do not provide such services is that those served by special education are considered the sole responsibility of the public school system. I think that it makes both fiscal and programmatic sense to involve all services providers while maintaining the current seamless delivery systems in schools.

Public school systems now shoulder the fiscal responsibility for special education. As the cost of health care has continued to rise, the absence of an effective cost-sharing mechanism has unfairly focused attention on the costs of special education. Relying on local school budgets for the cost of health, mental health, and social services causes needless conflict with parents over the scope of services and the cuts in programs for both disabled and nondisabled students.

According to a recent editorial in Education Week, special education costs now are about $35 billion nationally. By some estimates a full 6 billion of those costs could be shared. That is only a fraction of total local, State, and Federal spending on health care and social and mental health services, but it is a huge amount for local schools.

And before I yield, I want to thank the administration for providing the blueprint for this proposal. Importantly, the bill will refocus the provision of services under IDEA towards improving educational results by promoting greater participation in the general curriculum an the assessments that measure student progress and by affirming that school reform efforts must include children with disabilities.

The bill also promotes improvements in teaching and learning in two ways: through a strong commitment to providing teachers and families with the tools and training they will need to improve achievement; and, second, by reducing administrative burdens at all levels and increasing administrative flexibility. We are sending a signal to schools that we want better results for children, not unread paperwork.

I want to thank the chairman for his great work on this bill, and I want to thank also the subcommittee chairman, the gentleman from California, Mr. DUKE CUNNINGHAM, and I want to thank their staff also, especially, Sally Lovejoy, Todd Jones, and Doris Husted, along with Sarah Davis and Melissia Benton on our staff. Their prodigious effort really has been instrumental and essential in writing this bill. We at times had points in this bill where we thought we could go no further, but because of their patience and their tenacity and that of DUKE CUNNINGHAM and the good work between our staffs, we were able to write a bill that we can be proud of, and I want to thank all those involved in that.

Madam Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

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

Mr. CLAY. Madam Speaker, today, we debate the Individuals With Disabilities Education Act which mandates a free appropriate public education for children with disabilities and provides Federal funding to State and local education agencies in helping to meet this goal. IDEA is the main Federal law intended to support and improve early intervention and special education for infants, toddlers, children, and youth with disabilities. The centerpiece of IDEA is the Grants to States Program that assists States to serve school age children with disabilities.

The legislation we debate today is comprehensive. However, the two issues which I will address in my time allotted are first, cessation of services for disabled students, and second, the streamlining of special purpose programs under IDEA.

The first issue is the cessation of services for disabled students. In other words, the issue is whether a disabled school-age student can be expelled from school indefinitely without educational services for certain unacceptable behavior. The cessation of educational services to children with disabilities is one of the most controversial changes to IDEA. Current law allows schools to use disciplinary procedures on children with disabilities, including expulsion, but these procedures cannot result in a cessation of services. This is an issue which received considerable and contentious debate and discussion during deliberations on this legislation.

To set this issue in perspective, current law permits the school to suspend a child for up to 10 school days whenever a student poses an immediate threat to the safety of others. Further, if a child with a disability is determined to have brought a firearm to school, the child may be placed in an interim alternative education setting in accordance with State law, for not more than 45 days.

The Senate reported bill contains language which permits the child to be placed in an interim alternative educational setting for 35 days if a child with a disability has a dangerous weapon in his/her possession, engages in the illegal use, possession, or distribution of drugs, or engages in behavior that results in or is substantially likely to result in serious bodily injury. The Senate provision could result in the student being expelled without follow-up services if the behavior relates to weapons or drugs or was found to be unrelated to the child's disability.

The result of the House provisions as it relates to disciplinary measures is that students whose actions are found to be unrelated to their disability may be expelled without services for weapons and illegal drug cases if so provided by State law.

Federal law is supporting the expulsion of school-age students from school indefinitely without providing some type of alternative services. Without special services, the outcomes for children with disabilities in this situation are much worse than for children without disabilities. When we sanction this in Federal law, we are supporting the cessation of education services to students with disabilities who are the most vulnerable.

The question is are we mandating a disservice to students and/or to society when we permit school-age students to be thrown into the streets without any alternative placement? Are we simply creating a worse criminal law problem later?

Although there has been a frequent reference to the minuscule number of student affected by this change, our concern is that any number is too many.

I intend to carefully follow the implementation of this legislation and carefully follow the result of this provision.

An additional issue that I will address is the streamlining of the special purpose programs under IDEA. Currently, under IDEA, there are 14 special purpose programs that authorize discretionary grants to support early intervention and special education research, demonstration projects, teacher training, and information dissemination. The House bill would consolidate these 14 programs into 4.

The concern is that support for certain vital functions might be lost in the transition to the four new progams. The Federal role in the area of early intervention and special education research and development, without question, has led to improved outcomes for children with disabilities. Although specific program headings will disappear in the new legislation, that should not suggest that our work is done in these areas. The education of students with disabilities will not improve without a strong Federal role that advances the knowledge base and tools of educators.

I urge my colleagues to very carefully consider this legislation.

Mr. GOODLING. Madam Speaker, I yield 6 minutes to the ''DUKE'' from California, Mr. CUNNINGHAM, the subcommittee chairman who piloted this through his subcommittee.

Mr. CUNNINGHAM. That is the California DUKE, not the Louisiana Duke, Madam Speaker.

Madam Speaker, can our colleagues imagine having a child with disabilities and no place to go, that the school refuses to teach that child, and they have no hope that that child will have a bite at the American dream? Well over 21 years ago, Madam Speaker, there was a program established to address this problem, IDEA. And it is said, well, why fix a program that is working good? First of all, IDEA was up for reauthorization. And today we live in a computer age. We do not use typewriters. It is time for a new approach, and like each bill that comes

before us, the direction that we set forth was to try and do this in a bipartisan manner.

I want to thank my colleague, the gentleman from Michigan [Mr. KILDEE]. When he was the chairman of my subcommittee, he was very fair and worked very closely with me, as he does now as ranking member.

Second, I would like to thank the gentleman from Pennsylvania [Mr. GOODLING]. As chairman, he led well. He did not micromanage. He gave me the reins that I needed to be able to go forth.

I would like to thank especially the California legislature and all the principals and superintendents that I had meetings and hearings with on this bill. On IDEA, I had more meetings than I have had on national security. My colleagues cannot realize the different interest groups that come into play. And to get a consensus of teachers, of schools, and parents on a bill like this has been very, very difficult and very trying.

But we have done it. And I think that the reauthorization and the improvement of this act is going to help children.

First priority was to help schools achieve more of their budgetary accounts toward special-education children. Many of the procedures that schools were forced to go through, along with lawsuits and the dollars going to lawyers and paperwork, were taking away from the actual dollars that we wanted to focus to kids. So we set forth and tried to resolve that problem.

We wanted to allow schools to function well, and serve not only special education children, but all children better, so that those dollars were not taken away. In many cases today, we would have lengthy litigation. In California there is one case where over $1 million dollars was taken away from the school system through unwise litigation. We resolved that problem, and we got the consensus of both the parent groups and the schools. That was difficult.

Madam Speaker, I do not know if our colleagues have ever taken a dirt clod and thrown it at a wasps' nest. But all the little wasps, when you do that, start dancing around, and they are going to sting. When we take a look at the challenges present in IDEA and the problems that we have gone through in bringing this bill to the floor, I think we have done a pretty good job.

We found that school boards did not know what their responsibilities were, teachers did not know what their responsibilities were, and parents did not always know what the law entailed and were trying to overprescribe special-education requirements to the schools. In the end, it resulted in a lot of lawsuits to the schools.

So what did we do? We said in the first due process meeting between a parent and a school that a lawyer cannot be present. Because if there is a lawyer there, the school has got to have one, and that takes dollars away from the system. So at this first due process meeting, we try and encourage mediation where two people or two groups can sit down and save the focus and save the dollars to go back into the education of children.

Madam Speaker, I know there are a couple of other speakers that wanted to speak. And I know the gentlewoman from Maryland [Mrs. MORELLA] did. I will submit the rest of this for the RECORD. In this bill, we replace confusion with clarity and simplicity. I think it is a great improvement. I could not have done that without the gentleman from Michigan [Mr. KILDEE], through his guidance. And I could not have done it without the leadership of my chairman, the gentleman from Pennsylvania [Mr. GOODLING]. We have prepared here to thank the staffs and the different people; the other Members have already done that so I will not say that again. But I will submit it for the RECORD.

I urge all Members to support the IDEA Improvement Act.

Mr. Speaker and Chairman GOODLING, thank you for recognizing me in support of my bill, the IDEA Improvement Act.

This legislation is based upon one principle: That children with disabilities deserve a fighting chance to grow up and achieve the American dream. And to have that fighting chance, children need an excellent education.

So a year and a half ago, we set out to make the Nation's special education law better. America has had a national special education law for 21 years. By many measures, it has succeeded. Children who were regarded as helpless now receive an education. Families who were powerless to get schooling for their children now get it. And schools who lacked direction in how to provide special education now have it.

But we can do better. It's taken many meetings, and a lot of time. But with the agreement of Republicans and Democrats, families and educators, we have done better for our schools and for our Nation's children. Together, we have developed the first comprehensive reform of our Nation's special education law. We have made it better for our children with disabilities. And we have improved schools' ability to run the program.

Chairman GOODLING has outlined this legislation in detail. Let me highlight four areas which I find particularly important.

First, we believe it is important for schools and families to focus on quality education, instead of bureaucratic paperwork. So we have made several improvements in the IEP, the Individualized Education Program that is required for every child with a disability. For the first time, the IEP must focus on the educational progress of the child, not merely list pre-programmed services.

Second, we believe it is important to make every special education dollar count. Every dollar that pays for attorneys or unnecessary paperwork is a dollar that cannot buy a book, pay a teacher, or educate a child. So where there is disagreement between families and schools over how to best educate a child with a disability, we strongly encourage them to work it out through mediation.

Third, we believe we must restore fairness to the distribution of Federal money under IDEA. While the current formula was written for a good reason, problems have arisen. The Department of Education inspector general found that some States over identify children into special education, and get more than their fair share of Federal money. That's not right. So we gradually transition away from that unfair formula, toward one based upon population, a small poverty factor, and a hold harmless for several affected States. I agree that Congress should provide more funding for local schools to meet this mandate. And I have joined several other Members in requesting it.

And fourth, is the issue of discipline. Under the law today, there is disagreement and confusion among schools and families, over how and when to discipline children with disabilities. This is particularly tough in the most difficult and violent cases. But we replace confusion with clarity and simplicity. We ensure safe classrooms and safe schools. And we maintain agreed-upon procedural safeguards for children with disabilities.

We have made many other improvements in the IDEA Improvement Act, such as consolidating and focusing programs, and reforming professional development for teachers. We have simplified our schools's administration of special education.

But everything we have done returns to this one principle: That children with disabilities deserve an excellent education, so they have a fighting chance at the American dream.

Because in America, children with learning disabilities should discover the world of reading. Children with emotional disturbances should acquire the confidence they need through learning and achievement. Children who were once thought to be helpless should grow to become active, working, and productive citizens of our communities. In America, the best Nation on Earth, we can and do work together to make things better.

I would like to thank my chairman, BILL GOODLING, for his leadership, and for working closely together with me on this bill. My Youth Subcommittee's ranking member, DALE KILDEE, proved his friendship again, as a friend of mine and a friend of our Nation's children.

I also would like to recognize: Todd Jones, Doris Husted, and Sally Lovejoy from the committee majority staff, Frank Purcell of my personal staff, Sara Platt Davis of the committee minority staff, Steve Aleman from CRS, legislative counsels Susan Fleishmann and Mark Synnes and all the representatives of schools, teachers, and families of children with disabilities, whose time and contributions to this effort made the IDEA Improvement Act possible. Thank you.

I urge all Members to support the IDEA Improvement Act.

Mr. KILDEE. Madam Speaker, I yield 5 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Madam Speaker, I appreciate the opportunity to speak in support of this important legislation. I appreciate all of the hard work that has been done on both sides of the aisle to make this reauthorization a bipartisan effort. I think it is very important that we make changes to this law, and I know there are some positive changes in this bill. I would just like to take a

second and remind folks of the progress that the Individuals With Disabilities Education Act has made during the past 20 years.

In 1974, before the passage of IDEA, there were 70,655 children living in State institutions compared to 4,000 children in 1994. In 1994, the average State institution expenditure was $82,256 per child. So it is clear that this law is saving the Government and taxpayers an awful lot of money.

The number of students with disabilities completing high school with a diploma or certificate increased from 55 percent in 1984 10 years ago to 64 percent in 1992.

According to a Harris poll, 44 percent of all people with disabilities have some college education today, compared to only 29 percent in 1986. Forty-seven percent of people without disabilities have some college education.

Fifty-seven percent of youth with disabilities are competitively employed within 5 years of leaving school today, compared to an employment rate of only 33 percent for older people with disabilities who have not benefited from IDEA.

So it is clear this law is having a tremendous positive effect on the lives of individuals with disabilities, and I am supportive of continuing to make changes that strengthen the IEP process and involve regular education teachers and parents; coordinating education with health and social services; ensuring mediation is available to parents; and reducing some of the Federal burden on local school districts.

By and large, I feel that we have made a great deal of progress on this legislation and I appreciate the bipartisan work that has been done to this end to strengthen the personnel standards provisions, eliminate the part H demonstration proposal, and strengthen the manifestation determination process. I do, still have a couple of concerns that I hope can be resolved during conference.

Specifically I am still uncomfortable with the formula change and I would like to go on record in support of current law.

Twenty years ago, when this law was adopted, Congress found that 1 million children with disabilities were participating in regular school programs, but because their disabilities were undetected, they were prevented from having a successful school experience.

This was the critical reason that Congress decided to base the IDEA formula on the numbers of students identified with disabilities, a law guaranteeing the free and appropriate education for these children, must have some mechanism for ensuring that children with disabilities are identified and served.

In my State, 7 percent of the population is Native American. With 50,000 native people and nearly 8,000 native children spread throughout 7 reservations in very remote locations, it is extremely difficult to find children with disabilities in these areas. It is critical for Montana to have its State allocation based on the number of students with disabilities so that there is some incentive to reach out to this population and find those kids in desperate need of services.

I have heard the argument that this formula may create some situations of overidentification in some areas or populations. But, it just does not make sense to me. If a State identifies a child with disabilities, they must then serve that child, and the Federal Government is not giving them nearly enough money to provide those services.

I also have concerns that time is running short on getting this legislation through conference committee. The Senate is adamantly opposed to this change and we do not have the time to engage in a formula fight.

I am also still very concerned to see this Congress moving in the direction of ceasing educational services for disabled children under certain circumstances. Cessation of services for any student with disabilities is simply not necessary to ensure the goal of school safety. The bill before us today already allows for the following actions to be taken for students who have engaged in serious misconduct involving weapons, drugs, or misbehavior causing serious injury: Students can be immediately suspended from school for up to 10 school days—2 weeks; school personnel can order a change in placement of the child to an interim alternative placement for an additional 45 school days—9 weeks. During this time, the school can review the child's placement, services, recommend changes in placement after the 45-day period concludes, or subject the child to other disciplinary procedures.

I support these provisions, but fail to see how the cessation of educational services will result in anything other than harming our students with disabilities.

It is important to consider the real life impact that cessation will have on these children as we consider changing a long-standing Federal commitment to educating children with disabilities.

Students with disabilities who are expelled or suspended under current law are typically kids with learning disabilities or emotional problems. Research tells us that these are kids whose long-term prospects are very grim if they are separated from all educational services.

The majority of kids with these disabilities who drop out of school are arrested. Their prospects for employment are poor. And, the odds are stacked against them for ever succeeding in the long-run.

If we really care about our communities, and safe schools, we should be investing in continuing the services these individuals need to become good citizens, not cutting off any chance of beating the odds.

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Mr. GOODLING. Madam Speaker, I encourage my colleague, the gentleman from Montana [Mr. WILLIAMS], to look at the new formula, and hopefully, since that is the direction the administration wanted to go, we can do something different than the Senate has done.

Madam Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I rise in praise of Congressmen BILL GOODLING, RANDY CUNNINGHAM, and DALE KILDEE, and all of the members of the Committee on Economic and Educational Opportunities for moving IDEA to the House floor. This is a very important piece of legislation that must be reauthorized this year. IDEA has made it possible for millions of children and youth with disabilities to gain an education. IDEA has enabled millions of children to grow up to become productive and contributing members of society.

Let me share with you the story of Cecilia Pauley. Cecilia was born with Down's syndrome. She has loving parents and brothers and sisters who give her their time and attention, and have helped her with her school work.

Cecilia attends a regular high school in Montgomery County, MD. She has been an inspiration to other students at the school. She works in the school nurse's office, and next year she will start college. Cecilia gives many speeches to large groups, and she inspires others to work up to their potential. Without IDEA, Cecilia could not have succeeded.

Last week, I spoke at the graduation of two students at Stephen Knolls School in Montgomery County, MD—a school for multiply disabled. Anthony Barbaro and Laurie Springer and their families were uplifted by such caring education. They learned life skills. Principal Jane Jackson and staff are committed to the program.

As a former teacher, I remember the days when, only two decades ago, disabled children were unserved and underserved. At a time when we, as a Nation, are upgrading our system of education to make our students more competitive globally, we cannot afford to lower our standards for any segment of our student population.

Again, I commend Mr. CUNNINGHAM and Mr. GOODLING for their excellent work in bringing this bill to the House floor.

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

Madam Speaker, I would like to also thank people from the department who played a very important role in this: Judy Heuman, Tom Hehir, Carol Cichowski, Paul Riddle, Patricia Leahy, Theta Zwesa, Susan Craig, Judy Wurtzel, Connie Garner, and Susan Leonard.

Madam Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I too would like to join in some of the accolades and in commending the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from California [Mr. CUNNINGHAM] on the Republican side, and the gentleman from Michigan [Mr. KILDEE] and the gentleman from California [Mr. CLAY] on the Democratic side; for this, truly, is legislation that has taken educational opportunities to equality for maybe young people that were not being served and were virtually being ignored. This is important legislation because this legislation will bring the sense of not just empathy to so many disabled young people, but efficiency to so many of these young people seeking an education, seeking to better themselves.

Madam Speaker, we would think that with all these accolades, that this would be perfect legislation. I do not think that this body has ever dealt with perfect legislation. I would just point out one particular area of deep concern to me and why I think we need to continue to move this legislation in conference into a more fair manner in terms of the funding formula.

Historically we have based our funding formula under IDEA on the basis of targeting it to those individuals who are disabled. When we marked this bill up in committee, a State like Indiana lost about 22 percent of its funds not because we had a number of disabled people move out of our State and go to more populous States. We still have the same number of disabled; but many of these moneys now are being moved to more populous States because the formula has shifted from targeted to people with disabilities to targeted to States with bigger populations.

Madam Speaker, while I recognize the chairman, in improving this bill and going from about a 22 percent loss in the State of Indiana, he now has incorporated the hold-harmless provision, we now go to about 11 percent loss. I would encourage him, and I hope to work with him in conference so that I might represent my State in committee, in conference, and work to improve the formula so that it is judicious, it is fair to disabled children whether they live in South Bend, IN, or Sacramento, CA. We have to make sure they get these services.

Madam Speaker, just as a final example, if we were doing wetlands legislation on the House floor, we would not target the wetlands legislation to the most populous States or base it upon population. We would say where are the wetlands? Are they in Indiana, or are more of them in the South or the North? This formula should not be based upon population, because each and every one of these disabled children deserves the equal opportunity to education that this reauthorization bill will bring to them. I encourage more movement toward a newer formula that is fair to all children.

Mr. GOODLING. Madam Speaker, I yield myself 30 seconds.

I would indicate, Madam Speaker, that the gentleman's State of Indiana will not lose any money for 5 years under this bill, and probably will ultimately not lose any money because of increasing appropriations. What we are trying to do in this bill is stop overidentification of children with disabilities and just serve those who really have disabilities. With this bill, we will eliminate the financial incentives for placing children into special education when they do not actually have disabilities. It is unfair to those children who, as I indicated earlier, are often black male children.

But to ensure that education is not disrupted, this bill provides that 49 States lose nothing for 5 years and probably nothing ever as we increase the amount of money appropriated under this bill.

Mr. MILLER of California. Madam Speaker, I would like to express my qualified support for H.R. 3268, the IDEA Improvement Act of 1996. While this bill makes some important changes in the 20-year-old law providing special education and related services to 5.8 million disabled children and youth, I have some serious reservations about several aspects of the bill. Nonetheless, I believe it is very important to move this legislation forward with the hopes that some of my remaining concerns will be satisfactorily resolved in conference with the Senate.

I would like to especially thank Chairman GOODLING for the spirit of bipartisanship that marked the latter days of our negotiations over this bill. The majority came a very long way in accommodating concerns that I shared with other members of the minority on the Opportunities Committee as well as with the parent, disability, and education groups that have such a vital stake in the future of IDEA.

This legislation contains a number of provisions, many of which were taken from the administration bill, that will improve IDEA and bring the education of disabled children into the 21st century. These include requirements that schools hold disabled students to the highest possible standards and that they be accountable for educational results. The education of disabled children must be part and parcel of school reform. The bill also strengthens and improves provisions relating to the evaluation of disabled children and development of their individualized education programs, [IEP] to promote the participation of the child in the general curriculum while ensuring that the range of necessary services to address that child's needs remain available. I believe that provisions making the classroom teacher a fuller participant in the design as well as the implementation of the child's program are particularly valuable.

In this regard, amendments added in committee by Mrs. MINK and Mr. GREENWOOD are well-crafted responses to concerns about disruptive disabled students that should ensure that the classroom teacher's concerns are taken into consideration. These amendments rightfully place the responsibility for addressing the disruptive disabled student in the IEP process. The purpose is to ensure that children with behavioral problems receive the proper support and services. It is imperative, however, that children with disabilities not be considered disruptive based on a lack of understanding of the nature of the disability or its effect on behavior, disruption caused by devices, accessibility, auxiliary aides, or services used by the child, a failure to provide services, including behavioral management, or behavior inherent to the disability itself, such as seizures.

I have been particularly concerned about changes affecting due process rights of children under IDEA, those core protections that make this law work and provide the key balance of interests between parents and school districts. While I am pleased that a number of changes were accepted by the majority that increase my comfort level, including my amendments increasing due process protections for children who face cessation of services as a result of disciplinary actions, I remain troubled about several remaining issues.

First and foremost is that the bill authorizes States to cease services for disabled children as a disciplinary measure, albeit on a highly restricted basis. This is wrong and the vast majority of education and disability groups agree. In California, the legislature recently passed a law that requires the provision of educational services to all expelled students. If the California Legislature can conclude that this sound educational and social policy does not compromise school safety then Congress should. Unfortunately, the Senate bill gives us no leeway to change this provision.

Second, I believe that when an offense that will result in serious disciplinary action is the least bit subjective, only an objective party—a hearing officer—should have the authority to order a change in placement. The bill allows a principal to change a disabled child's placement for up to 55 schooldays under the loosely defined category serious injury, which means, among other things a verbal assault. Not only does this definition need to be tightened up, but the decision to change placement should certainly be that of a hearing officer rather than a school official.

There are other areas I would like to see addressed in conference. For example, I am not convinced that a change in the interstate formula is merited or will resolve problems with overidentification. I do think that schools need to have a certain stake in child-find and that the current child-based formula provides this. I am also concerned about provisions allowing personnel standards to be waived, and would prefer to see the issue of personnel shortages to be handled with measures to increase the capacity of States to meet personnel needs. I am also very concerned that critical technological research and development for disabled children will come to a halt with the bill's ending discretionary authorities for such activities.

We will have the opportunity to address most of these issues in conference, and it is with this confidence that I urge my colleagues to support this bill.

Mr. GILMAN. Madam Speaker, I rise today in support of the Individuals with Disabilities Education Improvement Act [IDEA] and commend its sponsor, the distinguished chairman of the Subcommittee on Early Childhood, Youth and Families, Mr. CUNNINGHAM, and the

distinguished chairman of the Committee on Economic and Educational Opportunities, Mr. GOODLING, for all of their diligent work in bringing this important bipartisan legislation to the floor.

This measure effectively incorporates numerous initiatives that have been proposed by educators and school board members in my district. This bill seeks to give the classroom teacher the ability to maintain adequate discipline with regard to special education students. While previous law prohibited a school from suspending or expelling a disabled student for more than 10 days, except in the situation where the student has brought a gun to school, this bill provides for removal to an alternative placement for students who bring weapons to school, bring illegal drugs to school or illegally distribute legal drugs in schools, students who engage in assault or battery, and students, who by proof of substantial evidence present a danger to himself or others. I believe that this bill effectively addresses that issue of classroom safety, while still maintaining protection for the students against arbitrary placement changes.

Furthermore this measure requires States to make mediation available to school authorities and parents who disagree over a disabled student's educational plan, instead of forcing the parties to move their dispute into the court. It is our hope that an increase in the use of mediation will reduce the acrimony involved in these disputes and will save money that has in the past been spent on attorney fees. Furthermore it is my hope that the new formula changes phased in over 10 years will reduce over-identification and promote the effective use of government resources.

Accordingly, Mr. Speaker, I urge my colleagues to support this worthy measure to reform our Nation's special education programs.

Mr. FAWELL. Madam Speaker, I rise in support of H.R. 3268, the Individuals with Disabilities Education Act Improvement Act of 1996.

In 1975, the original version of the Individuals with Disabilities Education Act [IDEA] was signed into law. This comprehensive statute, ensuring the right of children with disabilities to a free, appropriate public education, has guaranteed that over 5 million children with disabilities are provided the services they need to reach their educational goals.

H.R. 3268 makes changes to provisions in IDEA which will improve the academic achievement of students by helping teachers identify classroom placements which most fit children's needs. The legislation will make necessary changes in provisions governing mediation and attorney's fees, ensuring that dollars for IDEA go to the education of children, not to court fees.

The IDEA Improvement Act has bipartisan support and incorporates a majority of recommendations formulated by a broad group of disability organizations, education groups, parent representatives, and others. I am pleased at the support for this historic civil rights law and the House's commitment to providing teachers and families with the tools and training they need to help disabled students succeed in school.

I commend Chairman BILL GOODLING, and Subcommittee Chairman DUKE CUNNINGHAM for their hard work on this bill, and urge the House's support.

Mrs. MINK of Hawaii. Madam Speaker, I rise today to express my support for H.R. 3268, which reauthorizes the Individuals With Disabilities Education Act. This is not a perfect bill. There are some provisions that I have concerns about, however, the bill does go a long way to improve the current act and I believe will in the end improve educational services for children with disabilities.

Since the enactment of the Education for All Handicapped Children Act in 1975, IDEA's predecessor, we have made tremendous strides in improving education for children with disabilities. This act, among other things, has stressed the importance of inclusion or mainstreaming children with disabilities into the regular classroom.

As more children with disabilities have been included in regular classroom instruction, however, regular education teachers have not always been given the appropriate training, supplementary aids and services, and support to best meet the educational needs of disabled children in their classrooms. In addition, regular education teachers have had very little input into the educational plan for disabled children, known as an Individualized Education Plan [IEP] required for each child covered under IDEA.

Ways to manage a child's behavior or even punish a child appropriately—if necessary—have not been clearly spelled out for regular education teachers. Can they use techniques used with other children? Are there special techniques to use for a particular disabled child? Many of these questions go unanswered and the regular education teacher often feels helpless to keep control over his/her classroom and appropriately deal with the child with a disability should the child act out, as all children tend to do from time to time.

This bill recognizes these problems that have developed as the educational setting for disabled children has changed, and makes several key changes to IDEA which will assure that the regular education teacher is a much greater participant in the development of a child's education plan, so teachers do not feel that their hands are tied when it comes to children with disabilities.

First, the bill includes the regular education classroom teacher as a member of the IEP team, and requires that this teacher participate in the development of the child's IEP. Second, the bill includes an amendment I authored which further clarifies that regular education teachers must be included in the development of specific part of the IEP, including a behavioral management plan of a child, supplementary aids and services needed for that child to participate in a regular classroom, and other support for school personnel to assure appropriate services to a disabled child in a regular classroom.

Finally, another amendment added in committee requires that if a child with a disability has a pattern of severe disruptions within the classroom, the regular education teacher can convene an IEP team meeting and discuss what can be done, whether it is additional support and services in the classroom, or a change in placement for the child.

These are important changes that will go a long way in assuring that all those involved in the education of disabled children, special education teachers, parents, administrators, and regular education teachers will be included in the effort to provide the best education possible for children with disabilities.

Mrs. JOHNSON of Connecticut. Madam Speaker, I rise in strong support of H.R. 3268, the Individuals With Disabilities Education Improvement Act [IDEA] and commend Chairman GOODLING and Subcommittee Chairman CUNNINGHAM for their thoughtful, fair, and important work on this issue. I am pleased that this bill received strong bipartisan support from the committee and that a broad coalition of interested groups was able to work together in the development of this legislation.

I believe in the right of a child with a disability to a free, appropriate public education and I believe IDEA needed revision to assure the goals of our laws are achieved in a way that preserves opportunity for all and better reflects the advances that have been made in the area of special education. Also, we needed change so States can better manage the regulatory and financial burden of the current law so our resources can be more effectively focused on educational needs.

Unfortunately, schools have had to spend valuable time and resources dealing with discipline and litigation problems that are wasting valuable education dollars and preventing a fair and consistent approach to schools' efforts to develop personal discipline in students. H.R. 3268 will help address these issues in a positive way to benefit all students in the Nation's schools.

Mr. CASTLE. Madam Speaker, the Individuals With Disabilities Act has been in existence since 1975 to ensure that all children have access to a free and appropriate public education. Prior to the enactment of IDEA, disabled children were often denied adequate public education.

Some studies have found that more than one-half of the children with disabilities in the United States did not receive appropriate educational services prior to enactment of IDEA, and 1 million children with disabilities were excluded entirely from public schools. IDEA has successfully helped States provide quality education to millions of disabled students across America. This legislation is critically important to millions of disabled children in America, not to mention their families, their friends, and their teachers.

The bill updates IDEA for modern times, preserving its strengths and strengthening its weaknesses. For example, the bill makes IDEA more efficient by reducing redtape, while maintaining protections for disabled children. It makes schools safer by allowing schools to treat disabled children the same as nondisabled students where their behavior is not related to the child's disability. It increases parental involvement in key decisionmaking meetings about their child's education and placement. It provides teachers with the knowledge and training to effectively support students' learning. It gives States more flexibility in using resources. And it reduces the number of formal disputes by establishing premeditation systems where parties try to resolve their disagreements without lawyers.

The bill also tries to address the problem of children being improperly and overly identified as disabled by modifying the funding formula for part B, which is the centerpiece of IDEA. The current formula gives funds to States on the basis of the number of students who have been identified as disabled. The proposed formula gives funds to States based on the number of school-aged children in the State and State poverty statistics. The new formula is phased in over 10 years. This formula change is intended to discourage the overidentification

of children with disabilities. I understand and support this policy objective. The proposed formula is more rational and meritorious than allowing local schools to identify disabled students.

I was concerned, however, that this formula would hurt States that legitimately had higher rates of disability. Fortunately, the Committee on Economic and Educational Opportunities recognized the importance of protecting States, including small States like Delaware. The formula has been modified to prevent States from facing significant funding reductions which could have hampered their ability to provide a free and appropriate public education to disabled children.

The committee had an important opportunity to improve IDEA and build on its previous successes, and it worked in a bipartisan manner to achieve this goal. I want to commend the committee leadership and staff for its excellent work in drafting this bill, and I urge my colleagues to give this bill their support.

Mr. SAWYER. Madam Speaker, I would like to begin by thanking Chairman GOODLING and Chairman CUNNINGHAM for their thoughtful work on this bill. IDEA is one law where common ground has always been possible, but never easy. Today, we are closer to that common ground than many thought probable a month ago. All of those who have had a hand in bringing us to this point deserve to be commended.

When the markup of this bill was originally scheduled in our committee, I was concerned that we would have come away with a bill that no one was happy with, and I hoped that a postponement would give us time to reach bipartisan consensus. I sent a letter to Chairman GOODLING explaining my concern. Chairman GOODLING did postpone the markup from its originally scheduled time and today, after many hours of productive negotiations among the various groups with an interest in this bill as well as among those of us on the committee, we have a bill which is in many ways better than some thought possible.

I am particularly pleased that the chairman decided to continue the authorization for a discretionary grant program for professional development as well as the requirement that States establish a comprehensive system of professional development. Although there are a few specific points that I hope we can clarify in conference negotiations with the Senate, it is important that we have included these two provisions.

I have always believed that a strong system of professional development will fortify this bill. With changing technologies, methods of teaching, and the emerging and changing needs of today's children, a strong system of professional development is essential. We need to focus on developing and maintaining a force of qualified personnel to teach children with a wide range of special needs. Especially recognizing the considerable shortages of qualified special education teachers in some areas of this country, it is crucial that we take the lead at the national level by placing a high priority on providing for quality systems of professional teacher development.

But professional development is not only important to maintaining a quality special education teaching force. Training and retraining is also necessary for teachers whose classroom management problems are complicated. Teachers in today's classrooms are addressing situations that they were never educated to deal with. I have every confidence that today's teachers can deal with these situations, but we need to recognize that they need and want the proper training to do so.

I am confident that classrooms can be better life-learning environments when they contain many different children with many unique qualities and talents. However, a solid system of professional skills development is the key to making these classrooms good learning and teaching environments for everyone involved.

This kind of comprehensive professional development is important on many levels. Our committee has had to balance questions of how to discipline children with disabilities in this bill, but I believe that this would not be such a prevalent issue if we had the resources to train teachers appropriately. Children whose needs are understood and accounted for, and teachers who are trained to manage special difficulties that arise, will need for the discipline provisions of this bill. I think we would all like to see that happen.

Along with professional development, another key to making this bill work well is the ability to assess children's needs properly. I offered an amendment at the full committee level that was designed to add to the definition of evaluation in this bill to ensure that children's needs are properly assessed with technically sound instruments in all areas of their suspected disability before any decisions are made about how and where they can learn best. I am grateful that with a small amount of rewording, the chairman and I were able to come to an agreement on this amendment. It is now a part of the bill before us today. This was a fine example of bipartisanship and a willingness to find common ground.

I know that this bill is not perfect in everyone's eyes, and I know that many of us have deep reservations about the Federal Government sanctioning cessation of educational services for any child. However, I think most of us now agree that it is a strong piece of legislation that will go far to improve and enhance education for disabled children and learning environments for all children.

Thank you again to everyone who worked to make certain that the good that this law has done for disabled children over the past 20 years will continue.

Mr. KILDEE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 3268, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3268, IDEA Improvement Act of 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1996

Mr. WALKER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3060) to implement the Protocol on Environmental Protection to the Antarctic Treaty.

The Clerk read as follows:

H.R. 3060

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 ''Antarctic Environmental Protection Act of 1996''.

TITLE I—AMENDMENTS TO THE ANTARCTIC CONSERVATION ACT OF 1978

SEC. 101. FINDINGS AND PURPOSE.

Section 2 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401) is amended to read as follows:

''SEC. 2. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds that the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty establish a firm foundation for the comprehensive protection of the Antarctic environment, the continuation of international cooperation, and the freedom of scientific investigation in Antarctica.

''(b) PURPOSE.—The purpose of this Act is to provide legislative authority to implement, with respect to the United States, the Protocol on Environmental Protection to the Antarctic Treaty.''.

SEC. 102. DEFINITIONS.

Section 3 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2402) is amended to read as follows:

''SEC. 3. DEFINITIONS.

''For purposes of this Act—

''(1) the term 'Administrator' means the Administrator of the Environmental Protection Agency;

''(2) the term 'Antarctica' means the area south of 60 degrees south latitude;

''(3) the term 'Antarctic Specially Protected Area' means an area identified as such pursuant to Annex V to the Protocol;

''(4) the term 'Director' means the Director of the National Science Foundation;

''(5) the term 'harmful interference' means—

''(A) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;

''(B) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;

''(C) using explosives or firearms in a manner that disturbs concentrations of birds or seals;

''(D) willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

''(E) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and

''(F) any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate;

''(6) the term 'historic site or monument' means any site or monument listed as a historic site or monument pursuant to Annex V to the Protocol;