IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2003

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

The Clerk read the resolution, as follows:

H. Res. 206

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

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

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

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

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

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

Mr. Speaker, I am very proud of the fact that from fiscal year 1996 to fiscal year 2003, overall IDEA funding has increased by nearly 21 percent, from $3.2 billion to $3.8 billion annually. In fact, the 2003 funding level is more than a 15 percent increase over the 2002 funding level. This is a positive trend and we are serious about maintaining our goals and meeting our commitment to special education needs. But there is so much more that this bill does, more than just increasing funding. And I would like to provide some of the major provisions of H.R. 1350 to those of Congress who will be able to see that this committee and the committee work that was done not only by the gentleman from Ohio (Mr. BOEHNER) but also the subcommittee chairman, the gentleman from Delaware (Mr. CASTLE) really has made a difference in the life and ongoing life of IDEA.

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

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

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

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

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

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

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

Therefore, it is a sad day for this House as we consider the vote for H.R. 1350, the IDEA reauthorization. This is not a bipartisan rule, and this bill certainly does not reflect a broad bipartisan consensus. If anything, H.R. 1350
represents consensus breaking, undermining many of the hard-won and carefully constructed checks and balances of existing law.

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

During consideration of this bill in the Committee on Rules last night, I told every Member who testified before the committee that I supported their right to offer their amendments on the floor today. Unfortunately, the majority did not join me in that support. I am disappointed the majority has denied both Republican and the majority on the Committee on Education that promise. In fact, this bill actually require that these funds be provided, when the time comes to back up their rhetoric with deeds. Today, we will hear about increases for special education in the budget resolution. But time and time again Congress has said it would be disastrous.''

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

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

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

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

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

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

"Leah is my 7-year-old daughter. She has Down's Syndrome. Leah is fully included in her class, learning to read and has many friends. Not only has she benefited from being in this class, I truly believe Leah's school have benefited from knowing Leah and becoming her friend. I want Leah to continue in this inclusive environment because I feel this is the best way for her to develop independence and appropriate social skills for the future. But H.R. 1350 does not provide full funding for IDEA. H.R. 1350 would take away many protections for parents' rights that are in IDEA, called procedural safeguards. It is important for schools to give parents the rights it will not protect. I am sure my colleagues have received similar letters from parents that are asking us and they are pleading with us to reject H.R. 1350. Surely we can find a way to give school administrators the flexibility they say they need without undermining the rights of the children and families they are charged to serve. Surely we can find a way to fulfill our promises and provide mandatory funding. We should send this bill back to committee and return with a genuine consensus on the IDEA reauthorization, as has been the tradition of this body for nearly 3 decades.

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

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

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

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

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

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

As a parent of a son, a person who has Down's Syndrome and is affected with the afflictions that come with that syndrome, I can tell my colleagues that I too am concerned about
these things and approached this entire effort with an open mind, instead of saying I do not want any changes. I said, what are the things that we have learned from time; what are the things that we think we can do to get closer to not only better inclusion but to have better results from our children who fall within the IDEA guidelines?

Mr. Speaker, my son, who is 9 years old, and who is in first grade, is making progress. And I see where these things are going. But this committee and this subcommittee, under the leadership of the chairman, the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Delaware (Mr. CASTLE), have done things to go in and instead of keeping the status quo, they have gone in and made things dynamic. We are going to be more inclusive, we are going to provide more money, we are going to do those things that will enhance the relationship that a parent has in an IEP, which are these individualized times processes that one goes through where they sit down and look at their child and try to map out and plan out a way for them to fully meet their needs and also those educational opportunities that are ahead of them. After the entire process, not just a piece or a part, I am satisfied; and I believe that what has occurred here is a better bill. Is it perfect? Probably not. But under the current law, there are still parents and still issues that still needlessly as a result of either people not understanding the law or people not complying completely. That will always be a part of the process. But the advantages of this new bill come about as a result of the intuitive nature of this committee and subcommittee, who wanted to enhance and learn from the past and make it better.

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

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

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

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

I think it is very important that we begin this debate by understanding several background areas. One is that this legislation was created in 1975 with the help of a number of people who are still here today. One of those Members is the ranking member on the Committee on Education and the Workforce, and others who put language into this legislation, which I think has held up extraordinarily well over the years. I believe that the services that we provide to our children who have disabilities are tremendous, light years ahead of where we were just 30 years ago. I believe that Republicans and Democrats alike have worked together every 5 or 6 years in the reauthorization process, and I know it was very difficult 5 or 6 years ago when I went through it in order to put together legislation which will be helpful in improving the amount of help we are doing in helping children with disabilities. But I believe that the legislation before us is another step in that direction.

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

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

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

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

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

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

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

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

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

The bill gives parents discretion over who attends IEP team meetings, how they are conducted, or whether to have one at all. We have improved the parent training and information centers and created a national resource centers to serve as valuable tools for parents trying to work with schools to get a quality education for their child.
This bill seeks to reduce litigation and restore trust between parents and school districts by encouraging the use of alternative means or what we know as dispute resolution. All too often, miscommunication damages this relationship and results in litigation. Not only is this course of action costly, but it breeds an attitude of distrust.

H.R. 1350 authorizes dramatic increases in funding for special education. It is clear that we need to increase funding to get us to the 40 percent goal within 7 years. The mandatory spending side of our education system is not living up to that commitment.

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

In this year’s budget resolution, that funding number will take us up to 21 percent. The President of the United States has indicated his complete willingness to fund this in rapid increases to get us to that 40 percent in a 7-year glide path. This Congress, in the form of the Appropriations Committee, for the first time has had the opportunity to vote on an IDEA reauthorization bill. This is a very important provision because it is unfair and discriminatory.

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

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

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

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

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

Mr. Speaker, I urge Members to vote down this rule and in so doing demand the opportunity to vote on an IDEA reauthorization bill that includes mandatory funding for our special education kids and for the rest of kids that need to be able to count on those funds.
H.R. 1350. These amendments allow the House to work its will on a variety of important issues and topics. It is a fair rule, and I hope it is overwhelmingly approved.

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

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

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

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

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

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

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

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

Mr. President, I yield myself such time as I may consume.

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

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

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS). Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

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

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

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

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

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

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

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

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

I think it is extremely unfortunate that the Republican majority on the Committee on Rules has voted to deny this full body, all 435 Members of this Congress, the opportunity today to vote up or down on the education commitments made to America's children. We many years ago said that the Federal Government was going to pay for 40 percent of the costs for special education; and as we sit here on this floor today, we are only at the 18 percent. It is a disgrace every year. Now is the time to make the guarantee. Just a little over a year ago, the President signed the No Child Left Behind bill and promised a great deal of more resources to our States and our school boards in exchange for numerous responsibilities that we put upon them; and yet just a little over a year later, we are already failing to make our commitment on No Child Left Behind. This year we are $9 billion short. We need to meet our commitments as we made on special ed more than 20 years ago. We need to meet our commitments we made in No Child Left Behind. We should not be pitting these groups against each other. There should not be competition in funds between special education and all other education. Let us vote today to provide our schools and our children the resources we have promised. Give this House an opportunity to do it. Why are we afraid to let 435 Members vote on this issue?

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Kind), another valued
Mr. KIND. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. McGovern) for yielding me this time, and I appreciate the work he has put in in defense of this rule as well as with the legislation.

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

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

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

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

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

Mr. McGovern. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. Scott).

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

In general, IDEA is a good program which works well. As a society, we have decided that all children have a right to education. In 1974 our country made it clear that "all children" included racial minorities, and under IDEA we made it clear that "all children" included those with disabilities. The dream that all children are entitled to a quality education is an expensive dream to achieve, but we have decided that we mean to achieve that goal.

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

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

Mr. Speaker, the revised discipline provisions in the bill were added to give school districts an opportunity to avoid providing the most challenging students with disabilities free and appropriate education; yet we should require that even with the current protections, students with disabilities are already overrepresented among students who are expelled from school.

The elimination of the current discipline safeguards will remove the only legal safeguards that currently exist for these students with disabilities.

Mr. Speaker, for these reasons as well as others I ask my colleagues to oppose the rule and oppose final passage of HR 7350.

Mr. McGovern. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. Jackson-Lee).

Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend remarks by the Chair.

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

And then, Mr. Speaker, I think it is clearly important that we again reassess these new provisions dealing with penalties for misbehavior in this legislation. Why are we penalizing the children who need the most help? Why are we penalizing the teachers who need the most help? Why are we penalizing the students who need the most help? Why are we penalizing the children who need the most help? Why are we penalizing the children who need the most help?

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

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

I would like us to come forward as we have attempted to do in a bipartisan manner. I certainly appreciate the work of the Committee on Education and the Workforce and the Workforce, but we are falling short of America's children and America's promise of the educational opportunity for all children. If we do not provide full funding, we do not direct
all moneys to the services and we get rid of these burdensome provisions, that will only send more special ed children into the streets away from equal opportunity of education for all of our children.

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

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

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

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

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

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

Let me also thank the gentleman from California (Chairman DREIER) and the Committee on Rules for their constructive work in crafting a fair rule for Members on both sides of the political aisle. There is great opportunity for Members to offer amendments.

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

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

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

Let me also say that mandatory funding for this program is the wrong way to fund the program. We would not be here today making the improvements in this bill to help children with special needs and to help our teachers, principals, school board members and superintendents if it had not been for the fact that we have this bill on a 5-year reauthorization track. It forces the Congress to step back and look at this Act and to determine, is it working the way we intended it? Are there better ways to achieve our objective?
I would suggest to all of my colleagues that if it had been under mandatory spending, we know what happens with those programs; they get put on automatic pilot and are very seldom looked at. That is not in the best interests of special needs children, and it is not in the best interests of our schools. Let me also say what my colleague from California pointed to. The first 20 years of this Act Congress never really stepped up to the plate. Our friends on the other side of the aisle were in charge. Even in 1993 and 1994, when they had control of the House and Senate and the White House, there was no move made to make this a mandatory funding program. So why do we hear about it now?

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

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

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

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

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

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

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

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

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

This bill also does not address the shortage of qualified special education teachers in a meaningful way. Currently unqualified and under-qualified special education teachers are teaching more than 600,000 children with disabilities. By significantly weakening both the discipline protections and due process rights in current law, H.R. 1350 would make it more likely that students with disabilities will not just be left behind, they will be left far behind.

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

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

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

Mr. Speaker, I would like to thank several people who have been a part of this. Just the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Delaware (Chairman CASTLE), but also from the Committee on Education and Workforce, David Cleary and Sally Lovejoy; from the staff of the gentleman from Delaware (Mr. CASTLE), Sarah Ritting; from the Committee on Rules, Adam Jarvis and Eileen Harley; and from my staff, Bobby Hillert and Tucker Anderson.

Mr. Speaker, this is about a decision that this House is going to make to debate today, IDEA. That is what the vote on the rule is about, are we going to proceed with regular order? I am in favor of what we are doing. I believe that the clay that we have put in front of us today will be a better model. We will rebuild IDEA and we will make it better than what it is today.

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

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

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

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

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

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

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

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

The SPEAKER pro tempore (Mr. SIMPSON) announced that the following had voted on the question: Yea: 227; Nay: 17. The result was announced as above recorded.

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

Mr. Goss changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The Chair designates the gentleman from Georgia (Mr. LINDER) as chairman pro tempore in the chair.

Chairman of the Committee on Education and the Workforce, Mr. BOEHNER. Mr. Chairman, I yield to the gentleman from Ohio (Mr. BAKER).

Mr. Chairman, I am pleased that we have a chance today to consider the bill that the Speaker announced as above recorded.

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

This bill is important as an opportunity for us as legislators. The reforms in H.R. 1350 are strongly supported by teachers, school leaders, state officials, students, and others.

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

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

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

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

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the purpose of considering the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act.

Mr. BOEHNER. Mr. Chairman, I yield to the gentleman from Idaho (Mr. CAMP).

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

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

IN THE COMMITTEE OF THE WHOLE

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

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

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

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

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

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

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

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

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

H.R. 1350, the bill before us, will enhance school safety, requiring districts to continue to provide educational services to students with disabilities for 3 years in districts allowing school district personnel to have one uniform discipline policy for our children. And the gentleman in Georgia (Mr. NORWOOD) has been a very effective member in leading the Congress to deal with this issue for many years. And I want to thank him for his willingness to work with the committee to craft the discipline provisions that we have in our bill.

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

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

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

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

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

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

Yes, many in the school establishment and the education establishment are for this Act. It probably makes good intentions by both sides of this bill. People who have sent e-mails and petitions to us are for this Act. It probably makes good intentions by both sides of this bill. It is, in fact, the education establishment that we ought to be thinking also about the rights of these children and the protections of these children and the needs of these children and their families; to make sure that, in fact, the educational opportunities afforded to these children with disabilities.

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

Finally, let me say, Mr. Chairman, that I am deeply concerned about the waivers that are authorized in the name of paperwork reduction for the States. I am very concerned that this
will allow the waivers of documentation to ensure access to a general education curriculum, documentation ensuring accommodations of State tests, information on a child’s academic achievement, information on transition services, secondary transition, educational, procedural safeguard notices provided to parents so that they are aware of their rights, prior written notices to parents of the services and placements that their child will receive.

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

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

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

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

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

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

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

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

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

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

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

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

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

Almost every member of the House is on record in support of full funding either as co-sponsor of a bill, as a “yea” vote on non-binding resolution, or as a speaker on special order. So all of the other things we have in this body for pretending we are doing something.

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

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

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

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

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

Fifteen percent of funds can be diverted to a new “pre-referral” program: Twenty percent of funds can be used to supplant local education funds; and an unlimited percentage of funds can be diverted to “supplemental services” required under the Title I program of Federal education law.

These are all worthy purposes. But because we fail to provide the necessary funding, we are setting an even more intense competition for scarce resources. Resources that—even with State and local budget crises and the prolonged economic downturn—are becoming scarcer and scarcer every day.
H. R. 1350 authorizes a pilot project under which the Secretary of Education may grant waivers to up to 10 States under the auspices of “paperwork reduction.” Under this authority, many bedrock requirements of IDEA could be waived, including:

- Individualized Education Programs—Documentation on ensuring access to general education curriculum;
- Documentation ensuring accommodations on State tests;
- Information on a child’s academic achievement; and
- Information on transition plans for postsecondary education or employment.

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

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

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

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

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

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

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

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

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

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

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

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

Under this provision, a student could be expelled for virtually anything: chewing gum, shouting out in class, carrying a plastic eating utensil with their lunch, inappropriate displays of public affection, being late for class, not completing homework. Moreover, placement in an alternative setting is unilateral. There is no “manifestation determination” to determine if the consequences for students whose violations are the result of their disability:

A child with Tourette’s syndrome could be expelled for shouting out in class;

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

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

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

As I said in my opening, I think many of the provisions in this bill are well-intentioned. Some make sensible improvements in the law. But overall the bill is fundamentally flawed. I hope we are able to improve the bill here on the floor and in conference and look forward to working with my colleagues in that effort. I hope we can make these so that this law makes a positive change in lives of children with disabilities and their families. And so that it garners the strong bipartisan support and consensus it has long enjoyed.

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

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

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

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

Mr. Chairman, I yield ½ minutes to the gentleman from Indiana (Mr. BURTON).

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

I just wanted to say that the committee has done a pretty good job on a very difficult issue. They are going to be up to 21 percent. The goal has been 40 percent for a long time. Let me just say that I have a personal interest in this issue. I did not have a few years ago but I do now. And I want to tell you that there are children being left behind and they are going to be left behind without additional funds.

I have talked to school boards and school teachers and others and the funds are not there to give these children the educational additional attention they need, particularly children who are autistic. As I said, out of every 200 children in America now that are autistic. And we need to get to that 40 percent level before 6 years; and I know the gentleman is doing his absolute best to get there, but that is not happening.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

But I cannot support the bill before us today. The last time we reauthorized IDEA in 1997, we worked tirelessly with our majority colleagues to improve this program for children with disabilities and the schools which serve them.

Unfortunately, the pace at which this legislation has moved has left very little time for public input or bipartisan discussions. This bill has fundamental flaws. First, this legislation does not provide any additional resources for IDEA. It does not get us any closer to fully funding IDEA—an effort that many members have worked on for numerous years.

Democratic members of the Education and the Workforce Committee attempted to address this issue in committee. We offered several amendments that would provide mandatory spending for IDEA. Unfortunately, these amendments were defeated on party-line votes. These amendments represent the only way to ensure full funding for IDEA in this legislation.

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

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

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

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In addition, the bill places a Strait jacket on parents of children with disabilities by instituting a 1-year statute of limitations. This provision will prevent parents of disabled children from raising issues with the education of their children to those issues that are less than 1 year old. This unfairly constrains parents and their efforts to ensure their children receive an education.

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

These former U.S. territories have an extremely high percentage of children with disabilities due to U.S. military testing of weapons around the islands that make up these nations. I believe it is our responsibility to ensure that the freely associated States receive funding under this legislation and their negotiated compacts of free association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The majority is asserting something is better than nothing, and in this case I am afraid that is wrong. These counterclockwise changes we are making in this bill mean that the children would be better served by the Individuals with Disabilities Education Act in its current form.

The civil rights of these children and the due process rights of their parents are not being quality protected in the legislation. Foremost, as has been mentioned, this bill fails to fully fund that 40 percent of the average per-pupil expenditure that Members have been promising for 30 years to fund in order to help our States and local governments as they try to educate children who, before 1975, and before the courts stepped in to make it, otherwise were ignored or mistreated.

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

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

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

Mr. CARTER. Mr. Chairman, I thank the gentleman for his hard work on this bill and the committee for bringing this bill forward. I am encouraged that the impeachment will help us reduce litigation, restore trust and refocus the system on improving the education of children with disabilities.
In 1997, Congress required the States to set up and maintain mediation systems that would allow school districts and parents to handle their disputes in less hostile fashion. The change significantly reduced the amount of litigation and helped restore trust. It is expected this will reduce the litigation burden and restore the focus on educating children.

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

This bill also clarifies that the parent is obligated to provide clear and specific notice to the LEA or SEA before a due process hearing can be held. This change is important to ensure that a school district has a clear understanding of what the problem is. Without this clear and specific notice, the school district cannot attempt to resolve the issue.

The resolution session created by this bill allows parents and the school district officials to explain the problem and attempt to resolve it in a timely manner. The IDEA regulations require a due process hearing to commence within 15 days of the filing of the complaint. If both parties want to avoid a due process hearing, they can choose, the school can choose. The language in the bill specifies that the parent and the school district will meet within 15 days of the filing of the complaint to see if they can resolve the problem. If they cannot, the parent can still go to a due process hearing. This does not delay the parent's right to a due process hearing in any way.

The IDEA regulations require a due process hearing to commence within 45 days of a parent filing a complaint. The language in the bill does not modify or delay that timeline in any way. This resolution session gives parents and school districts a new opportunity to sit down and work out the issues and is a sensible change to ensure that everyone's efforts are focused on the problem and attempt to resolve it.

The improvements included in H.R. 1350 should clear some of the legal landmines and allow for more productive, less hostile relations between parents and schools that focuses on the Act's primary role of educating children with disabilities. IDEA currently has no statute of limitations and leaves school districts with no statute of limitations and leaves school districts with no statute of limitations and leaves school districts with no statute of limitations and leaves school districts.

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This bill also clarifies that the parent is obligated to provide clear and specific notice to the LEA or SEA before a due process hearing can be held. This change is important to ensure that a school district has a clear understanding of what the problem is. Without this clear and specific notice, the school district cannot attempt to resolve the issue.
We address these issues in this legislation. By providing these services to children at an earlier age, we can prevent people from being identified as having learning disabilities and help them in their education process. We also seek to reduce litigation, restore trust between parents and school districts, and many other steps have been taken in this legislation that we think are tremendously helpful in improving the opportunities for children with disabilities. I urge Members to support the legislation.

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

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

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

These improvements, however, do not compensate for the draconian discipline provisions that are in H.R. 1350. Under this bill, schools could suspend or expel a child with disabilities for any infraction of the school code of conduct. We are not considering in this bill how the behavior was the result of a disability. This manifestation determination has been one of the key protections for children with disabilities under the current law. Given the disproportionate suspension and expulsion rates for Hispanic and black youth in general, it is hard to imagine that H.R. 1350 will not push more of these young people out of school.

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

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

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

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

If Members are for children with disabilities and the improvement of their education, I urge all Members to vote no on this amendment. Members should be for this bill, and I urge all Members to vote in favor of it.

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

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

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

The issue related to the disproportionately high number of African American males being placed in special education. The new language states in paragraph 1, the State or the secretary, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures and practices used in such identification or placement to ensure that such policies, procedures and practices comply with the requirements of this Act, and shall require any local educational agency identified under paragraph 1 to provide comprehensive coordinated preferred support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph 1.

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

Mr. CASTLE. Mr. Chairman, I yield 1 1⁄2 minutes to the gentleman from Florida (Mr. KELLER), a member of the Committee on Education and the Workforce.

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

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

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

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

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

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

Twenty years ago, Congress made a law and a commitment. The law was to extend equal education opportunity for all children. The commitment was to provide 40 percent funding to meet this obligation. I need a word to put full filling this commitment for yet another decade. Nearly every State is facing serious financial difficulty, few as serious as my State of Oregon. We need...
Chairman, I thank the gentleman from South Carolina. Ms. WOOLSEY. Mr. Chairman, I continue to reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. GILLMOR). (Mr. GILLMOR asked and was given permission to revise and extend his remarks.)

Mr. CASTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. GILLMOR).
colleague from Ohio, Chairman BOEHNER, reported a bill that brings back the spirit of the original legislation. This bill not only empowers local school districts, but more importantly it empowers parents with the freedom to choose what education plan best suits the needs of their child. Reducing bureaucratic red-tape, supporting local education choice, and delivering parents the keys to restoring faith in the special education community and the keys to providing those children with special needs a quality education. Mr. Chairman, I would urge all of my colleagues to support this legislation and invest in our future. Some of it, frankly, is a little bit political, but I think we need to sort of clear the air if we can.

This bill, as we all know, I think, now at this point, was first passed in 1975, and reauthorized in 1990, which was a time, frankly, that the Congress was controlled by the Democrats for the most part here, the funding for the Federal share of this never got above 7 percent. Starting in 1996 and thereafter up until I would say in the year 2003, we never reached the 1996 level, that for the first time as the percentage share of the Federal Government, even with the cost-of-living increases and everything else, has gone to 18 percent. The funding in the budget bill for this next year, 2004, is the highest level we have been at since 1990, 18 percent. This Republican Party under this Congress has committed to it. This bill weakens due process protections for parents. It would bar parents from raising new issues at due process hearings, even if new evidence has surfaced since the hearing was scheduled. This bill has a pilot program for 10 States and a Secretary of Education to waive IDEA provisions to reduce paperwork. Criteria for the approach of these pilot programs are completely open-ended and would be defined by the Secretary. This other thing this bill does that will make it impossible for me to vote for it is it puts a cap on attorney fee reimbursements, which makes it even more difficult for low-income parents to get their due process. Mr. Chairman, I am hoping Democrats and those on the Republican side who want full funding and want that funding to be mandatory, who want our children's discipline provisions not to go backwards, but to go forward, will vote against this bill.

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

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

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

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

Mr. Chairman, this is a very difficult piece of legislation. It has been very difficult for us to craft a bill that Mr. Chairman, this is a very difficult piece of legislation. It has been very difficult for us to craft a bill that the bill that we have before us today does, in fact, provide that, and does not weaken any safeguards for those children or their parents.

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

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

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

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

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

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

Even at a time when full funding for IDEA is almost unanimously supported, and education is touted as a priority by almost every Member of Congress, H.R. 1350 does not come close to funding IDEA’s well sold promise. It is clear that in order to ensure substantial funding to the nation’s disabled children, funding for IDEA must become a mandatory program.
that requires the Federal Government to ap-
propriate the full 40 percent every appropri-
tions cycle. It is past time for us to fulfill our
obligation to this Nation’s disabled children.
H.R. 1350 does not appropriate full funding,
and does not make full funding of IDEA man-
datory, and so I feel it is my duty to oppose
the bill.
I also have serious concerns with the dis-
cipline provisions of this bill. Under the “man-
ifestation determination” previously required in
IDEA, when students with disabilities are dis-
ciplined it was possible that their disability was a
fundamental reason for the problem must be
considered. H.R. 1350 would no longer require
schools to determine whether a student’s ac-
tion was the result of the disability. Under the
bill a child with cerebral palsy could be ex-
pelled for accidents. I believe it is necessary to
be taken into account before deciding on con-
disability in school. I believe it is necessary to
he or she makes a mistake related to their dis-
ability. I have received many calls from
parents of such children are protected. H.R.
1350, which provides that the Federal Government
contributing 40 percent of the cost as promised in
the original 1975 law were not allowed to be of-
fered. Congress authorized the Federal Govern-
ment to pay up to 40 percent of each State’s
excess cost of educating children with disabil-
ities. As we have learned with the No Child
Left Behind Act, promises to fund education
through authorizations are often not kept. It is
time we renew our commitment to all of our
Nation’s children and pay our share of the
cost of IDEA.
States across the Nation are dealing with an
economic crisis, facing large State budget
deficits and making deep cuts to services. IDEA’s
funding mandate is $10 billion—this is money our States and school districts could be spending to alleviate State budget crises, reduce class sizes, build and modernize schools and further technology advances in
education. This is an unfortunate trade off that
our States should not have to make.
Mr. GIBBONS. Mr. Chairman, I rise today in
support of H.R. 1350. As a father of three, I
know the importance of educating our chil-
dren. There should be no greater priority than
providing our children with the educational
tools needed to succeed in life.
Mr. CUMMINGS. Mr. Chairman, the Individ-
uals with Disabilities Education Act, IDEA, is
the Nation’s main statute ensuring children
with disabilities receive the special education
they need for success. Today, Congress had
the opportunity to make a difference in the
lives of millions of children. This is an author-
ization of IDEA. However, H.R. 1350 squan-
ders this opportunity and that is why I urge all
of my colleagues to vote against this legisla-
tion.
Congress had the opportunity to support
mandatory full funding for the IDEA. Two
amendments that would have made IDEA a
mandatory program and would have guaran-
teed that the Federal Government contribute
40 percent of the cost as promised in the
original 1975 law were not allowed to be of-
fered.
Mr. GIBBONS. Mr. Chairman, I rise today in
support of H.R. 1350. As a father of three, I
know the importance of educating our chil-
dren. There should be no greater priority than
providing our children with the educational
tools needed to succeed in life.
H.R. 1350 fulfills our commitment to the youth of
this Nation, by providing special education
children with the mechanisms and funding
needed for success.
Mr. Chairman, since the Republicans have
controlled Congress we have increased IDEA
spending to alleviate State budget crises, reduce
class sizes, build and modernize schools and further technology advances in
education. This is an unfortunate trade off that
our States should not have to make.
Mrs. MCCARTHY of New York. Mr. Chair-
man, I rise today with deep concerns with
H.R. 1350, the bill to reauthorize the Individ-
uals with Disabilities Education Act.
Prior to IDEA being passed in 1975, many
children with disabilities did not receive access
to education, and worse they were denied any
educational services at all.
As a result of court decisions and congres-
sional action, schools were required to offer
children with disabilities a free appropriate
government public education.
Since then, Congress has acted to strength-
en these laws time and time again regardless of
whether it was a Republican-controlled or Demo-
cratic-controlled Congress.
Today under H.R. 1350, we are taking a
large step backward especially with regards to
disciplining students.
Current law allows a school to suspend or
expel a student with disabilities if he or she
brings a weapon or drugs to school, or if it is
found by a hearing officer to be likely to injure
himself or others. Education services must
be provided for up to 45 days in an alternative
setting.
In addition, current law requires schools to
determine if the problem which caused the
student to be suspended or expelled was due
to his or her disability. This bill removes these
important safety provisions completely.
Mr. Chairman, H.R. 1350 allows students of
all disabilities to be removed from classrooms
for any behavior for an indefinite period of
time. Mr. Chairman, I am the first person to say
we need to protect our children from violence
in the classroom. Therefore if a student with
attention deficit disorder hits another student,
the student with attention deficit disorder can
be expelled indefinitely.
As a nurse, I can tell you that attention def-
cit disorder is widely misunderstood by teach-
ers and principals across the country. However,
it is recognized by Congress as dis-
ability under the law we are amending today
and the Americans with Disabilities Act.
Mr. Chairman, this provision in H.R. 1350
alone cuts out the very heart of IDEA. IDEA
was created to prevent this type of discrimina-
tion against disabled students. If a student’s
health problem is the reason for causing trou-
bles in the classroom, the health problem must
be taken into account before the child is ex-
pelled indefinitely. We should be strengthening
the current law instead of weakening it. It’s
just common sense.
As a student with disabilities, a nurse, a
mother, and a Member of Congress, I am
hopeful that we protect all children.
With that, I urge all my colleagues to vote
against this bill that take the heart out of
IDEA.
I should be doing more not less for our
students.
Mr. CHRISTENSEN. Mr. Chairman, the
Americans with Disabilities Act, ADA, and the
Individuals with Disabilities Education Act,
IDEA, are the primary and most important laws that pro-
tect the rights of a special segment of our
population—individuals with disabilities. Today,
we debate the passage of H.R. 1350, a bill to
reauthorize IDEA, which was created to en-
sure that all children with disabilities are af-
forded a free and appropriate public education
within the least restrictive environment, and
that the rights of children with disabilities and
parents of such children are protected. H.R.
1350, undermines the original intent of the law
and essentially guts the protections it was in-
tended to provide.
I support, 100 percent improving the quality
of education for children with disabilities, but
despite the statements of its proponents, this
bill would not achieve this goal.
The base bill undermines civil rights provi-
sions, something that seems under attack on
many fronts by this administration, and as in
the Leave No Child Behind Act, fails to fully
fund it. This reauthorization would make IDEA
nothing more than an empty promise.
I am also very much opposed to the DeMint
vouchers. I oppose another opportunity for the
Republicans to force one of their favorite
programs upon the unsuspecting pub-
lic. It has been said that the amendment that
Representative DeMINT is scheduled to offer is
not a voucher, since it allows vouchers without
ment to pay up to 40 percent of each State’s
deficits and making deep cuts to services.
This is money our States and school districts could be spending to alleviate State budget crises, reduce class sizes, build and modernize schools and further technology advances in
education. This is an unfortunate trade off that
our States should not have to make.
Mr. GIBBONS. Mr. Chairman, I rise today in
support of H.R. 1350. As a father of three, I
know the importance of educating our chil-
dren. There should be no greater priority than
providing our children with the educational
tools needed to succeed in life.
H.R. 1350 in its current form does not fulfill
that promise. Please oppose H.R. 1350.
Mr. GIBBONS. Mr. Chairman, I rise today in
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know the importance of educating our chil-
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providing our children with the educational
tools needed to succeed in life.
H.R. 1350 fulfills our commitment to the youth of
this Nation, by providing special education
children with the mechanisms and funding
needed for success.
Mr. Chairman, since the Republicans have
controlled Congress we have increased IDEA
part B funding by $6.5 billion or 282 percent.
All the while, the political rhetoric continues to
fly in the face of these facts.
However, this is still not enough. Since 1975
when IDEA was originally established, Congress committed to provide Federal fund-
ing at 40 percent. Since 1975, IDEA funding
levels have not even come close to reaching
the 40 percent level.
To address this, H.R. 1350 sets up a bold plan, by setting a
clear 7-year path to reach the 40 percent goal
to make the full funding of IDEA a reality. I
strongly support this effort, and this is one of
the reasons I will be voting in favor of this bill.
Still, many on the other side of the aisle will confuse the issue, by asserting that this needs to be done by making IDEA a new Federal entitlement program.

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

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

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

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

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

Mr. Chairman, education is a top priority for this Republican-controlled House and Senate and that is the reason we are continuing our commitment to our children's education.

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

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

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

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

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

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

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

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

Once again, the Republican majority is failing to match their rhetoric with their actions. This time the victims are children with disabilities. This bill will not improve education for children with disabilities as its title claims. It will single out disabilities in their code of conduct. Without these protections, there is no limit to the number of students with disabilities who can be kicked out of school with no questions asked. This provision is wrong and unfair and has no place in any legislation claiming to improve education for children with disabilities.

It is long overdue for Congress to make good on our promise to give children with disabilities a better chance to succeed. It is in that spirit that I urge my colleagues to join me in voting against the “Improving Education Results for Children with Disabilities Act” because it flatly fails that promise. I hope the Senate will fix many of the damaging provisions in this bill and pass an IDEA reauthorization that truly invests in education and opportunity for children with disabilities.

Then, maybe after a conference, we can vote on a bill that truly achieves the goal of its title.

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

Since the enactment of the Individuals with Disabilities Education Act in 1975, we have failed to fully fund this worthy program. It has now been 28 years since we wrote children with disabilities a bad check and today its time to make good on that debt. The only way to ensure adequate and appropriate public education is to fully fund special education. Let us not politicize this issue. We know that the program is working.

Millions of children with special needs have benefitted greatly from IDEA. Let us not return to the dark ages where children with special needs were considered second class citizens. Our children deserve better.

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

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

Mr. EVIN. Mr. Chairman, I rise in opposition to the rule and against the bill. The legislation before the House today fails to live up to our promises to fully fund special education. It fails the parents of children with disabilities.

Worst of all, it fails the kids who need our help the most.

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

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

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

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

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

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

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

There are attempts in this bill to reduce the role of bureaucracy and paperwork, and some provisions will benefit children. In particular, I applaud the efforts of the drafters of those provisions who drafted it to address the over-prescription of psychotropic drugs, such as Ritalin by enacting controls on their use of accessible-format versions of printed materials, including textbooks, in accessible formats for visually impaired and print-disabled students. During debate on the No Child Left Behind Act, the majority claimed we had to reform IDEA before providing full funding. The bill before us supplies the Majority's reforms, yet reneges on full funding. What is the excuse now? Since 1977, 22 separate bills and resolutions have passed in the House and Senate calling for fund funding of IDEA with support of maintenance of effort requirements. How can the Majority for Congress to make good on this promise.

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

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

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

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

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

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

Let me point out a good point of today's bill. I am glad to see that section 674(c) recognizes the continued importance of funding an organization that provides free educational materials, including textbooks, in accessible formats for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools. As you may know, Mr. Speaker, Recording for the Blind & Dyslexic, located in New Jersey in my district, has spent federal funding over the past thirty years to produce, distribute and promote the use of accessible-format versions of printed textbooks free to students. During this time,
they have helped hundreds of thousands of students who would have otherwise not had access to the textbooks they need to receive the kind of “free and appropriate” education that is outlined under IDEA. I commend RFB&D and want to bring to the attention of access to the textbooks they need to receive students who would have otherwise not had April 30, 2003 in the way of what is most important: teaching. school administrators in Iowa tell me can get the bureaucratic red tape that teachers and significant improvements are made to the sys- eral loan forgiveness of up to $17,500 for spe- of special education teachers by allowing Fed- ication funding already provided by the Repub- istic education teachers who teach in dis- eral education teachers who teach in dis- of IDEA. These funding levels will result in the funding 40 percent of the national average per pupil expenditure for each child served under IDEA. These funding levels will result in the Federal Government paying 21 percent of these costs in 2004 and 25 percent the fol- lowing year. Let’s take a moment to acknowledge just how far we have come in funding special edu- cation in recent years. The increases in this bill build on the dramatic rise in special edu- cation funding already provided by the Repub- lican Congress. Since 1995, annual special education funding has risen from $2.3 billion to $8.9 billion. We’ve gone from 7 percent Federal funding to 17 percent. In the first few years of the previous admin- istration, special education funding remained essentially flat, with no increase in the Federal share. I also want to point out that the fiscal year 2004 budget resolution includes mandatory funding to help address the national shortage of special education teachers by allowing Fed- eral loan forgiveness of up to $17,500 for spe- cial education teachers who teach in dis- advantaged school districts. Funding is only one piece of the puzzle in improving education. We must ensure that sig- nificant improvements are made to the sys- tem. Iowa’s students deserve no less. I am pleased this bill includes critical reforms to en- hance educational performance while reducing the bureaucratic red tape that teachers and school administrators in Iowa tell me can get in the way of what is most important: teaching. H.R. 1350 substantially reduces the paper- work requirement of annual individualized edu- cation plans (IEPs) by giving parents the op- tion of choosing a three-year IEP, instead of having to craft a new one every year. The bill grants school districts greater flexi- bility to more accurately classify students to avoid wrongly identifying as disabled those who may have a less severe condition. This growing problem hinders the progress of af- fected students and indirectly impacts all stu- dents. There will be expanded options for parents by allowing IDEA funds to be used in some cases to obtain supplemental education serv- ices, including services offered by private edu- cational providers. The bill also increases the flexibility of local school districts in making decisions about dis- cipline for individual special education stu- dents. This flexibility can enhance the edu- cational environment for all students. This is a necessary step I have been advocating for some time. I support this bill and applaud the efforts of Mr. BOEHNER and Mr. CASTLE to improve the Nation’s special education law at a time as we continue working to ensure that no child is left behind in America’s classrooms. Mr. BALLENGER, Mr. Chairman, not since Congress first passed legislation to help chil- dren with disabilities to receive a free and ap- propriate public education has a bill done so much for disabled students, parents, and their teachers. That is why I am proud to support the Improving Education Results for Children with Disabilities Act. One important aspect of this legislation is that it helps to reduce the over-identification and mis-identification of non-disabled stu- dents. For far too long, students that were not disabled were classified as being disabled—stigmatizing these children for the rest of their education even though they were fully capable students.

H.R. 1350 encourages the use of early intervention strategies, which we all know that an ounce of prevention is worth a pound of cure. By reducing the number of non-disabled students receiving services, students who truly need assistance will have more resources available to them. I would also like to point out that our liti- gious society has fostered an atmosphere of mistrust and apprehension between parents and teachers. H.R. 1350 gives parents and schools increased flexibility in resolving dis- putes. Through mediation and voluntary bind- ing arbitration, the trust between parents and teachers can be restored. While I understand the fears and concerns of some regarding changes to IDEA, I believe that H.R. 1350 goes a long way towards in- creasing accountability and flexibility for both teachers and parents. I strongly urge my col- leagues to support H.R. 1350. Mr. KIND. Mr. Chairman, over a quarter century ago, President Ford signed historic legislation seeking to ensure educational eq- uity for children with disabilities and special needs. This legislation, now known as the in- dividuals with Disabilities Education Act (IDEA), was a major milestone in the quest to end the chronic exclusion of students with ex- ceptional needs. It helped open the door to fairness and access for millions of such youngsters and paved the way to greater edu- cational success for many students with dis- abilities. IDEA is both a grants statute and a civil rights statute. It mandates that all disabled students be provided a free appropriated pub- lic education in the least restrictive environ- ment. Over six million children with disabilities are no longer limited by their families’ ability to afford private education; they are no longer forced to attend costly state institutions, or worse, stay home and miss out entirely on the benefits of an education. It is important that children with disabilities may attend public school alongside their peers. There is no question about it: students, schools, commu- nities are enriched when all children have a right to a free, appropriate public education. As a member of the Work- force Committee since 1997, I have worked hard to improve the quality of education for our children. Consistently, I have called on the federal government to fully fund IDEA. In fact, during reauthorization of the Elementary and Secondary Education Act I offered an amend- ment to fully fund IDEA. Unfortunately the House leadership prevented the amendment from being debated on the House floor. Again, during committee consideration of H.R. 1350, I supported an amendment for maximum full funding offered by Represen- tative WOOLSEY. I am disappointed by the Com- mittee’s failure to adopt this important amend- ment. This is not the time to withhold nec- essary funds from out states. In the end, it is all our students nationwide, with an without disabilities, who suffer the lack of federal funds for special education.

While I realize that H.R. 1350 is not a per- fect bill, I feel that it resolves some significant issues that are problematic in Wisconsin, such as increasing instructional time with students; the paperwork required for early intervention strategies, reducing overidentifica- tion and working to resolve conflicts between schools and parents early and with less litiga- tion. I hope, that as we move forward we can continue to improve the bill and work with the Senate to produce the best bill possible. Spécially, I am pleased that H.R. 1350 in- cludes several amendments I offered during committee that focus on professional develop- ment. Frequently, during my visits with special education personnel in Wisconsin I heard how cash flow restrictions, promotes professional develop- ment, this being more pronounced in those rural school systems in my district. For exam- ple, in Wisconsin a special education teacher is required to obtain six credit hours of profes- sional development training every five years. Thus, my amendment encourages the use and development of state-of-the-art strategies to deliver professional development training for school personnel working with special edu- cation students through the use of technology, peer networks, and distance learning. The training will include special and regular educa- tion teachers, principals, superintendents, and other related services personnel. Furthermore, to better assist states in en- couraging the development and use of dis- tance learning and technology for special edu- cation personnel, it is critical to raise aware- ness of what is currently available in the area of distance learning for professional develop- ment. Therefore, I requested GAO to research the existing and developing distance learning and technology program offered to special education personnel. This knowledge will help better focus resources and time on developing programs where they are needed.

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

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

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

Ms. ESHOO. Mr. Chairman, it’s with great disappointment that I rise today in opposition to H.R. 1350. The Individuals with Disabilities Education Act reauthorization. H.R. 1350 fails special ed kids for these reasons: It undermines their civil rights and their educational opportunity by removing potential involvement in actions relating to the identification, evaluation and education of their child.

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

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

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

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

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

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

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

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

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

While I am pleased that funding for IDEA has steadily risen in the last several years, Congress is long overdue in providing its 40 percent funding. Thus, I do believe that H.R. 1350 is a step forward in helping us find a way to improve the educational opportunities for our children.

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

The CHAIRMAN. All time for general debate has expired.

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

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

H.R. 1350

It is hereby enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE. This Act may be cited as the “Improving Education Results for Children With Disabilities Act of 2003”:

"Sec. 610. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES. (a) SHORT TITLE.—This Act may be cited as the ‘Individuals with Disabilities Education Act.’

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

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. Acquisition of equipment; construction or alteration of facilities.

Sec. 606. Employment of individuals with disabilities.

Sec. 607. Requirements for prescribing regulations.

Sec. 608. State administration.

PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

Sec. 610. Authorization; allotment; use of funds; authorization of appropriations.

Sec. 612. State eligibility.

Sec. 613. Local educational agency eligibility.

Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.

Sec. 615. Procedural safeguards.

Sec. 616. Monitoring, enforcement, 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 plans.

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. Findings.

SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

Sec. 652. Purpose.

Sec. 653. Eligibility and collaborative process.

Sec. 654. Applications.

Sec. 655. Use of funds.

Sec. 656. State grant amounts.

Sec. 657. Authorization of appropriations.

SUBPART 2—SCIENTIFICALLY BASED RESEARCH; TECHNICAL ASSISTANCE; MODEL DEMONSTRATION PROJECTS; DISSEMINATION OF INFORMATION; AND PERSONNEL PREPARATION PROGRAMS

Sec. 661. Purpose.

Sec. 662. Administrative provisions.

Sec. 663. Research to improve results for children with disabilities.

Sec. 664. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.
and educational service agencies are primarily children with disabilities.

Subpart 3—Supports to Improve Results for
Children with Disabilities

Sec. 671. Purposes.

Sec. 672. Parent training and information centers.

Sec. 673. Community parent resource centers.

Sec. 674. Technical assistance for parent training and information centers.

Sec. 675. Technical assistance for development, demonstration, evaluation, and utilization of media and services.

(c) FINDING—Congress finds the following:

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

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

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

(4) Over 25 years of research and experience has demonstrated that the education of children with disabilities must lead to more effective-by:

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

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

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

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

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

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

(E) providing technical assistance for scientifically based reading programs and pre-referral interventions to reduce the need to label children as disabled in order to address their learning needs;

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

(G) supporting the development and use of technology, including assistive technology devices and services, to maximize accessibility for children in their educational environments;

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

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

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

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

(C) Minority children comprise an increasing percentage of students in special education.

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

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

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

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

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

(B) More minority children continue to be served in special education than would be expected from their representation in the general school population.

(C) African American children are overrepresented in special education and at risk of emotional disturbance at rates greater than their white counterparts.

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

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

(F) African American and Hispanic students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

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

(11) PURPOSES.—The purposes of this title are—

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

(B) and, where appropriate, the family of such children; and

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

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

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

(4) to assess and, where necessary, efforts to educate children with disabilities.

DEFINITIONS.

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

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

(2) ASSISTIVE TECHNOLOGY SERVICE.—The term ‘assistive technology service’ means any item, piece of equipment, or product system, whether acquired commercially off the shelf or otherwise, which directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

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

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

(C) 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 functioning of a child.

(3) CHILD WITH A DISABILITY.—

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

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

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

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

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

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

(C) NATIONAL EDUCATIONAL SERVICE AGENCY.—The term ‘educational service agency’ means—

(A) a regional public multiservice agency—

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

(ii) including efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that children with disabilities benefit from such efforts and that special education can become a service for such children rather than a place where they are segregated;
(iii) 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; 

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

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

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

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

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

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

(A) amounts received—

(i) under part B of this title;

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

(iii) under that Act; and

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

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

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

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

(C) include an appropriate preschool, elementary, and secondary school education in the case of a child who is a preschool-age child, and in the case of a child, language normally used by the individual, or, in the case of a child, the language normally used by the parents of the child.

(9) HIGHLY QUALIFIED.—The term 'highly qualified' means an individual who is a member of an Indian tribe.

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

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

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

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

(14) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' means the meaning given such term in section 636.

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

(A) any college or university established by the State or designated by the State to be under State control;

(B) any other public institution of higher education that—

(i) has the meaning given such term in section 636.

(16) INTRAMURAL.—The term 'intramural' means a system or system of instruction conducted in or, in the case of a child, in the home, in hospitals and institutions, and in other settings; and

(17) INTRAMURAL PHYSICAL EDUCATION.

(18) IEP.—The term 'IEP' means a written statement for each child with a disability, including—

(A) the child's current levels of academic and functional performance;

(B) instruction in reading, writing, spelling, or doing mathematical calculations.

(19) IEP.—The term 'IEP' means a written statement for each child with a disability, including—

(A) the child's current levels of academic and functional performance;

(B) instruction in reading, writing, spelling, or doing mathematical calculations.

(20) PARENT.—The term 'parent'—

(A) includes a legal guardian; and

(B) except as used in sections 635(b)(2) and 636(a)(15), includes the parent of a child or the legal guardian of the child under either of those sections to be a surrogate parent.

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

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

(23) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including the development of an individualized family service plan, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be included only if they are directly related to a child's special education needs) as are appropriate in accordance with this Act, including—

(A) the nature of the disorder or handicapping condition;

(B) the needs of the child; and

(C) the extent to which the nature or severity of the disorder or handicap affects or is likely to affect the child's education.

(24) SECONDARY SCHOOL.—The term 'secondary school' means a nonpublic charitable, educational, and religious institution controlled by the Secretary of Education.

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

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

(A) instruction in general education classrooms, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(27) SPECIFIC LEARNING DISABILITY.—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 difficulty in reading, writing, spelt, or do mathematical calculations.

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

(29) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State board of education or other agency or officer thereof that a State or the Secretary of Education designates as the State educational agency for the provision of special public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(30) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means any of a range of aids and services, including devices, that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children.

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

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

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

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

SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

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

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

(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.
SEC. 102. SECTIONS 605 THROUGH 607 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

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

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

"(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allocate such funds as the Secretary may determine to meet the specific purposes of the Act.

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

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

*(2) appendix A of part 101-19.6 of title 41, Code of Federal Regulations (commonly known as the ‘Uniform Federal Accessibility Standards’).

"SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

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

"SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

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

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

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

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

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

"(d) POLICY LETTERS AND STATEMENTS.—The Secretary may issue policy letters or other statements (including on issues of national significance) that—

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

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

"(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PARAGRAPH.—

*(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through other official 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.

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

*(A) identify the topic addressed by the correspondence, or include other summary information as the Secretary determines to be appropriate; and

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

"(g) EXPLANATION AND ASSURANCES.—Any written response by the Secretary under subsection (f)(1) shall be an explanation in the written response that the response—

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

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

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

"Part A of title 20, subtitle A, of the Act (20 U.S.C. 1404 et seq.) is amended by adding at the end the following:

"SEC. 608. STATE ADMINISTRATION.

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

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

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

"(b) SUPPORT AND FACILITATION.—All State rules, regulations, and policies relating to this Act shall support and facilitate local educational agency and school-level systemic reform efforts to employ and advance in employment qualified individuals with disabilities to meet the challenging State student academic achievement standards.

"SEC. 104. GAO REVIEW REPORT.

"(a) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable number of educational agencies or educational program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

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

"(d) POLICY LETTERS AND STATEMENTS.—The Secretary may issue policy letters or other statements (including on issues of national significance) that—

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

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

"(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PARAGRAPH.—

*(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through other official 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.

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

*(A) identify the topic addressed by the correspondence, or include other summary information as the Secretary determines to be appropriate; and

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

"(g) EXPLANATION AND ASSURANCES.—Any written response by the Secretary under subsection (f)(1) shall be an explanation in the written response that the response—

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

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

"SEC. 105. GAO REVIEW; REPORT.

"(a) REVIEW.—The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable number of educational agencies or educational program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

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

"(d) POLICY LETTERS AND STATEMENTS.—The Secretary may issue policy letters or other statements (including on issues of national significance) that—

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

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

"(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PARAGRAPH.—

*(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through other official 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.

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

*(A) identify the topic addressed by the correspondence, or include other summary information as the Secretary determines to be appropriate; and

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

"(g) EXPLANATION AND ASSURANCES.—Any written response by the Secretary under subsection (f)(1) shall be an explanation in the written response that the response—

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

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

"SEC. 106. ADDITIONAL GAO STUDY AND REPORT.

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

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

"SEC. 107. STUDY ON LIMITED ENGLISH PROFICIENCY ASSISTANCE TO ALL CHILDREN WITH DISABILITIES.

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

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

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

(2) SPECIFIC RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State does not make a free appropriate public education available to all children with disabilities aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

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

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

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

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

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

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

(e) STATE-LEVEL ACTIVITIES.—

(1) IN GENERAL.—

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

(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount appropriated from the preceding fiscal year to the State for the purposes described in paragraph (5)(A). The Secretary shall use the amount determined under subparagraph (A) without regard to

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

(ii) the prohibition on supplanting other funds in section 612(a)(18); and

(iii) the prohibition on supplanting other funds in subsection (d)(2).

(2) STATE ADMINISTRATION.—

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

(B) Funds described in subparagraph (A) may also be used by the lead agency for the State under this part, the lead agency for the State under section 612, each State shall annually report to the Secretary under section 612.

(3) HIGH COST SPECIAL EDUCATION AND RELATED SERVICES.—Each State shall use not more than 4 percent of the amount available for allocations under this paragraph to establish and implement cost or risk sharing funds, consortia, or cooperatives to assist local educational agencies in providing high cost special education and related services.

(4) OTHER ACTIVITIES.—Each State shall use any funds it retains under paragraph (1) to establish and implement the administration of part C of this Act, if the State educational agency is the lead agency for the State under part C

(5) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe—

(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;

(B) how those amounts will be allocated among the activities described in this subsection to meet State priorities based on input from local educational agencies; and

(C) the percentage of those amounts, if any, that will be distributed to local educational agencies by formula.
In the case of Indian students aged 3 to 5, inclusive, agreements for services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies will be entered into directly or through contracts or cooperative agreements with the BIA, other Federal agencies, and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall include an assurance that there are procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, other local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization shall keep accurate and complete records of all contracts and agreements entered into, the number of children served by various contracts, and the estimated number of children needing services during the year following the one in which the report is made. The report shall include a summary of this information on an annual basis in the report to the Secretary of Education required under this subsection. The Secretary shall 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.

(g) Plan for Coordination of Services.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based on the needs of the affected children and shall be suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall be submitted to the Secretary of the Interior in accordance with subsection (i).

(h) Provision of Amounts for Assistance.—

Section 616(a) shall apply to the information described in items (4) and (5) of this section. The plan shall also be distributed upon request to States, local and other educational agencies, and other entities providing services.
to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

"18" (5) Establishment of Advisory Board.—To meet the requirements of section 612(a)(22), the Secretary shall establish an advisory board composed of representatives of tribes or tribal organizations, representatives of State Interagency Coordinating Councils under section 641 in States having reservations, and other members that the Secretary designates.

(iv) (B) Construction.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability is such that education occurs only when the nature or severity of the child's disability is such that education in regular classes with the other children with whom the child is served is not feasible.

(iii) Authorization of appropriations.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated:

(1) $13,107,286,000 for fiscal year 2004;

(2) $13,374,398,000 for fiscal year 2005;

(3) $15,746,302,000 for fiscal year 2006;

(4) $15,746,302,000 for fiscal year 2007;

(5) $20,090,109,000 for fiscal year 2008;

(6) $22,262,307,000 for fiscal year 2009;

(7) $25,198,603,000 for fiscal year 2010; and

(8) such sums as may be necessary for fiscal year 2011 and each subsequent fiscal year.

SEC. 202. STATE ELIGIBILITY.

(a) in General.—(1) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)) is amended by striking "demonstrates the satisfaction of" and inserting "reasonably demonstrates to".

(2) Paragraphs (1) through (11) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)–(11)) are amended to read as follows:

(1) FEE 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, including children with disabilities who have been suspended or expelled from school.

(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

(ii) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

(iii) aged 18 through 21 to the extent that State law does not require that special education and related services for such children be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

(1) were not previously identified as being a child with a disability under section 602(3) of this Act; or

(2) have not had an individualized education program under this part.

(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity for Indian children with disabilities and a detailed timetable for accomplishing that goal.

(3) CHILD FIND.—

(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disabilities, and whether the children are enrolled in public or private schools, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are in need of special education and related services.

(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability is such that education occurs only when the nature or severity of the child's disability is such that education in regular classes with the other children with whom the child is served is not feasible.

(C) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan, that meets the requirements of section 614(d) of this Act is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

(D) LEAST RESTRICTIVE ENVIRONMENT.—

(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

(B) ADDITIONAL REQUIREMENT.—

(I) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

(ii) Exception.—In the case of a funding mechanism the funding mechanism shall be the sole criterion for determining an appropriate educational program for a child.

(2) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614 of the Act.

(3) CONFIDENTIALITY.—Agencies in the State comply with section 617(d) of the Act (relating to the confidentiality of records and information).

(4) TRANSITION FROM PRE-SCHOOL PROGRAMS.—Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 619(d) of the Act.

(5) PERSON WITH DISABILITIES.—An individualized education program or, if consistent with section 619(d), an individualized family service plan, has been developed and is in effect for such a child, the educational agency will participate in transition planning conferences arranged by the designated lead agency under section 631(a)(18).

(6) CHILDREN IN PRIVATE SCHOOLS.—

(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

(I) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private schools, the funds made available under this part shall be used to provide services to such children.

(II) State and local funds may supplement the funds made available under this part.

(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability is such that education occurs only when the nature or severity of the child's disability is such that education in regular classes with the other children with whom the child is served is not feasible.

"(a) in General.—(1) paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private schools.

"(II) Equitable Participation.—The child find process must be designed to ensure the equitable participation of all children, including children with disabilities.

(III) Activities.—In carrying out this clause, including individual evaluations, may not be considered in determining whether a local
education agency has met its obligations under clause (I).

IV. COMPLETION PERIOD.—Such child-find process shall be completed in a time period comparable to those students attending public schools in the local educational agency.

(III) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, when appropriate, a private educational agency, shall consult with representatives of children with disabilities parentally-placed in private schools during the design and development of special education and related services for these children including—

(I) the child-find process and how parentally-placed private school children of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

(ii) by determining the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;

(iii) the consultation process among the district, private school officials, and parents of parentally-placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services; and

(iv) how, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities identified through the child find process, including a discussion of alternate service delivery mechanisms, how such services will be appropriated if funds are insufficient to serve all children, and how and when these decisions will be made.

(V) COMPLIANCE.—

(I) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the child complaint documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may file a complaint to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

(VI) PROVISION OF SERVICES.—

(I) DIRECTLY OR THROUGH CONTRACTS.—An agency providing special education and related services directly or through contracts with public and private agencies, organizations, and institutions.

(ii) SEVERAL, NEUTRAL, NONIDEOLOGICAL.—Special education and related services, including materials and equipment, shall be secular, neutral, and nonideological.

(iii) CONTROL OF FUNDS.—

(I) IN GENERAL.—The control of funds used to provide special education and related services under this section, and title to materials and equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

(iii) PROVISION OF SERVICES.—The provision of services under this Act shall be provided—

(aa) by employees of a public agency; or

(bb) by the public agency, by an individual, association, agency, organization, or other entity.

(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

(I) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services in accordance with an individualized education program, at no cost to their parents, if such children are parentally-placed in private schools for facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to children with disabilities within such State.

(II) STANDARDS.—In all cases described in clause (i), such schools or facilities by the State or appropriate local educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so educated have served and had access to all the rights they would have served and had access to if served by such agencies.

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

(I) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school facility.

(II) REIMBURSEMENT FOR PRIVATE SCHOOL EXPENSES.—In all cases described in clause (i), the State educational agency shall reimburse the parents of a child with a disability, who previously received special education and related services, of a child with a disability at a private school facility or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

(III) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team of the replacement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(bb) 10 business days (including any holidays that occur) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa).

(B) STANDARDS DESCRIBED.—

(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, special education and related services in accordance with this part for any child with a disability in the State.

(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual prescribed by State law and consistent with State law), may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to any child who is convicted as adults under State law and incarcerated in adult prisons.

(iii) Paragraphs (13) through (22) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)-(22)) are amended to read as follows:

(3) Paragraphs (13) through (22) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)-(22)) are amended to read as follows:

(3) Paragraphs (13) through (22) of section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(13)-(22)) are amended to read as follows:

(III) INNOVATIVE STRATEGIES FOR PROFESSIONAL DEVELOPMENT.—The State educational agency shall improve educational results for students with disabilities and

(iii) improve educational results for students with disabilities; and
Meeting the goals established under subpart 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;

(iii) rates, as well as such other factors as the State may determine; and

(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State.

(B) has established performance indicators the State will use to assess progress toward achieving those goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965; and

(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 1111(h) of the Elementary and Secondary Education Act of 1965.

(16) PARTICIPATION IN ASSESSMENTS.—(i) In general.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise make available because of the excess costs of educating those children below the amount of that support for the preceding fiscal year.

(ii) The State—

(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities or parents of children with disabilities, or otherwise make available because of the excess costs of educating those children below the amount of that support for the preceding fiscal year.

(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds provided under section 611, for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State failed to meet the requirement.

(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for one school year at a time, if the Secretary determines that—

(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State;

(ii) the State meets the standard in paragraph (18)(C) of this section for a waiver of the requirement to supplement, and not to supplant, funds received under this part.

(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

(17) DISPUTE RESOLUTION.—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.

(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 maintained a State 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) MEMBERS.—The members of the State 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 geographic distribution and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

(i) parents of children with disabilities (ages birth through 26);

(ii) individuals with disabilities;

(iii) teachers;

(iv) representatives of institutions of higher education that prepare special education and related services personnel;

(v) State educational agency officials;

(vi) administrators of programs for children with disabilities;

(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

(viii) representatives of private schools and public charter schools;

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

(x) representatives from the State juvenile and adult corrections agencies.

(20) INSTRUCTIONAL MATERIALS.—(A) IN GENERAL.—The State adopts an instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.

(B) PURCHASE REQUIREMENT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children with Disabilities Act of 2003, the State educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the State, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard.

(21) PHYSICAL ACCESS.—In general.—The State ensures that all physical access, transportation, and related services for children with disabilities or parents of children with disabilities, or otherwise made available because of the excess costs of educating those children, are included in the amount of that support for the preceding fiscal year.

(22) INSTRUCTIONAL MATERIALS.—(A) IN GENERAL.—The State adopts instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.

(B) PURCHASE REQUIREMENT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the State, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard.

(23) DEFINITION.—For purposes of this paragraph, "high-quality instructional materials means printed textbooks and related core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by the State educational agency or local educational agency for use by pupils in the classroom.
that determination.

law or regulations, the Secretary may require a court or a State's highest court, or there is an
Disabilities Act of 2003, the provisions of this
1412(b)) is amended to read as follows:
VIDER OF FREE APPROPRIATE PUBLIC EDUCATION

DIRECT SERVICES.—Section 612(b) of the Individ-

with section 618, policies and procedures de-

section 202(c) of the Controlled Substances Act
obtain a prescription for substances covered by
iting school personnel from requiring a child to
and implements policies and procedures prohib-

Education Act (20 U.S.C. 1412(c)) is amended to

munity of children as children with disabilities,
with the requirements of section 612 of this Act

IMPROVING EDUCATION ACT.—To purchase appropriate technology for

schoolwide program under section 1114 of the

amental and Secondary Education Act of 1965, including, but not limited to, programs that ad-

that determination.

that determination.

and

SECTION 623. LOCAL EDUCATIONAL AGENCY ELIG-

"(a) IN GENERAL.—A local educational agency is

proportionate representation by race and eth-

of children as children with disabilities,

cluding the identification of children as chil-

with a particular impairment described in section 602(3).

PROHIBITION ON PSYCHOTROPIC MEDICA-

The State educational agency develops and

resulting in the overidentification of children with disabilities, or there is an overdispro-

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.

that determination.
"(5) Treatment of Charter Schools and Their Students.—In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency shall—

(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools, including providing instructional materials, accessibility standard, and other Federal funds to those schools, consistent with the State's charter law.

(B) provides funds under this part to those schools on the same basis as it provides those funds to its other schools (including, at the option of such agency, proportional distribution based on enrollment of children with disabilities at such charter schools), and at the same time such as such agency distributes other Federal funds to those schools, consistent with the State's charter law.

(6) Purchase of Instructional Materials.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the local educational agency, when purchasing instructional materials for its public elementary and secondary schools within the local educational agency, requires the publisher of the instructional materials, as a part of any purchase agreement with such publisher, to revise, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard described in section 612(a)(23).

(7) Information for State Educational Agency.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (12) and (14), information relating to the performance of children with disabilities participating in programs carried out under this part.

(8) Public Information.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

(9) Records Regarding Migratory Children With Disabilities.—The local educational agency, in the Secretary's Secretarial Order under section 130B of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 639B) to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

(10) Exception for Prior Local Plans.—

(A) 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 on the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the State educational agency shall consider such local educational agency as meeting any requirement of subsection (a), including any requirement of this part, as in effect before the effective date of the Improvement Act, in determining whether such agency is eligible under this section, or in determining whether such agency is complying with any requirement of this part.

(B) Exception for Prior Local Plans.—

(A) In General.—If a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency that has been found to be not eligible under this section, and shall cease providing any financial assistance or support services under this part.

(B) Exception for Prior Local Plans.—

(A) In General.—If an educational service agency is not eligible to receive funds under this part, the joint responsibilities under this part who subsequently receive special education services under this part shall be required to provide such services under this part.

(B) Exception for Prior Local Plans.—

(A) In General.—If an educational service agency is not eligible under this section, the joint responsibilities under this part shall be required to provide such services under this part.

(B) Exception for Prior Local Plans.—

(A) In General.—If an educational service agency is not eligible under this section, the joint responsibilities under this part shall be required to provide such services under this part.
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 educational agency or State agency is not meeting the needs of such children.

"(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 paragraphs (1) and (2) of subsection (a); or

"(C) is unable or unwilling to be coordinated with other educational agencies in order to establish and maintain such programs;

"(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.

"(A) provide the information needed to establish the eligibility of such agency under this section;

"(B) demonstrate to the satisfaction of the State educational agency that—

"(i) the agency meets such other conditions of paragraphs (1) and (2) of subsection (a) as the Secretary determines to be appropriate;

"(ii) the agency—

"(I) has not provided the information needed to establish the eligibility of such agency under this section;

"(II) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

"(III) to determine whether a child is a child with a disability or determining the educational needs of such child;

"(III) CONSENT FOR SERVICES.—An agency that is responsible for making a free appropriate public education available to a child with a disability under this part shall seek to obtain informed consent from the parent of such child before providing special education and related services.

"(I) CONSENT FOR INITIAL EVALUATION.—If the parent of such child does not provide consent for an initial evaluation under clause (I)(i) or (II)(i), the parent fails to respond to a request to provide the consent, the local educational agency may pursue an evaluation of the child through the procedures described in section 615, except to the extent inconsistent with State law relating to such parent consent.

"(II) DISCIPLINARY INFORMATION.—The State educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

"(bb) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child;

"(ii) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child;

"(aa) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and

"(bb) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child;

"(cc) if the local educational agency determines that the child's placement is appropriate.

"(D) RULE OF CONSTRUCTION.—The screening and a determination of eligibility of a child with a disability, in accordance with subsections (a) and (b), shall be provided.

"(E) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—

"(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

"(B) a copy of the evaluation report and the documentation of determination of eligibility will be provided to the parent.

"(F) SPECIFIC RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinative factor for such determination is—

"(A) lack of scientifically based instruction practices and programs that contain the essential components of reading instruction (as that term is defined in section 3006(3) of the Elementary and Secondary Education Act of 1965); and

"(B) lack of instruction in math; or

"(C) a lack of instruction in English proficiency.

"(G) SPECIFIC LEARNING DISABILITIES.—(A) IN GENERAL.—Notwithstanding section 602(3), for the purposes of this Act, when determining whether a child has a specific learning disability as defined under this Act, the local educational agency shall not be required to take into consideration whether the child is identified as having a specific learning disability as defined under this Act, the local educational agency shall not be required to take into consideration whether the child's learning impairments are significant enough to cause one of the following situations—

"(i) the child's learning impairments are significant enough to cause one of the following situations—

"(1) the child is identified as having a specific learning disability as defined under this Act.

"(2) the child is identified as having a specific learning disability as defined under this Act.

"(3) the child is identified as having a specific learning disability as defined under this Act.

"(4) the child is identified as having a specific learning disability as defined under this Act.

"(5) the child is identified as having a specific learning disability as defined under this Act.

"(ii) unless the child's learning impairments are significant enough to cause one of the following situations—

"(1) the child is identified as having a specific learning disability as defined under this Act.

"(2) the child is identified as having a specific learning disability as defined under this Act.

"(3) the child is identified as having a specific learning disability as defined under this Act.

"(4) the child is identified as having a specific learning disability as defined under this Act.

"(5) the child is identified as having a specific learning disability as defined under this Act.

"(iii) the child's learning impairments are significant enough to cause one of the following situations—

"(1) the child is identified as having a specific learning disability as defined under this Act.

"(2) the child is identified as having a specific learning disability as defined under this Act.

"(3) the child is identified as having a specific learning disability as defined under this Act.

"(4) the child is identified as having a specific learning disability as defined under this Act.

"(5) the child is identified as having a specific learning disability as defined under this Act.

"(iv) the child's learning impairments are significant enough to cause one of the following situations—

"(1) the child is identified as having a specific learning disability as defined under this Act.

"(2) the child is identified as having a specific learning disability as defined under this Act.

"(3) the child is identified as having a specific learning disability as defined under this Act.

"(4) the child is identified as having a specific learning disability as defined under this Act.

"(5) the child is identified as having a specific learning disability as defined under this Act.

"(b) EVALUATION PROCEDURES.—(1) NOTICE.—The local educational agency shall provide notice to the parent of a child with a disability, in accordance with subsections (a) and (b), that describes any evaluation procedures such agency proposes to conduct.

"(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

"(A) use multiple up-to-date measures and assessments to gather relevant functional, developmental, and academic information, including information provided by the parent, to assist in determining—

"(i) whether the child is a child with a disability; and

"(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum or, for preschool children, to participate in appropriate activities; and

"(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or to develop an appropriate educational program for the child; and

"(C) use technically sound instruments that measure the relative strengths and weaknesses in cognitive and behavioral factors, in addition to physical or developmental factors.

"(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

"(A) assessments and other evaluation measures used to assess a child under this section—

"(i) are appropriate for measuring the relative strengths and weaknesses in cognitive and behavioral factors, in addition to physical or developmental factors;

"(ii) are administered by trained and knowledgeable personnel; and

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

"(B) the child is assessed in all areas of suspected disability; and

"(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

"(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.—Upon completion of the administration of assessments and other evaluation measures—

"(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

"(B) a copy of the evaluation report and the documentation of determination of eligibility will be provided to the parent.

"(F) SPECIFIC RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinative factor for such determination is—

"(A) lack of scientifically based instruction practices and programs that contain the essential components of reading instruction (as that term is defined in section 3006(3) of the Elementary and Secondary Education Act of 1965); and

"(B) lack of instruction in math; or

"(C) a lack of instruction in English proficiency.

"(G) SPECIFIC LEARNING DISABILITIES.—(A) IN GENERAL.—Notwithstanding section 602(3), for the purposes of this Act, when determining whether a child has a specific learning disability as defined under this Act, the local educational agency shall not be required to take into consideration whether the child is identified as having a specific learning disability as defined under this Act.
written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

"B" ADDITIONAL AUTHORITY.—In determining whether the child has a specific educational dis-
ability, a local educational agency may use a process which determines if a child responds to scientific, research-based interventions.

"C" RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to require—

"(a) that additional information be included in a child's IEP beyond what is required in this subsection; and

"(b) the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

"B" INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education pro-
gram' or 'IEP' means a written statement for each child with a disability that is developed, in accordance with this section and that includes—

"(1) a statement of the child's present levels of academic achievement, including—

"(a) academic achievement, including—

"(i) the child's academic achievement, including—

"(II) a statement of the special education and related services and supplementary aids and services that are necessary to measure the academic achievement of the child consistent with this section and that includes—

"(i) the child's academic achievement, including—

"(II) a statement of the child's current levels of academic achievement, including—

"(VI) a statement of the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

"(a) to advance appropriately toward attaining the annual goals;

"(b) to make progress in the general education curriculum and;

"(c) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

"(IV) an explanation of the extent, if any, to which the child will not participate with non-

"(V) a statement of any individual appropriate accommodations in the administration of State, State-wide, or local assessments of student achievement that are necessary to measure the academic achievement of the child consistent with section 612(a)(10)(A)(); and

"(VI) if the IEP Team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of such an assessment), a statement of—

"(A) whether that assessment is appropriate for the child; and

"(B) how the child will be assessed consistent with 612(a)(10)(A)();

"(VII) (aa) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable compo-

"(B) that additional information be included in a child's IEP beyond what is required in this subsection and that includes—

"(VIII) (aa) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable compo-

"(B) I INDIVIDUALIZED EDUCATION PROGRAM

"(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A)();

"(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 3-year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

"(I) developed in accordance with this section and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

"(II) a statement of the child's present levels of academic achievement, including—

"(I) a statement of the child's present levels of academic achievement, including—

"(IV) an explanation of the extent, if any, to which the child will not participate with non-

"(III) is knowledgeable about the availability of resources of the local educational agency;
The IEP Team shall—

(i) in the case of a child whose behavior impedes his or her learning or that of others, consider the implications of removal of the child from the classroom, or from the regular educational environment, in light of available non-technical alternatives; and

(ii) in the case of a child who is blind or visually impaired, arrange for appropriate instruction and educational personnel consistent with the child's needs.

(b) The IEP Team shall, consistent with this section, participate in the review and revision of the IEP of the child.

(c) The IEP Team shall—

(i) be a team of not fewer than three people, including a qualified individual with training and experience in working with children with disabilities, a qualified representative of the regular education program, and a qualified representative of the special education program;

(ii) be responsible for reviewing annual goals for the child, determining whether the annual goals are consistent with the needs of the child, determining if the child is making progress toward the annual goals, and determining what modifications to the IEP are appropriate; and

(iii) ensure that the IEP reflects the child's unique needs and the child's strengths, needs, and potentialities in the areas of educational, physical, and social-emotional development.

(d) The IEP Team shall—

(i) ensure that the IEP is developed for the purpose of the child;

(ii) ensure that the IEP is developed by the IEP Team, with the participation of the parents of the child, except in the case of a child whose public education to the child; and

(iii) ensure that the IEP is developed in accordance with the requirements of section 611(a)(16) and section 615, the parent of a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, or is likely to be convicted as an adult under State law and incarcerated in an adult prison,

(2) streamlining annual review process.—In years other than a child's natural transition points, the local educational agency shall ensure that the IEP team—

(i) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child have been met or exceeded;

(ii) amends the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP;

(iii) provides an annual review process.—If the IEP team determines, on the basis of the review outlined in clause (i), that the child is not making sufficient progress toward the goals described in subparagraph (C), the local educational agency shall ensure that the IEP team reviews the IEP under paragraph (4), within 30 calendar days of the determination.

(iv) parental preference.—At the request of the parent, the IEP team shall conduct a review under paragraph (4) of the child's multi-year IEP rather than a streamlined annual review under clause (ii).

(c) DEFINITION.—As used in this paragraph, the term 'natural transition points' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, from high school grades to post-secondary activities, but in no case longer than 3 years.

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 paragraph (3)(A)(IV), the local educational agency must take appropriate steps to ensure that the IEP transitions described in the IEP are provided to the child in accordance with this section and section 615, the parent of a child with a disability is convicted as an adult under State law and incarcerated in an adult prison,

5. CHILDREN WITH DISABILITIES IN ADULT PRISONS.—(a) The IEP shall be developed in accordance with this section and section 615, the parent of a child with a disability is convicted as an adult under State law and incarcerated in an adult prison,

(b) STREAMLINING.—When conducting IEP team meetings and placement meetings pursuant to this section and section 615, the parent of a child with a disability and a local educational agency may agree not to convene an IEP team meeting for school personnel consistent with the child's needs, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with the child's needs.

(c) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall—

(i) ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education to such children, and to obtain as appropriate an independent educational evaluation of the child;

(ii) procedures to protect the rights of the child when 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 is not 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;

(i) procedures to provide the child with a disability with an educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to such child;

(j) Additional requirement.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP team may modify the child's IEP to meet the educational needs, opportunities for direct instruction with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, and the determination of appropriate positive behavioral interventions and supports, and other strategies to address that behavior;

(k) SEC. 205, PROCEDURAL SAFEGUARDS, ESTABLISHMENT OF PROCEDURES.—Section 615(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(a)) is amended to read as follows:

(l) SEC. 257, ADDITIONAL REQUIREMENTS.—When conducting IEP team meetings and placement meetings pursuant to this section and section 615, the parent of a child with a disability and a local educational agency may agree not to convene an IEP team meeting for school personnel consistent with the child's needs, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with the child's needs, and participate in the review and revision of the recommendations of the IEP team pursuant to paragraph (2)(B)(ii), shall, consistent with this section, participate in the review and revision of the IEP of the child.

(m) SEC. 262, ADDITIONAL REQUIREMENTS.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (3)(A)(IV), the local educational agency must take appropriate steps to ensure that the IEP transitions described in the IEP are provided to the child in accordance with this section and section 615, the parent of a child with a disability is convicted as an adult under State law and incarcerated in an adult prison,

(n) SEC. 263, ADDITIONAL REQUIREMENTS.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (3)(A)(IV), the local educational agency must take appropriate steps to ensure that the IEP transitions described in the IEP are provided to the child in accordance with this section and section 615, the parent of a child with a disability is convicted as an adult under State law and incarcerated in an adult prison,
(f) an opportunity to present complaints—
(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and
(B) which set forth a violation that occurred not more than one year before the complaint is filed;
(7) (A) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice (which shall not be in the form of a referral) to—
(i) the local educational agency or State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)), in the complaint filed under paragraph (6); and
(ii) that shall include—
(I) the name of the child, the address of the residence of the child (or, in the case of a home- less child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child), and the name of the school the child is attending;
(II) a description of the specific issues regarding the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and
(III) a proposed resolution of the problem to the extent known and available to the parents at the time;
(B) a requirement that a parent of a child with a disability may not have a due process hearing until the parent, or the attorney representing the child, files a notice that meets the requirements of this paragraph; and
(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).''
(c) CONTENT OF PRIOR WRITTEN NOTICE.—Section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)) is amended to read as follows:
(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 any matter, including matters relating to the failure of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.
(2) REQUIREMENTS.—Such procedures shall meet the following requirements:
(I) The procedures shall ensure that the mediation process—
(aa) is voluntary on the part of the parties;
(bb) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and
(cc) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
(ii) A local educational agency or a State agency may establish procedures to offer to parents who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—
(aa) a parent training and information center in the State established under section 672; or
(bb) an appropriate alternative dispute resolution entity;
(iii) to encourage the use, and explain the benefits, of the mediation process to the parents.
(iii) The State shall maintain a list of individuals who are qualified arbitrators and knowledgeable in laws and regulations relating to the provision of special education and related services.
(iv) The State shall bear the cost of the mediation process, including the costs of meetings described in clause (ii).
(v) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.
(vi) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.
(vii) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.
(viii) Voluntary binding arbitration.—
(A) IN GENERAL.—A State educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through voluntary binding arbitration, which shall be available when a hearing is requested under subsection (f) or (j).
(B) REQUIREMENTS.—Such procedures shall meet the following requirements:
(aa) The procedures shall ensure that the voluntary binding arbitration process—
(1) is voluntary and knowingly agreed to in writing by the parties; and
(2) is conducted by a qualified and impartial arbitrator.
(bb) A local educational agency or a State agency shall ensure that parents who choose to use voluntary binding arbitration understand that the process is in lieu of a due process hearing under subsection (f) or (j) and that the decision made by the arbitrator is final, unless there is fraud by a party or the arbitrator or misconduct on the part of the arbitrator.
(cc) The parties shall jointly agree to use an arbitrator from a list that the State shall maintain of individuals who are qualified arbitrators and knowledgeable in laws and regulations relating to the provision of special education and related services.
(d) MEDIATION AND VOLUNTARY BINDING ARBITRATION.—Section 615(g) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(g)) is amended to read as follows:
(1) MEDIATION.—
(A) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters relating to the failure of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.
(B) REQUIREMENTS.—Such procedures shall meet the following requirements:
(I) The procedures shall ensure that the mediation process—
(aa) is voluntary on the part of the parties;
(bb) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and
(cc) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
(ii) A local educational agency or a State agency may establish procedures to offer to parents who choose not to use the mediation process, an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency.
(2) RESOLUTION SEEN D BY A DISABILITY.—
(A) ACCESS TO HEARING.—Whenever a complaint has been received under subsection (b)(6) or (j) of this section, the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency.
(B) VOLUNTARY BINDING ARBITRATION.—
(1) IN GENERAL.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents—
(aa) within 15 days of receiving notice of the parents' complaint; and
(bb) where the parents of the child discuss the complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint.
The State shall convene a meeting with the local educational agency in writing to resolve the complaint.
(ii) DUE PROCESS HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing shall occur in accordance with subparagraph (A).
(3) DEFINITION OF MEETING.—A meeting conducted pursuant to clause (i) shall not be considered—
(A) a meeting convened as a result of an administrative hearing or judicial action; or
(B) an administrative hearing or judicial action for purposes of subsection (h)(3).
(4) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—
(A) IN GENERAL.—At least 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.
(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from referencing the relevant evaluation or recommendation at the hearing without the consent of the other party.
(C) LIMITATION ON HEARING.—
(A) HEARING OFFICER.—A hearing conducted pursuant to paragraph (1)(A) may not be conducted by—
...
"(i) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

(ii) any person having a personal or professional relationship or financial interest that would conflict with his or her objectivity in the hearing.

(B) SUBJECT MATTER OF HEARING.—The parents of the child shall not be allowed to raise issues of fact or law that were not raised in the complaint or discussed during the meeting conducted pursuant to subparagraph (1)(B), unless the local educational agency agrees to present evidence that were not raised in the complaint.

(C) DECISION OF HEARING OFFICER.—A decision made by a hearing officer must be based on a determination that the witnesses were not accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities.

(d)電子 verbatim record of such meeting conducted pursuant to subparagraph (C) to read as follows:

(1) the right to be represented by counsel and by notaries or witnesses, or the child receiving a free appropriate public education.

(e) APPEAL.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (k) as subsection (i); and

(2) by amending subsection (j) as redesignated to read as follows:

(i) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (h) as subsection (g); and

(2) by amending subsection (g) as redesignated to read as follows:

(1) the right to be represented by counsel and by notaries or witnesses, or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities.

(2) the right to present evidence and cross-examine, and compel the attendance of witnesses;

(3) the right to a written, or, at the option of the hearing officer, electronic verbatim record of such hearing;

(4) the right to be heard.

(f) SAFE GUARDS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (i) as subsection (g); and

(2) in subsection (g), by redesignating (as redesignated) to read as follows:

(1) the right to be represented by counsel and by notaries or witnesses, or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities.

(g) INTERIM ALTERNATIVE EDUCATIONAL SETTING.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) by redesignating subsection (k) as subsection (i); and

(2) by amending subsection (j) as redesignated to read as follows:

(i) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

(A) AUTHORITY OF SCHOOL PERSONNEL.—

(A) IN GENERAL.—School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days if required by State law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the school or in the jurisdiction of the local educational agency.

(B) ADDITIONAL AUTHORITY.—Subject to subparagraph (C), and notwithstanding any other provision of this Act, school personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP, for not more than 45 school days (to the extent such alternative and such duration would be applied to children without disabilities, and which may include consideration of unique circumstances on a case-by-case basis), except that the change in placement may last beyond 45 school days if required by State law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the school or in the jurisdiction of the local educational agency.

(C) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (B) shall—

(i) continue to receive educational services selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) continue to receive behavioral intervention services designed to address the behavior violation so that it does not recur.

(2) DETERMINATION OF SETTING.—The alternative educational setting described in paragraph (1)(B) shall be determined by the IEP Team.

(3) PARENT APPEAL.—If the parent of a child with a disability disagrees with any decision regarding placement or punishment under this section, the parent may request a hearing.

(A) AUTHORITY OF HEARING OFFICER.—If a parent of a child with a disability disagrees with a decision regarding placement of the child or punishment of the child under this section, including a decision by the hearing officer, the hearing officer may determine whether the decision regarding such action was appropriate.

(B) PLACEMENT DURING APPEALS.—When a parent has requested a hearing regarding a disciplinary action described in paragraph (1)(B) to challenge the interim alternative educational setting or the violation of the code of student conduct policy, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period permitted for in paragraph (1)(B), whichever occurs first, unless the parent and the State local educational agency agree otherwise.

(4) EXCEPTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.

(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct policy may be provided—

(i) the right to appropriate assistance to prevent a crime committed by a child with a disability; or

(ii) the right to appropriate assistance to prevent an agency from reporting a crime committed by a child with a disability.

(5) I RUL E OF CONSTRUCTION.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by redesigning subsection (l) as subsection (k).
Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1416) is amended—

(b) IN GENERAL.—A State that receives assistance 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 not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.

(c) the agency shall notify the individual and the parents; and

(d) all other rights accorded to parents under this part transfer to the child.

SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.

Section 616 of the Individuals with Disabilities Education Act (20 U.S.C. 1416) is amended—

(2) by amending subsection (l) (as redesignated) to read as follows:

(1) REQUIRED INDICATORS.—The Secretary may give priority to monitoring on the following areas under part C:

(i) Child find and public awareness to support the identification, evaluation, and assessment of all eligible infants and toddlers, including the provision of culturally relevant materials to inform and promote referral;

(ii) Provision of early intervention services in natural environments, evaluation and assessment to identify child needs and family needs related to enhancing the development of the child, and provision of appropriate early intervention services to natural environments to meet the needs of individual children;

(iii) Effective early childhood transition to services under this part.


(iii) Withholding of payments under subsection (e).


(v) Withholding of payments under subsection (e).

(vi) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(b) CONTINUED NON-COMPLIANCE.—

(i) SEC. 611 of the Individuals with Disabilities Education Act.

(ii) SEC. 611(e).

(iii) SEC. 611(e), after providing the State the opportunity to show cause why the withholding of funds or other sanctions should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.


SEC. 616 of the Individuals with Disabilities Education Act (20 U.S.C. 1416) is amended—

(2) by redesignating subsections (a) through (c) as subsections (a) through (g), respectively; and

(3) by inserting before subsection (e) (as redesignated) the following:

(a) FEDERAL MONITORING.—

(i) SEC. 611(b).

(ii) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(b) INDICATORS.—

(i) REQUIRED INDICATORS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph.

(ii) REPORT TO CONGRESS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph on the specific action taken and the reasons why enforcement action was taken.

SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.

Section 616 of the Individuals with Disabilities Education Act (20 U.S.C. 1416) is amended—

(1) REQUIRED INDICATORS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph on the specific action taken and the reasons why enforcement action was taken.

(b) CONTINUED NON-COMPLIANCE.—

(i) SEC. 611 of the Individuals with Disabilities Education Act.

(ii) SEC. 611(e).

(iii) SEC. 611(e), after providing the State the opportunity to show cause why the withholding of funds or other sanctions should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

(iii) SEC. 611 of the Individuals with Disabilities Education Act.

(iv) SEC. 611(e).

(v) Withholding of payments under subsection (e).

(vi) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(b) CONTINUED NON-COMPLIANCE.—

(i) SEC. 611 of the Individuals with Disabilities Education Act.

(ii) SEC. 611(e).

(iii) SEC. 611(e), after providing the State the opportunity to show cause why the withholding of funds or other sanctions should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

(iii) SEC. 611 of the Individuals with Disabilities Education Act.

(iv) SEC. 611(e).

(v) Withholding of payments under subsection (e).

(vi) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(b) CONTINUED NON-COMPLIANCE.—

(i) SEC. 611 of the Individuals with Disabilities Education Act.

(ii) SEC. 611(e).

(iii) SEC. 611(e), after providing the State the opportunity to show cause why the withholding of funds or other sanctions should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

(iii) SEC. 611 of the Individuals with Disabilities Education Act.
SEC. 207. ADMINISTRATION.

Section 617 of the Individuals with Disabilities Education Act (20 U.S.C. 1417) is amended to read as follows:

SEC. 207. ADMINISTRATION. (a) Responsibilities of Secretary. In carrying out this part, the Secretary shall—

(1) in general—

(ii) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;

(iii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;

(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;

(v) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who begin secondary school and graduate with a regular high school diploma, through the age of 21;

(vi) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

(viii)(I) the number and percentage of children with disabilities, by race, ethnicity, and disability category, under paragraph (A) or (B) of section 615(j)(1), are removed to an interim alternative educational setting;

(II) the acts or items precipitating those removals;

(III) the number of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and

(IV) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;

(I) the number and percentage of complaints resolved through voluntary binding arbitration; and

(V) the number of mediations held and the number of settlement agreements reached through mediation.

(B) on the number and percentage of infants, toddlers, and preschoolers, by race and ethnicity, who are at risk of having substantial developmental delays or related services because of program completion or for other reasons;

(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions;

(ii) the number and percentage of complaints resolved through voluntary binding arbitration; and

(iii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services; and

(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education.

(C) the number, percentage, and characteristics of children with disabilities, by race, ethnicity, and disability category, who are receiving special education and related services, by fiscal year ending in the school year.

(2) for each fiscal year, shall report to the congressional committees with jurisdiction over appropriations for the Department of Education the number of settlement agreements reached through mediation, and the number of settlement agreements reached through voluntary binding arbitration, and the number of settlement agreements reached through voluntary mediation.

SEC. 208. PROGRAM INFORMATION.

Section 618 of the Individuals with Disabilities Education Act (20 U.S.C. 1418) is amended to read as follows:

SEC. 618. PROGRAM INFORMATION.

(a) IN GENERAL. Each State and local educational agency that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 603(d); and

(B) the placement in particular educational settings of such children; and

(2) on any other information that may be required by the Secretary.

(b) SAMPLING. The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

(c) DISPROPORTIONALITY.—

(1) IN GENERAL. Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 603(d); and

(B) the placement in particular educational settings of such children; and

(2) to ensure the protection of the confidentiality of any personally identifiable information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.

(2) on any other information that may be required by the Secretary.

(b) PILOT PROGRAM. The Secretary is authorized to grant waivers under section 615(j)(1) to provide short-term training programs and institutes in order to reduce the paperwork burden on teachers in complying with this part, including—

(A) in general—

(B) as determined by the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 603(d); and

(B) the placement in particular educational settings of such children; and

(2) to ensure the protection of the confidentiality of any personally identifiable information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.

(3) on any other information that may be required by the Secretary.

(2) in enhancing longer-term educational planning, improving positive outcomes for chil-
(ii) the sum of—

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

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

(iii) the sum of—

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

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

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

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

(ii) that amount multiplied by 1.5 percent and the percentage increase in the amount appropriated.

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

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

(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

(i) the amount it received for fiscal year 1997; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.

(d) RESERVATION FOR STATE ACTIVITIES.—

(1) IN GENERAL.—Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the States for fiscal year 1997, each State shall be allocated that amount it received under that section for the preceding year under section 613(c), as then in effect.

(3) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency’s jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(4) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities and their families, the Secretary shall reallocate funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency’s jurisdiction; and

(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) GRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

(A) BASE PAYMENTS.—The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had allocated to that agency the entire of its grant for that year under section 613(c)(3), as then in effect.

(B) ALLOCATION OF REMAINING FUNDS.—For each fiscal year, the Secretary shall determine and report to the States for fiscal year 1997, each State shall be allocated that amount it received under that section for the preceding fiscal year under section 613(c), as then in effect.

(C) Tv-minority, low-income, inner-city, and rural populations.

(D) POLICY.—It is the policy of the United States to provide financial assistance to States—

(i) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(ii) to evaluate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage); and

(iii) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delays if they did not receive early intervention services.

*SEC. 632. DEFINITIONS.*

As used in this part:

(A) 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.

(B) COUNCIL.—The term ‘council’ means a State interagency coordinating council established under section 641.

(C) DEVELOPMENTAL DELAY.—The term ‘developmental delay’, when used with respect to an individual residing in a State, has the meaning given to such term by the State under section 633(a)(1).

(D) EARLY INTERVENTION SERVICES.—The term ‘early intervention services’ means developmental services that—

(i) are provided under public supervision;

(ii) 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;

(iii) are designed to address family-identified priorities and concerns that are determined by and are accepted by the family service plan team to relate to enhancing the child’s development in any one or more of the following areas—

(A) physical development;

(B) cognitive development;

(C) communication development;

(D) social or emotional development; or

(E) adaptive development;

(iv) are not provided under part C of this Act

(F) TITLE III—INFANTS AND TODDLERS WITH DISABILITIES

SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 631 through 638 of the Individuals with Disabilities Education Act (20 U.S.C. 1411–1483) are amended to read as follows:

SEC. 302. 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 by ensuring that 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 educational agencies and service providers of identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(b) POLICY.—It is the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(3) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delays if they did not receive early intervention services;
State and their families, including Indian infants and toddlers with disabilities in the early intervention services are available to all Secretary that the State—

**SEC. 633. REQUIREMENTS FOR STATEWIDE SYSTEM.**

(a) In General.—A statewide system described in this part 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 its program under this part and of services under section 633, to ensure that the State complies with this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

(F) the entry into formal interagency agreements that define the financial responsibility for providing early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

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

(a) IN GENERAL.—A statewide system 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 and activities are made available under section 633, to ensure that the State complies with this part;

(1) The identification and coordination of all available resources within the State from Federal, State, local, and private sources;

(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing in a reservation geographically located in the State;

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler;

(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

(5) A comprehensive child find system, consistent with part B, including a system for maximizing the availability of appropriate services described in section 632(5)(C) in the system described in section 639.

(6) A public awareness program focusing on early intervention for all infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established by the Governor for carrying out this part of community awareness activities for the recruitment and retention of personnel necessary to carry out this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State;

(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State that—

(a) shall include—

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

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

(iii) training personnel to coordinate transition services provided under this part from a program providing early intervention services under this part and under part B (other than section 639), to a preschool program receiving funds under section 639, or another appropriate State program;

(b) may include—

(i) training personnel to work in rural and inner-city settings;

(ii) training personnel in the emotional and social development of young children.

(b) Training and Demonstration Projects.—(1) In General.—If a State includes children described in section 632(5)(C), the Secretary shall—

(a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State, and hiring personnel to make satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law within 3 years.

(c) TREATMENT OF CHILDREN AGED 3 THROUGH 5.—

(1) In General.—If a State includes children described in section 632(5)(C), the Secretary shall—

(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 and activities are made available under section 633, to ensure that the State complies with this part;
B with respect to the provision of a free appropriate public education to those children during the period in which they are receiving services under this part.

(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to alter or diminish the rights and protections afforded under this part to children described in such paragraph.

"SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall be required, 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 statement of the family’s 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 representatives required by subsection (e), including a description of the appropriate transition services for the child’s entrance in school.

(4) 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 those services are 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 that assessment.

(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

(1) a statement of the infant’s or toddler’s present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

(2) a statement of the family’s resources, priorities, and concerns relating to enhancing the development of the family’s infant or toddler with a disability;

(3) a statement of the major goals expected to be achieved for the infant or toddler and the family, including preliteracy and language skills, as developmentally appropriate for the infant or toddler and the identification of services appropriate to be provided to enhance such development, based on objective criteria;

(4) a statement of the family’s, or the child’s, unique strengths and needs of the infant or toddler with a disability, including any policy or procedure filed under this part and that a public hearing is necessary to ensure the correctness and verification of such plans and procedures.

"SEC. 637. STATE APPLICATION AND ASSURANCES.

(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

(1) a description of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

(3) information demonstrating eligibility of the State under section 634, including a description of services to be provided to infants and toddlers with disabilities and their families through the system;

(4) a description of services to be provided to at-risk infants and toddlers through the statewide system, a description of such services;

(5) a description of the State policies and procedures for identifying a child under the age 3 who is involved in a substantiated case of child abuse or neglect consistent with section 633(a)(5) or who is born with a birth defect, a disability, a chromosomal abnormality, a syndrome, maternal drug exposure, or a description of such services;

(6) a description of the purposes for which Federal funds will be expended in accordance with this part;

(7) a description of the procedures used to ensure that State funds made available under this part for all geographic areas within the State;

(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearing, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

(9) a description of the policies and procedures to be used—

(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

(i) the families of such toddlers will be included in the transition plans required by subparagraph (C), and

(ii) the lead agency designated or established under section 635(a)(10) will—

(I) make such reports in such form and manner as the Secretary shall require to carry out the Secretary’s functions under this part; and

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool special services for any such services that the child may receive; and

(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family of the child, 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;

(9) to review the child’s program options for the period from the child’s third birthday through the remainder of the school year; and

(c) to establish a transition plan;

(10) a description of State efforts to promote coordination between State early intervention programs, child care, and services under part C of this Act; and

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

(9) ASSURANCES.—The application described in subsection (a) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

(10) shall contain an assurance that the State will comply with the requirements of section 640;

(11) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

(12) shall provide for adequate notice of the steps to be taken to support the transition of all the requirements of this part; and

(13) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

(14) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of the requirements under this part;

(15) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

(c) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section or any modification thereof shall be treated as an initial application until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application submitted under the same extent and in the same manner as this section applies to the original application.
SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sections 641 through 645 of the Individuals with Disabilities Education Act (20 U.S.C. 1441–1445) are amended to read as follows:

"(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 Indian tribes or is designated or established under section 635(a)(10) may not serve as the chairperson of the council.

"(b) COMPOSITION.—The council shall be composed of:

(A) PARENTS.—At least 20 percent of the members shall be parents of infants and 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 the State educational agency or head of the early intervention services; and

(F) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for health insurance.

(G) AGENCY FOR PRE-SCHOOL SERVICES.—At least one member shall be from the State educational agency responsible for pre-school services; and

(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care services.

(J) MENTAL HEALTH AGENCY.—At least one representative from the State agency responsible for mental health services.

(K) OMBUDSPERSON.—At least one representative from the State agency responsible for child protective services.

(L) OFFICE OF THE COORDINATOR FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—At least one representative designated by the Office of the Coordinator.

(2) OTHER MEMBERS.—The council may include other members designated by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service, or the tribe or tribal council.

(3) 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.

(4) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds directed to the council in the State under this part; and

(5) ALLOCATION.—For each fiscal year, the council may allocate the funds received by the council using funds directed to the council in the State under this part; and

(6) DUTIES.—The council shall—

(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section and the identification and disbursement of the funds from the 814(b) trust fund for early intervention services in the State.

(B) advise and assist the State educational agency regarding the provisions of this part and the identification of sources of funds and other support for services for early intervention programs.

(c) FUNDING.—The State agency responsible for early intervention services in the State, in accordance with part B, to children with disabilities or the education of all children with disabilities with the exception of pre-school programs in the State.

SEC. 303. ALLOCATION OF FUNDS.

Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this Act.

(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10); and

(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 early intervention services in the State.

SEC. 304. ALLOCATION OF FUNDS.

(1) IN GENERAL.—From the sums appropriated to carry out this Act, there shall be paid to each State for any fiscal year, an amount based on the number of children served by all tribes, including BIA-funded or non-BIA-funded schools under section 616, and the number of such children served by all tribes, including BIA-funded or non-BIA-funded schools under section 616.

(2) CONSOLIDATION OF FUNDS.—The provisions of section 616 and 617, and the consolidated grants to States and tribes in fiscal years 1980 and 1981, are hereby repealed.

SEC. 306. ALLOCATION OF FUNDS.

(1) IN GENERAL.—From the sums appropriated to carry out this Act, there shall be paid to each State for any fiscal year, an amount based on the number of children under 3 years served by all tribes, including BIA-funded or non-BIA-funded schools under section 616, and the number of such children served by all tribes, including BIA-funded or non-BIA-funded schools under section 616.

(2) CONSOLIDATION OF FUNDS.—The provisions of section 616 and 617, and the consolidated grants to States and tribes in fiscal years 1980 and 1981, are hereby repealed.

SEC. 307. ALLOCATION OF FUNDS.

(1) IN GENERAL.—From the sums appropriated to carry out this Act, there shall be paid to each State for any fiscal year, an amount based on the number of children under 3 years served by all tribes, including BIA-funded or non-BIA-funded schools under section 616, and the number of such children served by all tribes, including BIA-funded or non-BIA-funded schools under section 616.

(2) CONSOLIDATION OF FUNDS.—The provisions of section 616 and 617, and the consolidated grants to States and tribes in fiscal years 1980 and 1981, are hereby repealed.

SEC. 308. ALLOCATION OF FUNDS.

(1) IN GENERAL.—From the sums appropriated to carry out this Act, there shall be paid to each State for any fiscal year, an amount based on the number of children under 3 years served by all tribes, including BIA-funded or non-BIA-funded schools under section 616, and the number of such children served by all tribes, including BIA-funded or non-BIA-funded schools under section 616.

(2) CONSOLIDATION OF FUNDS.—The provisions of section 616 and 617, and the consolidated grants to States and tribes in fiscal years 1980 and 1981, are hereby repealed.
TITLE IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES.

Part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) is amended to read as follows:

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

SEC. 652. FINDINGS.

The Congress finds the following:

"(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling them to lead productive and independent adult lives.

"(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations, to develop and implement comprehensive strategies that improve educational results for children with disabilities.

"(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve educational results for children with disabilities.

"(4) An effective educational system serving students with disabilities:

"(A) maintain high academic standards and clear achievement goals for children, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

"(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

"(C) promote transition services, as described in section 620(31), and coordinate State and local education, social, health, mental health, and other services, to address the range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

"(5) The availability of an adequate number of qualified personnel is critical in order to serve effectively children with disabilities, fill leadership positions in administrative and direct-service capacities, provide teacher training, and conduct high-quality research to improve special education.

"(6) High-quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.

"(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

"(8) Continued support is essential for the development and maintenance of a coordinated and high-quality program of research to inform successful teaching practices, including research on results-based instruction, teacher proficiency, and curricula for educating children with disabilities.

"(9) A comprehensive research agenda should be established and pursued to promote the high-quality and rigor in research on special education and related services, and to address the full range of issues facing children with disabilities, parents of children with disabilities, school personnel, and others.

"(10) Technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve quality early intervention, educational, and transitional results for children with disabilities and their families.

"(11) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

"(12) Parent training and information activities assist parents of children with disabilities in dealing with the multiple pressures of parenting such a child and are of particular importance.

"(A) creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between such parents and schools,

"(B) ensuring the involvement of such parents in planning and decision-making with respect to early intervention, educational, and transitional services;

"(C) achieving high-quality early intervention, educational, and transitional results for children with disabilities;

"(D) providing such parents information on their rights, protections, and responsibilities under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

"(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 602(31);

"(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

"(G) supporting those parents who may have limited access to services and supports due to economic, cultural, or linguistic barriers.

"(13) Support is needed to improve technological resources and integrate technology into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

Subpart 1—State Professional Development Grants

SEC. 652A. PURPOSE.

The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for professional development in early intervention, educational, and related and transition services in order to improve results for children with disabilities.

SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.

"(a) Eligible Applicants.—A State educational agency may apply for a grant under this subpart for a period of not less than 1 year and not more than 3 years.

"(b) Partners.—

"(1) Required Partners.—In order to be considered for a grant under this subpart, a State educational agency shall enter into a partnership agreement with any of the following:

"(A) The Governor.

"(B) Parents of children with disabilities ages birth through 6.

"(C) Parents of nondisabled children ages birth through 6.

\[ April 30, 2003 \]
‘‘(D) individuals with disabilities.

‘‘(E) Organizations representing individuals with disabilities and their parents, such as parent training and information centers.

‘‘(F) Schools and other nonprofit organizations involved in the education and employment of individuals with disabilities.

‘‘(G) the lead State agency for part C.

‘‘(H) General and special education teachers, related services personnel, and early intervention personnel.

‘‘(I) the State advisory panel established under this part.

‘‘(J) the State interagency coordinating council established under part C.

‘‘(K) Institutions of higher education within the State.

‘‘(L) Individuals knowledgeable about vocational education.

‘‘(M) the State agency for higher education.

‘‘(N) the State vocational rehabilitation agency.

‘‘(O) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice.

‘‘(P) other providers of professional development that work with students with disabilities.

‘‘(Q) other individuals.

‘‘SEC. 654. PROFESSIONAL DEVELOPMENT.

‘‘(a) IN GENERAL.—

‘‘(1) submission. A State educational agency that desires to receive a grant under this subpart shall prepare an application for participation in such activity at such time, in such manner, and including such information as the Secretary may require.

‘‘(2) STATE PLAN. The application shall include a plan that addresses the State and local needs for the professional development of administrators, principals, teachers, related services personnel, and individuals who provide direct supplementary aids and services to children with disabilities, and that—

‘‘(A) is integrated, to the maximum extent possible, with State plans under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965, as appropriate; and

‘‘(B) is designed to enable the State to meet the requirements of section 612(a)(15) of this Act.

‘‘(b) ELEMENTS OF STATE PLAN. Each State plan shall—

‘‘(1) describe a partnership agreement that—

‘‘(A) specifies—

‘‘(i) the nature and extent of the partnership among the State agency, local educational agencies, and other State agencies involved in, or concerned with, the education of children with disabilities, and the respective roles of each member of the partnership; and

‘‘(ii) how such agencies will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of these persons and organizations; and

‘‘(B) is in effect for the period of the grant.

‘‘(c) FUNDING OF PROFESSIONAL DEVELOPMENT ACTIVITIES. The funds retained for use at the State level under sections 611(e) and 619(d), and other Federal funds will be used to support activities conducted under this subpart.

‘‘(d) the State will use the implementation plan to improve results for children with disabilities, including—

‘‘(A) how the State will align its professional development plan with the plans submitted by the State under sections 1111 and 2112 of the Elementary and Secondary Education Act of 1965;

‘‘(B) the State will provide technical assistance to local educational agencies and schools to improve the quality of professional development available to meet the needs of personnel serving children with disabilities; and

‘‘(C) the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the achievement goals and indicators in section 612(a)(16);

‘‘(e) describe, as appropriate, how the strategies described in paragraph (3) will be coordinated with public and private sector resources; and

‘‘(f) include an assurance that the State will use funds retained for use at the State level under this subpart to carry out each of the activities specified in the plan.

‘‘(g) COMPETITIVE AWARDS.—

‘‘(1) IN GENERAL.—The Secretary shall make grants under this subpart on a competitive basis.

‘‘(2) PRIORITY.—The Secretary may give priority to applications on the basis of need.

‘‘(3) PEER REVIEW.—

‘‘(1) IN GENERAL.—The Secretary shall evaluate applications under this subpart using a panel of experts who are qualified by virtue of their training, expertise, or experience.

‘‘(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

‘‘(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the travel expenses of members who are not employees of the Federal Government.

‘‘(4) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall—

‘‘(A) describe the progress of the State in implementing its plan;

‘‘(B) analyze the effectiveness of the State's activities under this subpart and of the State's strategies for meeting its goals under section 612(a)(16); and

‘‘(C) identify any changes in such strategies needed to improve its performance.

‘‘SEC. 655. USE OF FUNDS.

‘‘(a) IN GENERAL.—

‘‘(1) ACTIVITIES. A State educational agency that receives a grant under this subpart shall use the grant funds, subject to subsection (b), for the following:

‘‘(II) professional development.—

‘‘(I) carrying out programs that support the professional development of early intervention personnel, related services personnel, and special education and regular education teachers, including programs that—

‘‘(a) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development;

‘‘(b) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the definition of professional development in section 9101 of the Elementary and Secondary Education Act of 1965;

‘‘(c) involve collaborative groups of teachers and other professionals in developing and implementing the program;

‘‘(d) involve parents in their child's education, especially parents of children with disabilities; or

‘‘(e) scientifically based reading instruction, including early literacy instruction; and

‘‘(f) encourage and support interventions to identify and help students with disabilities;

‘‘(ii) provide training to enable special education and regular education teachers, related services personnel, and principals to involve parents in their child's education, especially parents of low-income and limited English proficiency children with disabilities;

‘‘(iii) train administrators and other relevant school personnel in conducting facilitated individualized education program reviews;

‘‘(IV) develop and implement initiatives to promote retention of highly qualified special education teachers, including programs that provide—

‘‘(a) teacher mentoring from exemplary special education teachers, principals, or superintendents;

‘‘(b) induction and support for special education teachers during their first 3 years of employment as teachers; or

‘‘(c) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities improve their academic achievement;

‘‘(V) carry out programs and activities that are designed to improve the quality of the teacher force that serves children with disabilities, such as—

‘‘(a) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and administrators to integrate technology into curriculum and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101 of the Elementary and Secondary Education Act of 1965, and are coordinated with activities carried out under this part; and

‘‘(b) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;

‘‘(b) STATE ACTIVITIES.—

‘‘(i) reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

‘‘(a) special education and regular education teachers have the training and information necessary, including an understanding of the latest scientifically valid education research and its applicability, to address the wide variety of needs of children with disabilities across disability categories;

‘‘(b) special education and regular education teachers have the necessary subject matter knowledge and teaching skills in the academic subject categories that the teacher is certified or licensed to teach;

‘‘(c) special education and regular education teacher certification (including recertification)
or licensing requirements are aligned with challenging State academic content standards; and

(IV) special education and regular education teachers have the subject matter knowledge and teaching technology literacy necessary to help students meet challenging State student academic achievement standards.

(iii) Programs that expand, or improve alternative routes for State certification of special education teachers for individuals who demonstrate the potential to become effective special education teachers, such as individuals with a baccalaureate or master's degree (including mid-career professionals from other occupations), paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction.

(iv) Our commitment to recruit, retain, and develop effective special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(v) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

(vi) Reforming teacher testing, subject matter knowledge, and implementing testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

(vii) Implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified special education teachers.

(viii) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this clause or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.

(ix) Developing or assisting local educational agencies in developing, merit-based performance evaluation strategies that provide differential and bonus pay for special education teachers.

(x) Supporting activities that ensure that teachers teaching challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve the academic achievement of children with disabilities.

(xi) Coordinating with, and expanding, centers established under section 213(b)(13) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.

(2) Contracts and Subgrants.—Each such State educational agency—

(A) shall, consistent with its partnership agreement under section 654(b)(1), award contracts or subgrants to local educational agencies, including lead agencies responsible for early education, and parent training and information centers, as appropriate, to carry out its State plan under this subpart; and

(B) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plans.

(b) Use of Funds for Professional Development.—A State educational agency that receives a grant under this subpart shall use—

(1) not more than 10 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(B); and

(2) not more than 10 percent of the funds it receives under the grant for any fiscal year for activities under subsection (a)(1)(B).

(2) Grants to Outlying Areas.—Public Law 95-298 defines the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

SEC. 656. STATE GRANT AMOUNTS.

(a) In General.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that—

(1) is not less than $500,000, more than $2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(2) is not less than $80,000, in the case of an outlying area.

(b) Factors.—The Secretary shall set the amount of each grant under subsection (a) after considering—

(1) the amount of funds available for making the grants; and

(2) the relative population of the State or outlying area; and

(3) the types of activities proposed by the State or outlying area under this clause or developed using funds appropriated to carry out this subpart.

(c) Use, As Appropriate, of Scientifically Based Research.—The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that—

(1) the amount of funds available for making the grants; and

(2) the relative population of the State or outlying area; and

(3) the types of activities proposed by the State or outlying area under this clause or developed using funds appropriated to carry out this subpart.

SEC. 657. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart $44,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2009.

Subpart 2—Scientifically Based Research; Technical Assistance Model Demonstration Projects; Dissemination of Information; and Personnel Preparation Programs

SEC. 661. PURPOSE.

The purpose of this subpart is to provide Federal funding for scientifically based research projects, technical assistance, model demonstration projects, information dissemination, and personnel preparation programs to improve early intervention, educational, and transitional services and outcomes for children with disabilities.

SEC. 662. ADMINISTRATIVE PROVISIONS.

(a) Comprehensive Plan.—

(1) In General.—The Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart (other than section 663) in order to—

(A) establish a State plan under this subpart; and

(B) the relative population of the State or outlying area; and

(c) the use, as appropriate, of scientifically based research.

SEC. 655. STATE GRANT AMOUNTS.

SEC. 654. USE OF FUNDS FOR PROGRAMS; DISSEMINATION OF INFORMATION; AND TECHNICAL ASSISTANCE; MODEL DEMONSTRATION PROJECTS; DISSEMINATION OF INFORMATION; AND PERSONNEL PREPARATION PROGRAMS.

SEC. 658. USE OF FUNDS FOR RESEARCH.

SEC. 659. USE OF FUNDS FOR TECHNICAL AND TRANSLATIONAL RESEARCH.

SEC. 660. OTHER GRANT REQUIREMENTS.

SEC. 663. DETERMINATION OF ELIGIBILITY.

SEC. 664. AUTHORIZATION OF APPROPRIATIONS.
(e) Applicant and Recipient Responsibilities.—

(1) Development and Assessment of Projects.—The Secretary shall require that an application be accompanied by a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

(A) to provide assurance that the project will benefit individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project; and

(B) to submit an application for a grant, contract, or cooperative agreement for a project under this subpart—

(i) to share in the cost of the project;

(ii) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

(iii) to disseminate such findings and products, and for personnel who provide educational and related services, transitional, and early intervention needs of children with deaf-blindness.

(2) Additional Responsibilities.—The Secretary shall require that a recipient of a grant, contract, or cooperative agreement for a project under this subpart—

(A) to share in the cost of the project;

(B) to prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

(C) to disseminate such findings and products, and for personnel who provide educational and related services, transitional, and early intervention needs of children with deaf-blindness.

(3) Use of Discretionary Funds for Administrative Purposes.—

(A) Expenses and Fees of Non-Federal Panel Members.—The Secretary may use funds available under this section for expenses and fees of the panel members who are not officers or employees of the Federal Government.

(B) Program Evaluation.—The Secretary may use funds appropriated to carry out this subpart to pay non-Federal entities for administrative support needed to conduct a Commissioner for Special Education Research.

(4) Program Evaluation.—The Secretary may use funds appropriated to carry out this subpart to evaluate activities carried out under the subpart.

(5) Minimum Funding Required.—

(A) In general.—Subject to paragraph (2), the Secretary shall make grants for each fiscal year, at least the following amounts are provided under this subpart to address the following needs—

(i) $2,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

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

(iii) $4,000,000 to address the educational, related services, transitional, and early intervention needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

(B) Ratable Reduction.—If the total amount appropriated to carry out this subpart for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

(6) Eligibility for Financial Assistance.—Effective for fiscal years for which the Secretary may make grants under section 619(b), no State or local educational agency or educational service agency or other public institution or agency may receive a grant under this subpart which relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5 inclusive, unless the State is eligible to receive a grant under section 619(b).

(7) Sec. 663. Research to Improve Results for Children with Disabilities.—

(1) National Center for Special Education Research.—

(A) Establishment.—

(i) In general.—There is established, in the Institute of Education Sciences established under section 111 of the Education Sciences Reform Act of 2002 (Public Law 107–279; 116 Stat. 1328–1) (hereinafter referred to as ‘the Institute’), the National Center for Special Education Research.

(ii) The Director of the National Center shall have substantial knowledge of the Center’s activities, including a high level of expertise in the fields of research and research management.

(B) Plan.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research, shall provide for the conduct of research and evaluation of research activities—

(i) to improve early childhood education and support for children with disabilities, including those with low-incidence disabilities, and to increase academic achievement of children with disabilities;

(ii) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iii) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(iv) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(v) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 111(f)(2)(B);—

(B) Competitions.—The National Center shall determine whether the project has any potential for replication and adoption by other entities.

(A) Individuals, in accordance with the priorities determined under this section.

(B) Authorized Activities.—Activities that may be carried out under this section include research on—

(i) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

(ii) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

(iii) to improve early childhood education for preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iv) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(v) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(vi) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays.

(C) Plan.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research, shall provide for the conduct of research and evaluation of research activities—

(i) to improve early childhood education and support for children with disabilities, including those with low-incidence disabilities, and to increase academic achievement of children with disabilities;

(ii) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iii) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(iv) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(v) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 111(f)(2)(B);—

(A) Individuals, in accordance with the priorities determined under this section.

(B) Authorized Activities.—Activities that may be carried out under this section include research on—

(i) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

(ii) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

(iii) to improve early childhood education for preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iv) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(v) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(vi) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays.

(C) Plan.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research, shall provide for the conduct of research and evaluation of research activities—

(i) to improve early childhood education and support for children with disabilities, including those with low-incidence disabilities, and to increase academic achievement of children with disabilities;

(ii) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iii) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(iv) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(v) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 111(f)(2)(B);—

(A) Individuals, in accordance with the priorities determined under this section.

(B) Authorized Activities.—Activities that may be carried out under this section include research on—

(i) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

(ii) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

(iii) to improve early childhood education for preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iv) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(v) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(vi) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays.

(C) Plan.—The National Center for Special Education Research shall be headed by a Commissioner for Special Education Research, shall provide for the conduct of research and evaluation of research activities—

(i) to improve early childhood education and support for children with disabilities, including those with low-incidence disabilities, and to increase academic achievement of children with disabilities;

(ii) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iii) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(iv) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(v) to improve the alignment, compatibility, and development of valid and reliable alternate assessment methods for assessing adequate yearly progress, as described under such section 111(f)(2)(B);—

(A) Individuals, in accordance with the priorities determined under this section.

(B) Authorized Activities.—Activities that may be carried out under this section include research on—

(i) to improve services provided under this Act in order to improve academic achievement for children with disabilities;

(ii) to investigate scientifically based educational practices that support learning and improve academic achievement and progress for all students with disabilities;

(iii) to improve early childhood education for preschool-aged children and infants with disabilities, including those that may result in developmental delays;

(iv) to investigate scientifically based services and interventions that promote participation and progress in the general education curriculum;

(v) to improve the alignment, compatibility, and development of valid and reliable assessment methods for assessing adequate yearly progress, as described under section 111(f)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B));

(vi) to examine the special needs of preschool-aged children and infants with disabilities, including those that may result in developmental delays.
(1) is consistent with the purposes of this Act;
(2) reflects an appropriate balance across all age ranges of children with disabilities;
(3) is based on research, that is objective and that uses measurable indicators to assess its progress and results;
(4) demonstrates the use of both basic research and applied research, which shall include research conducted through field-initiated studies and which may include ongoing research initiatives;
(5) is the research conducted under this section is relevant to special education practice and policy;
(6) is not to be conducted solely for the purposes of producing such information as the Commissioner may require.

(f) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Secretary may require.

(g) REQUIRED ACTIVITIES.—Funds received under this section shall be used to support activities to improve services provided under this Act, including the practices of professionals and other persons to—
(1) help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education to work with children with disabilities;
(2) to ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically valid research, to be successful in serving those children;
(3) to encourage increased focus on academic and core content areas in special education personnel preparation programs;
(4) to ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom;
(5) to provide high-quality professional development for principals, superintendents, and other administrators that are in the process of achieving systemic-change outcomes;

(h) IN GENERAL.—The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities including local regional centers and clearinghouses to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

(i) PERSONNEL PREPARATION; AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include activities to improve services provided under this Act, including the practices of professionals and other persons to—
(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education to work with children with disabilities, that promote academic achievement and improve results for children with disabilities through—
(a) effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from engaging in other behaviors that require the provision of special education and related services; the placement of children with disabilities; and the development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 1112(b)(8) of the Elementary and Secondary Education Act of 1965;
(b) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;
(c) addressing activities that are specific to a population of children with disabilities, such as the provision of single-state and multi-State technical assistance and in-service training;
(d) improving educational results through activities for high-incidence and low-incidence disabilities and other disabilities; and
(e) addressing the needs of individuals who are deaf or hard-of-hearing;
(f) to schools and personnel providing special education and related services for children with autism spectrum disorders;
(g) building the capacity of personnel to—
(i) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education to work with children with disabilities;
(ii) to improve and reform the existing programs and to support effective existing programs, to prepare teachers and related services personnel—
(1) to improve the diversity of children with disabilities for early intervention, educational, and transitional services;
(2) to work collaboratively in regular classroom and related services settings;
(3) to incorporate effective research practices, scientifically based research, and other research methods to report on the extent to which they will have the knowledge and skills to improve educational results for children with disabilities; and
(h) to develop an appropriate balance across all age ranges of children with disabilities.

(j) LINKING STATES TO INFORMATION SOURCES.—In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall maintain products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Centers for Education and Regional Assistance established under the Education Sciences Reform Act.
(III) so they can implement effective teaching strategies and interventions to ensure appropriate identification, and to prevent the misidentification or overidentification, of children with low-incidence disabilities, especially minority and limited English proficient children.

(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, and professional development and assessment of highly qualified teachers to reduce shortages in personnel.

(C) Developing and improving programs for paraprofessionals to assist in the provision of special education, related services, and early intervention services, including interdisciplinary training to enable them to improve early intervention and transitional results for children with disabilities.

(D) Demonstrating models for the preparation of special education and early intervention services, including interdisciplinary training, to develop a new generation of highly qualified teachers to reduce shortages in personnel.

(E) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

(F) Developing and disseminating models that promote leadership training, including behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

(G) Developing and improving programs to enhance the ability of general education teachers, principals, school administrators, and school staff to work within teams to improve results for children with disabilities, particularly within the general education curriculum.

(H) Supporting institutions of higher education with minority enrollments of at least 25 percent, including at least 40 percent of preparing personnel to work with children with disabilities.

(I) Developing and improving programs to train special education teachers with an expertise in autism spectrum disorders.

(J) Low-incidence disabilities; authorized activities.

(A) In general.—In carrying out this section, the Secretary shall support activities consistent with the objectives described in section (a) that benefit children with low-incidence disabilities.

(B) Authorized activities.—Activities that may be carried out under this subsection include activities such as the following:

(i) Prior training in educational and other related service fields; and

(ii) Studying to obtain degrees, certificates, or licenses that will enable them to assist children with low-incidence disabilities to achieve the objectives set out in their individualized education programs described in section 1414(d), or to assist infants and toddlers with low-incidence disabilities to achieve the objectives set out in their individualized family service plans described in section 614(d), or to assist infants and toddlers with low-incidence disabilities to achieve the objectives set out in their individualized family service plans described in section 614(d).

(C) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(D) Preparing personnel to work with children with low-incidence disabilities.

(E) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(F) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(G) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(H) Supporting institutions of higher education that are preparing personnel to work with children with disabilities.

(I) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other personnel whose work affects early intervention, educational, and transitional services for children with disabilities.

(J) Developing and improving programs for paraprofessionals to assist children with low-incidence disabilities.

(K) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(L) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(M) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(N) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(O) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(P) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(Q) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(R) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(S) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(T) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(U) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(V) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(W) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(X) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(Y) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(Z) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(aa) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(bb) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(cc) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized education plans.

(dd) Preparing personnel who provide services to children with low-incidence disabilities to achieve the outcomes described in their individualized family service plans.

(1) In general.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in section (a) that benefit children with low-incidence disabilities.

(2) Authorized activities.—Activities that may be carried out under this subsection include activities such as the following:

(i) Preparing personnel to be able to administer, enhance, or provide services to improve results for children with disabilities.

(ii) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other personnel whose work affects early intervention, educational, and transitional services for children with disabilities.

(e) Applications.

(1) In general.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary that contains such information as the Secretary may require.

(2) Identified state needs.

(A) Required information.—Any application under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve.

(B) Cooperation with state educational agencies.—If the activity is not a State educational agency or a State educational agency or a local educational agency shall include information demonstrating to the satisfaction of the Secretary that the applicant and one or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the project.

(3) Acceptance by states of personnel preparation requirements.—The Secretary may require applicants to provide assurances from one or more States that such States—

(A) intend to accept successful completion of the proposed project as meeting State personnel standards or other requirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities;

(B) will provide the conditions and standards for professional preparation programs prescribed by such States for the preparation of personnel who provide services to children with disabilities; and

(C) undertake one or more of the following:

(i) A comprehensive analysis of the effects of the project on improving the effectiveness of State and local efforts to provide—

(ii) Special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

(D) Leadership preparation.—Each application for funds under subsections (b) and (c) shall include an assurance that the applicant will ensure that individuals who receive a scholarship under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 2 years for every year for which assistance was received or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

(E) Scholars.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

(2) SEC. 666. STUDIES AND EVALUATIONS.

(A) In general.—The Secretary shall, in accordance with the priorities determined under this section and in section 663, directly or through competitive grants, contracts, or cooperative agreements, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

(A) a free appropriate public education to children with disabilities; and

(B) early intervention services to infants and toddlers with disabilities and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

(2) DELEGATION.—Notwithstanding any other provision of law, the Secretary shall designate the Director of the Institute for Educational Sciences to carry out this section.

(3) Authorized activities.—In carrying out this subsection, the Secretary may direct research, development, demonstration, and evaluation projects.

(4) Funding of research.—The Secretary shall fund research, development, demonstration, and evaluation projects conducted or supported by the Institute for Educational Sciences and other organizations.

(5) Appropriations.—The Secretary shall have the authority to make appropriations to carry out this section.
through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities.

(iii) An analysis of State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities, including—

(aa) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

(bb) the number of minority children who are referred for special education evaluation; and

(cc) the number of minority children who are referred for special education evaluation and related services and their educational or other service placement; and

(dd) the number of minority children who drop out of the educational system without a regular diploma; and

(ee) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

(iv) A description of educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

(v) A summary of educational results, transition services, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act.


(b) NATIONAL ASSESSMENT.—

(1) In general.—The Secretary shall carry out a national assessment of activities carried out under this Act, using a national, representative sample of distinct age cohorts and disability categories.

(A) to determine the effectiveness of this Act in achieving its purposes;

(B) to provide timely information to the President, the Congress, the States, local educational agencies, and the public on how to implement the Act more effectively; and

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

(2) Public comment.—

(A) PLAN.—Not later than 12 months after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2002, the Secretary shall publish in the Federal Register for public comment a comprehensive plan for developing and conducting the national assessment.

(B) COMMENT PERIOD.—The Secretary shall provide a public comment period of at least 30 days on such plan.

(3) SCOPE OF ASSESSMENT.—The national assessment shall—

(A) implementation of programs assisted under this Act and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable them to reach challenging developmental goals and challenging State academic content standards based on State content standards for all children; and

(B) types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

(4) the implementation of the professional development activities assisted under this Act and the impact of such activities on the achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities;

(5) effectiveness of schools, local educational agencies, States, other recipients of assistance under this Act, and the Secretary in achieving the purposes of this Act; and

(6) the extent to which—

(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to their peers without disabilities, including subgroups of children with disabilities on alternate assessments; and

(ii) improving the participation of children with disabilities in the general education curriculum; and

(iii) improving the transitions of children with disabilities at natural transition points; and

(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate; and

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

(vi) assessing the reading and literacy needs of children with disabilities;

(vii) reducing the overidentification of children, especially minority, limited English proficient children, and children with disabilities;

(viii) improving the participation of parents of children with disabilities in the education of their children; and

(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities including mediation and voluntary binding arbitration.

(4) INTERIM AND FINAL REPORTS.—The Secretary shall—

(A) submit to the President and the Congress—

(i) an interim report that summarizes the preliminary findings of the assessment not later than 30 months after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2002; and

(ii) a final report of the findings of the assessment not later than 5 years after the date of the enactment of such Act.

(B) to carry out the provisions of this Act in order to improve the academic achievement of children who may be inappropriately identified, to enable children with disabilities to—

(1) meet developmental and challenging academic achievement goals that have been established for all children; and

(2) be prepared to lead productive independent adult lives to the maximum extent possible;

(3) ensure that the training and information provided meets the needs of parents and children with limited English proficiency;

(4) serve the parents of infants, toddlers, and children with the full range of disabilities;

(5) assist parents—

(A) to better understand the nature of their children’s disabilities and their educational, developmental, and transitional needs; and

(B) to communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention, transition services, and related services;

(6) to participate in decision making and the development of education programs under part B and individual family service plans under part C; and

(7) to assist parents—

(A) to understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

(B) to participate in activities at the school level which benefit their children;

(8) assist parents in resolving disputes in the most expeditious way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the use of individualized education program conferences and sexual and voluntary binding arbitration processes described in section 656(e);

(9) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act;

(10) network with appropriate clearinghouses, including organizations conducting national dissemination activities under subpart 2 and the Institute of Educational Sciences, and with other national, State, and local organizations, agencies, and advocacy agencies, that serve parents and families of children with the full range of disabilities; and
"(a) IN GENERAL.—The Secretary may make grants to, and contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities ages birth through 26; low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities—

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

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

"(b) REQUIRED ACTIVITIES.—Each parent training and information center assisted under this section shall—

"(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

"(2) carry out the activities required of parent training and information centers under paragraphs (2) and (3) of section 672(b);

"(3) establish cooperative partnerships with the parent training and information centers funded under section 672; and

"(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

"(c) DEFINITION.—As used in this section, the term 'local parent organization' means a parent organization, as defined in section 672(g), that either—

"(1) has a board of directors the majority of whom are from the community to be served; or

"(2) has—

"(A) a membership that represents the interests of individuals with disabilities; and

"(B) a special governing committee to administer the grant, contract, or cooperative agreement, a majority of the members of which are individuals from such community.

"SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

"(a) IN GENERAL.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

"(1) effective coordination of parent training efforts;

"(2) dissemination of scientifically based research and information;

"(3) promotion of the use of technology, including assistive technology devices and assistive technology services;

"(4) reaching underserved populations, including children of low-income, limited English proficient children with disabilities; and

"(5) training of staff and volunteers.

"(b) AUTHORIZED ACTIVITIES.—The Secretary may assist a parent training and information center under this section to—

"(1) make grants to, and contracts and cooperative agreements with, local parent organizations that meet the requirements of subsection (a); and

"(2) implement the activities described in subsection (a).

"SEC. 675. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

"(a) IN GENERAL.—The Secretary shall competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities (as defined in section 662(b)) to support activities described in subsections (b) and (c)."
SEC. 104. GAO REPORTS.

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

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.

(d) LIMITED ENGLISH PROFICIENT CHILDREN WITH DISABILITIES EDUCATION ACT.—

(1) STUDY.—The Comptroller General shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.

(e) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 106. COMPTROLLER GENERAL STUDY.

(1) STUDY.—The Comptroller General shall conduct a study on excessive paperwork and litigation.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.
Mr. Chairman, I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, first I appreciate the bipartisan support for the amendment. Secondly, I think it would be worth taking this 2 minutes to try to read what is actually in this amendment so we will know what we are voting for.

It is a technical amendment, it clarifies and consolidates a series of GAO reports that were added during the consideration of the bill by the Committee on Education and Workforce.

It redefines the percentage of funds that the State can reserve out of its State level activities for programs designed to serve children with disabilities with high cost, special education-related services needs to reflect the common understanding.

It updates authorization levels that were modified by the fiscal year 2004 budget resolution. This level reflects the increased spending in the fiscal year 2004 budget resolution included for IDEA Part B State Grants.

It clarifies that evaluations are provided to children in the language and form designed to obtain useful information and includes longstanding terminology used throughout the implementing regulations and elsewhere in the Act.

It modifies language in the section prohibiting the Federal control of curriculum to ensure that this exact language is included in the No Child Left Behind Act. This is an important change, by the way, that ensures consistent language addressing local control over the curriculum.

It revises language in the Part D programs to ensure that the needs of limited English proficient children with disabilities are met through the training of school personnel and effective data collection.

It also modifies the section regarding support for captioning programs to enable news programs to be captioned until 2006, which is when Federal Communications Commission requirements require all news programs to be captioned.

These amendments, Mr. Chairman, continue our well-balanced approach toward improving IDEA. As with the remainder of the bill, these improvements will result in improved services for students and improved achievement for students.

I urge my colleagues to adopt this amendment.

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

Mr. GREEN of Texas. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I rise in support of the text any California amendment, but opposing the provision. However, I stress some people are wondering why I have concern about this legislation. Having my first two terms in Congress on the Committee on Education and Workforce, but also for many years as a State legislator in the State Senate in Texas on the Education Committee, it has been frustrating, both in Congress and as a legislator dealing with IDEA and the special education programs.

For more than a quarter of a century, the Individuals With Disabilities Education Act, IDEA, has helped countless disabled youth to complete their education and become contributing members of our society. I see it every day when I go home.

Although this program has succeeded in its efforts to ensure that all American children receive a free and appropriate public education, this Congress, and I am not talking about the majority Republican, I am talking about my first term when we were in the majority, although IDEA was not up for reauthorization, we failed to fully fund IDEA. This is my sixth term, and for five of those terms, as Democrats, we have been in the minority, so somewhere along the way you are going to have to quit pointing back a decade ago and saying "it is your all's fault."

I am sure that almost every Member of Congress, at one point or another, has not been supportive of full funding of IDEA. But when it comes down to putting our money where our mouths are, we once again come up short.

I know the frustration, because we see it in our schools, we see it on our television, and we see it in our communities. We see it on our highways, in our schools, in our communities, and we see it on our television.

Some parents have expressed concern over the 3-year Individualized Education Plan, or IEP. They are afraid that it may undermine their children's rights. I want to reassure them that this is simply an option. The parents must agree to a 3-year plan. Just like under current law, they can request a new IEP at any time.

Every single one of the due process rights parents have is continued under H.R. 1350. This bill will make special education work for all students.

Ms. WOOLSEY. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin (Mr. KIND), a member of the committee.

Mr. KIND. Mr. Chairman, I thank the gentlewoman from California (Ms. WOOLSEY), my friend and the ranking member of the subcommittee, for yielding me this time and also for the work that she has put in with this important legislation. It has been invaluable. I also want to commend the gentleman from Delaware (Mr. CASTLE), my good friend, the chairman of the subcommittee, with the way he has conducted the process leading up to today's legislation, the outreach he has provided across the aisle and throughout the Nation looking for input on what I think is the most important piece of education legislation that we will be dealing with in this session of Congress. I do support the technical amendment before us right now.

This, Mr. Chairman, is an important piece of education legislation. It is something that affecting changing children with disabilities. It is something that we are going to provide the special needs in our country to have access to quality education that the rest of our children now have. I think there was room for improvement on a variety of provisions. I think in a lot of respects this bill moves in the right direction to improving it: streamlining the IEP process, trying to reduce the paper work burden, trying to increase some flexibility with regard to the disciplinary issues at the local level, and emphasizing the importance of professional development.

I especially appreciate the acceptance of a few amendments that I offered in committee during markup, one that does emphasize professional development and distance learning opportunities for our teachers and administrators, and one that calls for a GAO study that would encompass the entire work of this committee.

But I especially appreciate a new provision that was accepted in committee that I offered that permits States to
establish and implement costs and risk-sharing funds, consortiums and co-operatives to assist students with severe disabilities. This is an area that is the fastest-growing area of education funding at the local level. Children who normally would not have survived to school age are surviving today because of the miracle of the advancement of medical research and technologies. But they are also bringing with them exceptionally high costs that school districts have to bear.

The amendment I put forward allows school districts to address these high-risk and exceptionally expensive students.

We do have to work much harder in this Congress, this year and the years ahead, to try to achieve the full funding which virtually every Member of this body is on record of supporting. I appreciate the fact that the majority party has a 7-year trend line to get to full funding. It is a little bit skeptical in regards to the institutional willingness and the willingness of the administration to make sure we achieve full funding. This is the grand-daddy of unfunded mandates that our local districts have been struggling with since the creation of this bill back in the 1970s. We must do a better job so that we can stop pitting student against student in the classroom and end this controversy where it is merely a matter of political and institutional will to do what I think we all recognize must be done, and that is make sure the resources flow the rhetoric after today's debate. I am confident, in working again with the chairman of the subcommittee and others who are like-minded on this issue, that we are going to focus very closely in regard to the appropriation process and hold people to their word. Because if No Child Left Behind is any indication, I am skeptical that we are going to get there.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of the time.

We have no further speakers, and I think we have 1 minute. I will just close by encouraging all of us to support the technical amendment. I do not think there is any disagreement about that, so we can go on to the other amendments.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to. The question was taken; and the amendment is now in order to consider amendment No. 2 printed in House Report 108-79.

AMENDMENT NO. 2 OFFERED BY MR. VITTER

Mr. VITTER. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. VITTER:

In section 108 of title II—

(1) in subsection (a), by adding at the end the following new sentence: "As part of such review, the Comptroller General shall include recommendations to reduce or eliminate the excessive paperwork burdens described in the preceding sentence."; and

(2) in subsection "Act," insert "and once every 2 years thereafter.".

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from Louisiana (Mr. VITTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. VITTER).

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

I bring before the House an important amendment with regard to a central problem in IDEA and that is the excessive burden of excessive paperwork. I think there is great clarity and great consensus on this point that in the present system there is just too much paperwork required which drains resources and takes up the time of teachers who could otherwise be with students who need their help.

National surveys show that teachers of special needs students spend between a quarter and a third of each work week on regulatory compliance rather than education. That is ridiculous. GSA’s report on the system’s complexity, often turn to IDEA lawyers for advice. That has become the norm rather than the exception. That is ridiculous. Teachers of special needs students always cite excessive paperwork and too many meetings as leading reasons for their decision to cease teaching special needs students, thus exacerbating a serious existing shortage of personnel. In fact, the National Association of Elementary School Principals supports dramatic paperwork reduction, saying that the proposals “eliminate the dual-discipline system, streamline the due process system, and encourage professional development for principals.”

In light of that background, my amendment is very straightforward. It does two things. Number one, in part A of the GAO review section, it mandates that the review will include recommendations to reduce or eliminate the excessive paperwork burdens. Number two, in part B of that GAO report section, it requires that a GAO report be submitted 2 years after the date of enactment and resubmitted every 2 years. The benefit of this is very clear. We want a regular way to track progress and demand progress on reducing this excessive paperwork burden.

So in those two simple, but important, ways, this amendment emphasizes the need to reform, streamline, and update the forms and requirements mandated on both teachers and parents.

Mr. Chairman, I would like to thank the committee for all of its hard work in bringing forward a very positive bill. Mr. Chairman, I reserve the balance of my time.

Mr. KIND. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

There was no objection.

Mr. KIND. Mr. Chairman, I yield myself such time as I may consume, only to say that we have no objection to this amendment.

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

Mr. VITTER. Mr. Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time. I also want to thank him for his amendment.

I do not want to prolong this debate, because I am in agreement with the other two speakers. But I think it is important to understand the impact of paperwork and the meetings and the whole process of dealing with IDEA. There is not a person in this Chamber who does not want to help children with disabilities to be educated. But part of the problem is that a lot of the teachers drop out of the system, a lot of them just cannot face all of the bureaucratic that goes along with it. I believe that the Vitter amendment moves strongly in the direction of making sure that we are providing oversight to that and doing that through a GAO report.

I might also, from a personal point of view, just say that I believe it is one of the points that I am happy that we do go through this reauthorization process every 5 or 6 years, which is necessary under the discretionary form of spending which we have. I think it is very, very important that we, as Members of Congress, do keep an eye on this. So I do support the amendment, and I encourage all of my colleagues to support it.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. VITTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VITTER. Mr. Chairman, I demand a recorded vote; and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana (Mr. VITTER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 108-79.

AMENDMENT NO. 3 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

Mr. BRADLEY of New Hampshire. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:
Amendment No. 3 offered by Mr. BRADLEY of New Hampshire:

In section 611(e)(2)(A)(i) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of this bill), strike "$500,000" and insert "$750,000";

and

(2) strike the parenthetical provision.

The CHAIRMAN. Pursuant to House Resolution 206, the gentleman from New Hampshire (Mr. BRADLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BRADLEY).

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

There are two ways that States are able to administer IDEA requirements. One way is for States to have $500,000 of administrative funds as part of the grant that are capped, but with an inflation adjustment; or, alternatively, States are able to use up to 20 percent of that grant for administration purposes. However, small States such as mine in New Hampshire generally do not qualify for this provision to be able to use the 20 percent figure because it is less than the $500,000.

This $500,000 cap, which was authorized as part of the reauthorization law in 1997, therefore places large administrative burdens on small States such as New Hampshire as the accountability standards of not only the Individuals With Disabilities Education Act, but also the No Child Left Behind law have increased. This increases costs to small States, federally mandated costs to States such as mine.

Some of the issues that are involved in greater accountability requirements, improving academic performance, expanded data collection, as well as fiscal accounting requirements.

What my amendment does is lift the cap from $500,000 to $750,000. Amendment No. 3 does not increase costs to the Federal Government, as there is nothing in this amendment that mandates the expenditure of these funds. Rather, it allows States to spend up to this new cap as needed, in order to comply with the accountability provisions of this law and the No Child Left Behind law as it affects special education.

So for that reason, Mr. Chairman, I urge my colleagues to support this amendment.

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

Ms. WOOLSEY. Mr. Chairman, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume to say that we do not, on this side of the aisle, oppose the amendment.

Mr. Chairman, I yield back the remaining 5 minutes.

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

The CHAIRMAN. The question is on the amendment offered by gentleman from New Hampshire (Mr. BRADLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 112.

AMENDMENT NO. 4 OFFERED BY MS. WOOLSEY

Ms. WOOLSEY. Mr. Chairman, pursuant to the rule, I offer amendment No. 4.

The CHAIRMAN. Is the gentlewoman from California the designee of the gentlewoman from California (Mrs. DAVIS)?

Ms. WOOLSEY. For the time being, yes.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. WOOLSEY:

In section 602(8)(C) of the Individuals with Disabilities Education Act (as proposed to be amended by section 101 of the bill), add at the end before the comma the following:

"that is reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum.''

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from California (Ms. WOOLSEY), as the designee of the gentlewoman from California (Mrs. DAVIS), and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BRADLEY).

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

The language is simply designed to assure that when parents and teachers sit down at the table to craft an educational program appropriate for an individual child with a disability, everyone is on the same page about the goal.

The 18 words added to the definition are taken directly from an existing Supreme Court decision, Rowley, which provided controlling language on this issue. However, since most of us do not spend our time reading Supreme Court opinions, this places the language into the definition within the law, where it will be easily found. They are words that all of us can understand.

I want to share them with you. The phrase now reads that a "free appropriate public education means special education and related services that are: Free—provided at public expense, under public supervision and without charge; meet the standards of the State educational agency; and include an appropriate pre-school, elementary, or secondary school education in the State involved." This amendment adds to that sentence the definition "reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum."

Educators of special-needs children who requested placement of these words in the law believe it will help them work with parents as part of the child's Individual Education Program teams to be able to test their proposals against a clear standard. It gives parents a tool to assure that school districts are not dumbed down the goals of education for their children as happened too often in the past. It enables all parties to look at the promise and make sure the child's needs are served.
In response to questions from some Members, I would point out that this does not in any way change the results of that individual program as to whether the child is mainstreamed or not—only that the goal of the child's education is to access the curriculum content appropriate to the students.

During the long period of time during which the Education Committee members have been struggling with making this reauthorization of IDEA a better bill, there have been some key themes. Funding is, of course, one, including helping to reduce the recovery costs for non-educational expenses. Some of these issues need continued work as this bill moves ultimately to conference.

However, another theme has been reducing conflict which leads to expensive litigation over choosing the program that will best help the child.

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

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Ms. WOOLSEY).

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

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

Mr. Chairman, I strongly oppose this amendment. Federal funds should not be used for private school vouchers for any children, but it is particularly dangerous to do this for children with disabilities.

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

The CHAIRMAN. The question is on the amendment in opposition?

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment.

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) is recognized for the time in opposition.

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

Mr. Chairman, I strongly oppose this amendment. Federal funds should not be used for private school vouchers for any children, but it is particularly dangerous to do this for children with disabilities.

Vouchers undermine the very foundation of IDEA. IDEA guarantees children with disabilities a free and appropriate public education and provides important safeguards to the child and the parents to ensure that education is received.

When a special education child takes a voucher to a private school, all guarantees of rights under IDEA are lost. The McKay voucher program in Florida, which allows children with disabilities to use vouchers to go to private schools, is a perfect example of the pitfalls of an IDEA voucher program.

In the Florida special education voucher program, there are no State reviews of the education and services provided, and there are no civil rights protections if the parents are not happy with the education and services their child is receiving.

Under the Florida IDEA voucher program, private schools can and do charge parents additional tuition and fees above the voucher, making it difficult or impossible for low-income parents to benefit from a voucher program.

Contrary to what people claim, vouchers do not increase parents' choice. Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason, including the student's disability. So when it comes to vouchers, it is not the parents who have the choice; it is the private school. Whatever choices a private school makes, it does not have to let parents or the public know why.

Vouchers give private schools public taxpayer dollars, but the private schools are not held to any of the same standards of accountability that public schools are held to. Public schools must hold open meetings and make their test scores, dropout rates, and other basic information public. Private schools are subject to no public oversight.

Accountability to the child, to the parents, and to the public is the touchstone of IDEA, and so, supposedly, No Child Left Behind. We must not allow vouchers to jeopardize that accountability. I urge my colleagues to reject this amendment.
Mr. Chairman, I reserve the balance of my time.

Mr. DeMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Ohio (Mr. Boehner), chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank my colleague, the gentleman from South Carolina, for offering this amendment and congratulate him on his effort in promoting new and innovative ways to deal with children with special needs.

These children require the utmost in flexibility in their education; and the amendment before us encourages innovative options and provides States with much-needed flexibility.

The amendment would accomplish three goals. First, it encourages States to establish innovative solutions by providing seed money to develop new programs. Second, it answers the call of parents of children with disabilities to expand educational opportunities that are not withheld and that States may choose to implement as much or as little flexibility as the State deems appropriate. Third, it allows States to use Federal dollars in flexible programs and utilitarian approaches to provide services for children with special needs.

The amendment does not, as has been claimed by some critics, provide vouchers. It simply affords States the flexibility that they are seeking to provide individualized options for students with disabilities.

This amendment is not a mandate in any way, shape, or form; but it makes new options available for States who choose, these are only for States who choose, to want to look at new options and new technology and more flexibility in terms of meeting the needs of special needs children, of all of their children in their State.

Each participating State must determine which approach and what type of program will best serve the children with disabilities in their State, including options such as public schools, charter schools, or private schools, whatever is in the best interests of the child. So children with disabilities today deserve every effort that can be made to provide them with a high-quality education, and their options and the options of the States should not be limited.

Ms. Woolsey. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. Clyburn).

Mr. CYLBURN. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in opposition to this amendment. Yesterday, it was my choice. Today, it is our choices. Tomorrow, there is no telling what we will call it. But by whatever name we may call it, however we may cloak it, this is about vouchers.

I believe, Mr. Chairman, in innovations, but not innovations that supplant the due process clause of the United States Constitution. That is exactly what this amendment will accomplish.

Let us take, for instance, just the issue of choice. If I might use that term today, I know that the proponents of this amendment talk all the time about providing choice for parents and teachers. This amendment provides little choice for parents and students, but provides the ultimate choice to schools and administrators.

It allows in these schools to cream, if I might use that term, off all of those children that may be a little bit disabled, but those children whose parents would like to have them participate who may be a little more disabled than the schools would like to tolerate, this amendment will allow those children to be rejected, and take away any choice or any option from those children to participate.

So, Mr. Chairman, I believe that it is in the best interests of public education and our children and the parents that we reject this amendment.

Mr. DeMINT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Georgia (Mr. Isakson).

Mr. ISAKSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it may have been about choice the other day, it may have been about options the other day; it is about children today. No lesser authority than the United States Supreme Court has authorized the portability of Federal funds for students with special education needs.

There is not a Member of this body that does not represent a State that does not have students whose tuition to private schools is paid in full under their eligibility because of IDEA and because the State determines that it cannot meet the needs of those children.

This is not about mandating choice to a parent. This is about giving the option of portability to a public school system that determines that might be necessary in a special ed case, for example, a student with severe hearing disability who goes on to an audio trainer in a rural system who might be able to serve a semester or a year in another institution to learn how to use that audio trainer; or a cerebral palsy student who is profoundly disabled and handicapped who, through assistive technology, may have the ability to learn how to function in the public school classroom.

Should we say no if a State makes that determination, and a parent chooses, to send most of the money which is theirs, the State's, to follow that student? I think not.

I understand the legitimate debate, and I understand the smokescreens; but I maintain that special education teachers who worked their way through life with handicapped children. I am not for blind programs that seem to fix things that do not; but I am 100 percent for the flexibility to address the uniquely specified needs, sometimes only temporarily, on behalf of a child who deserves the opportunity to enjoy the richness of life that every one of us without those disabilities enjoys right now in this House. It is an effort to make a start. It is not a mandate; it is permissive. It is about children and their parents and a better life for both of them.

Ms. Woolsey. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. Davis), a member of the Committee.

Mrs. Davis of California. Mr. Chairman, I wanted to address for a moment the issue of accountability within the special education system.

I know when I was a board member in San Diego, I would hear repeatedly about how difficult it was in many cases to keep up without accountability. Yet we know that it is important.

I am pleased that during our discussion on this bill, that we talked about the need to reduce the paperwork and to find ways that we would be accountable, and yet we would make it reasonable and easier for our schools to report and to address the needs of our children. I commend the chairman, the gentleman from Ohio (Mr. Boehner), for that work within the committee.

But please, we need to be careful that we not give up accountability when we suggest that a new school would be able to deal with those issues. The people who work with special education in our communities and in our public school systems, they have been doing this for a long time.

They understand the importance of it and they make sure that it works for our children. I cannot imagine what it would be like to think about a tuition system or a voucher system that really had little understanding of that.

Mr. DeMINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Michigan (Mr. Hoekstra).

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding me time and congratulate the chairman of the committee for bringing this piece of legislation forward.

I think the amendment that is being proposed by my colleague is important. It is an important amendment to the underlying legislation. We have made significant progress in the IDEA legislation, and this amendment would take it one step further. Currently, educational choice does exist under IDEA; but too often educational choice exists only for those parents who are wealthy enough to litigate to get their child placed somewhere else. With the important changes in this bill to reduce costly paperwork and unnecessary regulations, we must restore to parents the opportunity to ensure that their child receives the best education possible.
This amendment is very straightforward. It does not require anything. What it says is it will allow the State to use research and innovation dollars to research and develop new education systems for IDEA children that promote choice for parents of children with disabilities.

The intent here is very simple. Let us make sure we get the right program, the right resources, and the right skills necessary and match them with the child and allow the State the opportunity to experiment and innovate to move the process forward. This is a very, very good amendment. I hope that we have the opportunity to put this in place and let the States move forward and help all of our children.

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

Mr. MILLER. Mr. Chairman, I appreciate the Congressman's questions.

Mr. Chairman, this amendment is a very bad idea. This law was built up about guaranteeing to these children and the intent of this amendment is that amendment would have rights that would provide them an access to a free and appropriate education in the least restrictive environment. And over the years we have built up a system of accountability to make sure that that education starts, in fact, provided to these children.

Now we come along with this voucher amendment where immediately upon the exchange of money from the school district to the private school, or from the parent to the private school, those rights are eviscerated. Because this bill deems upon acceptance of the voucher that these children are getting a free and appropriate education. We do not know whether they will or not. If the child chooses to come back to the public school system, does the school system get to bring some of the money back? Is the money stuck over there? Does the school system now have to pony up additional money to educate that child? I think the answer is yes, they do because they have an obligation.

The fact of the matter is these schools, they do not have to accept the child if the disability is too expensive. They do not have to accept the child. They get to pick and choose among the children. The public schools have to take the children as they come to give them a free and appropriate education. These schools do not have to be certified. They do not have to be State licensed. What happens to the money? You just get to take this money, the taxpayers' money and not have these accountabilities. I can understand the desire; and, in fact, the law provides for parents who think their children cannot get a better education at a private school with special skills or special talents or a record of handling these children in the appropriate way. They can petition to go to these schools.

In 1997, we had so many people leaving the system that we said you cannot do that because you are sticking the school district for so much money. And the intent of the amendment is no determination whether or not this was a suitable placement. Now you can just opt out. If the parent is lucky and if the child is lucky and it works, fine. If it does not, the school district is out the money and the child back into the education, and we are back in the stew.

This is just an unacceptable amendment. Nobody is required to make adequate yearly progress with these children under No Child Left Behind. There is no accountability under that. There is for the school. There is no accountability in this legislation. There is no accountability under, in many instances, State law. So I do not understand it. In dealing with the education of children with disabilities, finds out that does not work, and they are back in the public school system. Meanwhile, the public school system trying to hold on to a critical mass of people skilled; to deal with the education of children with disabilities, finds out that the cost per service per child goes up.

Again, as we have seen in the McKay program, about 2 percent of these people go into this. They get their scholarships. They go to schools, and they are coming back. We do not know quite why yet they are coming back; but obviously as they come back to the public school system, they are more expensive than when they left.

There ought to be some screen to know that this, in fact, is going to enhance the children's education. We understand and deal with, all the time, parents who want another location for the child that is not this system. This is just a wide open voucher system without any accountability. It ought to be rejected by the House.

The CHAIRMAN. All time has expired on the opposition side. The gentleman from South Carolina (Mr. DE MINT) is recognized.

Mr. DE MINT. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from South Carolina (Mr. DE MINT) has 2 minutes.

Mr. DE MINT. Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentleman from Florida (Mr. PUTNAM).

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

Florida set an example for the rest of the Nation by creating a program giving parents of children with disabilities the choice they deserve. The John McKay Scholarship Program was put in place to increase parental choice by allowing the parents of children with disabilities who had been attending a public school that was not addressing their needs to decide where their child would excel the most, be it private or parochial. Currently in Florida, those scholarships are funded by the State.

In passing this amendment we would be able to reach more of the 374,000 students in Florida alone who are eligible for these scholarships. Today, over 9,000 students utilize these scholarships to receive the education they would otherwise not be afforded. Fifty percent of those students qualify for free and reduced lunch. The McKay Scholarship Program provides those services. It turns out that does not work, and they are back in the public school system. Meanwhile, the public school system trying to hold on to a critical mass of people skilled; to deal with the education of children with disabilities, finds out that the cost per service per child goes up.

Again, as we have seen in the McKay program, about 2 percent of these people go into this. They get their scholarships. They go to schools, and they are coming back. We do not know quite why yet they are coming back; but obviously as they come back to the public school system, they are more expensive than when they left.

There ought to be some screen to know that this, in fact, is going to enhance the children's education. We understand and deal with, all the time, parents who want another location for the child that is not this system. This is just a wide open voucher system without any accountability. It ought to be rejected by the House.

The CHAIRMAN. Mr. Chairman, I appreciate the concerns of my colleagues on the other side of the aisle, but unfortunately they have apparently read the propaganda from the Teachers' Union rather than reading the legislation itself.

This legislation does not establish a voucher program. It establishes no program at all. It simply encourages the States to innovate in a way that will empower parents with more voluntary choices so that they can meet the needs of their kids. It allows States to expand the rights of parents with more choices, to expand the accountability by giving parents more voluntary options.

Mr. Chairman, this vote today is a vote to empower parents and to do what IDEA is supposed to do, and that is to provide personalized, customized services for children with special needs.

Mr. Chairman, I rise in opposition to the DeMint and Musgrave amendments. These are thinly veiled efforts to privatize special education in our public schools by means of vouchers.
Mr. Chairman, I reserve the balance of my time.

Mr. FRANKS of Arizona. Mr. Chairman, I rise in support of the amendment by the gentleman from Colorado (Mrs. MUSGRAVE).

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

Mr. Chairman, this amendment that I am offering today is all about local control. It is all about meeting the needs of children that is in private schools, special ed students that are there; and each one of us would certainly agree that we need to meet the needs of these students. Quite frankly, they are not being met today. Although these children generate funds and are in the count that the public school uses, the Federal dollars flow to the public schools, and then these dollars very often do not reach the child in regard to purchasing the special services that they need by the agency by and local health, safety, and civil rights laws; and

(ii) the certificates may only be redeemed by the parents at eligible special education and related services providers, as determined by the local educational agency, that:

(aa) provide information to the parents and such agency regarding the progress of the child as a result of the receipt of such services in a format and, to the extent practicable, in a language that the parents can understand;

(bb) meet all applicable Federal, State, and local health, safety, and civil rights laws;

(cc) demonstrate that the provider has been lawfully operating as a business for not less than 1 year; and

(dd) provide assurances to such agency involving waste, fraud, or abuse on the part of the provider, or any employee of the provider, with respect to funds under the provider’s control.

Clause (vi) shall not apply special education and related services furnished pursuant to such certificates. At the discretion of the local educational agency, and to the extent consistent with state and local laws, state and local funds may be used to add to the value of such certificates.

The CHAIRMAN. Pursuant to House Resolution 206, the gentlewoman from Colorado (Mrs. MUSGRAVE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).
of the IDEA legislation. This is not a Federal mandate. This is not what people call vouchers. This is simply an option for the local schools to do this. And in those cases where they do, it gives those parents the opportunity to direct the resources on behalf of their child.

Mr. Chairman, no one knows and loves these children more than these parents. Mr. Chairman, I thank the gentlewoman for offering such a noble amendment.

Ms. WOOLSEY. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) has 3 minutes remaining, and the gentlewoman from Colorado (Mrs. MUSGRAVE) has 3 minutes remaining.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PAYNE), a member of the committee.

Mr. PAYNE. Mr. Chairman, I stand in strong opposition to this amendment. Currently, IDEA guarantees every child with a disability a free and an appropriate public education. Diverting public funds to private and parochial schools through vouchers really undermines the public school system, and it undermines that guarantee that we have made to every youngster in this country. Vouchers would subsidize the enrollment of children in private schools that are not accountable nor subject to civil rights laws.

Our Republican colleagues have pushed for accountability in education through the Leave No Child Behind Act; yet if this amendment passes, private schools would not be held to the same standards as public schools. We all know that. Public schools accept all children; but private and religious schools can and often do discriminate by rejecting students due to academic standards, disabilities, behavior problems, religious affiliations, and other criteria.

Public schools are simply that. They are public. Private and parochial are simply that. They are private and they are parochial. Under this amendment, private schools accepting voucher funds would not be required to recognize any of the parental rights contained within IDEA. It would be a step backwards.

We need to move forward in this new millennium. This is directly opposite to what IDEA was created to do, giving parents a voice in their children's education. Voucher programs will not pay for the entire cost; and, therefore, it would simply subsidize those. I strongly urge rejection of this amendment.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank my colleague, the gentlewoman from Colorado, for yielding me this time.

I think this is an excellent amendment. Under current law, school districts are required to identify all children who have disabilities in a district, including private school children. All children. School districts are also obligated to provide special education and related services to these private school children. There is an equal amount of federal funds generated by these children to the district under IDEA.

Now, what does this mean? It means the school district receives a certain amount of dollars to provide services to these children. Under current law, however, no parentally placed private school child is entitled to individual services, even though the school district receives this money. The only requirement in the law is that the school’s disabled population as a group must be helped.

In practicality, what this means is that many of the students who have been placed in a private or parochial school do not get the direct services specific to their needs. Even when those services are available, they are often offered at times and at places that are inconvenient to the child’s parents.

I support the Federal investment in meeting the education needs of all of our Nation’s children with disabilities. Support this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding me this time.

The arguments here are very similar to the previous amendment. One, it is a very bad idea in terms of policy and accountability and responsibility to these children, but it is also a bit of a hoax.

The idea that the parent can take the Federal share of the money, which the maximum is $1,400, maybe as high as $1,800, and go out and buy the same education they are going to get in the public school system for their children on the school-year basis, well, where does the rest of the money come from? At least if this bill had some intellectual integrity, it would say take all the money the school district is going to spend, take the $6,000 on a national average, give that to the parent and let them try to find this education. Obviously, if the WORD would come up with the additional money, they cannot provide for an education. Or if the child is severely disabled, this will not begin to cover those services. Remember, most of the people who go out to get these services end up suing the school district for those services, and the school pays the whole amount. They pay $15,000, $20,000, $30,000, $40,000, or $50,000 because of the kind of intense services that these children need in order to qualify to get a free and appropriate education.

That is not what this amendment is about. This is just a shock and a jive, that somehow you can go out and get these first-class services for a severely disabled child for $1,400. Again, the bill allows for, and I think it makes sense on one level, supplemental services. If $1,400 will buy the kind of services for a child that is moderately disabled or a child reading problems and underachieving, and is labeled as disabled, fine, give them the supplemental services. But the notion someone can go out and buy an education for $1,400 is a hoax on the parents.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Chairman, this is one of the few times I have ever been accused of shucking and jiving. It is not usually what I do for a living.

The gentleman from California (Mr. GEORGE MILLER) has actually made a couple of points that reinforce the point of this amendment. It is absolutely true that school districts have come to us repeatedly and said we do not have enough money to meet the IDEA standards to do the individual development plans and to meet the needs of our special needs students. It is the biggest complaint coming out of every school district in the country.

If the schools actually are paying $6,000 to $7,000 a student, which sometimes, quite frankly, I think is not an accurate claim, then they should be the first ones lining up behind an amendment that says for $1,400 we are going to take $6,000 to $7,000 pressure off your school system. The opposition of those who say that they are against this because there is not enough money, the parent can choose to go to the school. If they cannot get the plan, then they do not get the money.

There are groups in this country, in private schools, who are willing, through churches and others, to put up money to try to address these types of problems, or as a Federal Government is prohibiting them from addressing it and prohibiting those parents from getting the opportunity to meet those needs.

The CHAIRMAN pro tempore (Mr. TERRY). The time of the opposition has expired, and the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized.

Mrs. MUSGRAVE. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Currently, 7 percent of all students enrolled in Catholic schools are identified as disabled. Less than 1 percent of them get services. They generate $10 million in revenue for the schools in IDEA. The schools actually get about $78,000 out of that $10 million generated.

So when we talk about equity issues and we come to this floor to talk about the needs of all children, please consider the fact that these are children
also. They happen to be in a different setting. They happen to be in a school that is not a government school. But that should not determine whether or not they are served.

We have time and time again stood on this floor arguing about whether or not we are really talking about children in these bills that we pass for education or whether or not we are just simply trying to support a particular system, a particular way of educating children. Should our concern not simply be about children? We hear that word bandied about, so often used to describe our motives here, but when it is a child other than the one the government runs, we say they do not deserve it.

This is a great amendment. I hope we support it.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment offered by the gentleman from Colorado (Mrs. MUSGRAVE).

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

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SHADEGG: In section 204 of the bill, strike “Section 614” and insert “(a) In GENERAL.—Section 614.”

In section 204 of the bill, add at the end the following:

(b) FINDINGS; SENSE OF CONGRESS. (1) FINDINGS.—Congress finds the following:

(A) Certain of the categories of disability that allow students to qualify for benefits under the Individuals with Disabilities Education Act have not been scientifically established and, as a result, some children who do not have actual learning disabilities are classified as having disabilities under that Act.

(B) Nearly one in eight students is now labeled as disabled.

(C) Over one-half of those students are classified as having learning and behavioral challenges.

(D) Current definitions of disabilities in the Code of Federal Regulations, particularly the definition of “emotional disturbance”, are vague and ambiguous.

(E) The absence of reliable methods for distinguishing children with a special learning disability from children who have lower than expected achievement leads to overidentification and misidentification of non-disabled students as students with disabilities.

(F) The President’s Commission on Excellence in Special Education (PCISEE) found in its July 2003 report, “A New Era: Revitalizing Special Education for Children and their Families”, that many of the current methods of identifying children with disabilities lack validity and reliability; that the vast majority of children are misidentified every year, while many others are not identified early enough or at all.

(G) The President’s Commission also found that emotional and behavioral difficulties could be prevented through classroom-based approaches involving positive discipline and classroom management.

(I) According to testimony from a March 13, 2003 hearing before the Subcommittee on Education Reform of the Committee on Education and the Workforce of the House of Representatives, students are frequently referred to special education because they are not succeeding in the general education setting, and not because they are actually disabled.

(J) Students with controllable behavioral problems are often classified as having learning disabilities and are not held responsible for their own behavior.

(K) According to testimony by Secretary of Education Rod Paige on October 4, 2003 before the Committee, over one-half of those students are classified as children with disabilities for purposes of receiving services under that Act; and

(B) students with behavioral problems who have not been diagnosed by a physician or other person certified by a State health board as having a disability should not be classified as children with disabilities for purposes of receiving services under that Act.

The CHAIRMAN pro tempore. The Chairman pro tempore announced that the ayes appeared to have it.

Mr. SHADEGG. Mr. Chairman, pursuant to rule 6, further proceedings on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) will be postponed.

It is now in order to consider amendment No. 7, printed in House Report 109-79.

AMENDMENT NO. 7 OFFERED BY MR. SHADEGG

Mr. SHADEGG. Mr. Chairman, pursuant to the rule, I offer amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. SHADEGG: In section 204 of the bill, strike “Section 614” and insert “(a) In GENERAL.—Section 614.”

In section 204 of the bill, add at the end the following:

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(A) Certain of the categories of disability that allow students to qualify for benefits under the Individuals with Disabilities Education Act have not been scientifically established and, as a result, some children who do not have actual learning disabilities are classified as having disabilities under that Act.

(B) Nearly one in eight students is now labeled as disabled.

(C) Over one-half of those students are classified as having learning and behavioral challenges.

(D) Current definitions of disabilities in the Code of Federal Regulations, particularly the definition of “emotional disturbance”, are vague and ambiguous.

(E) The absence of reliable methods for distinguishing children with a special learning disability from children who have lower than expected achievement leads to overidentification and misidentification of non-disabled students as students with disabilities.

(F) The President’s Commission on Excellence in Special Education (PCISEE) found in its July 2003 report, “A New Era: Revitalizing Special Education for Children and their Families”, that many of the current methods of identifying children with disabilities lack validity and reliability; that the vast majority of children are misidentified every year, while many others are not identified early enough or at all.

(G) The President’s Commission also found that emotional and behavioral difficulties could be prevented through classroom-based approaches involving positive discipline and classroom management.

(I) According to testimony from a March 13, 2003 hearing before the Subcommittee on Education Reform of the Committee on Education and the Workforce of the House of Representatives, students are frequently referred to special education because they are not succeeding in the general education setting, and not because they are actually disabled.

(J) Students with controllable behavioral problems are often classified as having learning disabilities and are not held responsible for their own behavior.

(K) According to testimony by Secretary of Education Rod Paige on October 4, 2003 before the Committee, over one-half of those students are classified as children with disabilities for purposes of receiving services under that Act; and

(B) students with behavioral problems who have not been diagnosed by a physician or other person certified by a State health board as having a disability should not be classified as children with disabilities for purposes of receiving services under that Act.

The CHAIRMAN pro tempore. All time having expired, the question is on the amendment offered by the gentleman from Arizona (Mr. SHADEGG) on the attempts he is making in this amendment because I think it is critically important that we are working to define very carefully those who are going to do evaluations on children.

However, what I would like to suggest is that we continue to work on this, perhaps that we move it to conference and try to refine some of the words. Because I think some of the aspects that deal with physicians or trying to carefully define who may do these evaluations I believe we will get some more mileage on it. It has been an important distinction over the years that I myself, as a psychologist, having struggled with in trying to come up with the exact way to define special education and learning disabilities and the right tests. It is an issue that the Congress has been dealing with for many years as well and one that I think really requires our continued attention.

So again I compliment the Members for working on this. I hope we can continue to work on this and try to refine some of these definitions so that we can get to this end perhaps by another means.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I want to compliment the gentlewoman from Arizona (Mr. SHADEGG) on the attempts he is making in this amendment because I think it is critically important that we are working to define very carefully those who are going to do evaluations on children.

However, what I would like to suggest is that we continue to work on this, perhaps that we move it to conference and try to refine some of the words. Because I think some of the aspects that deal with physicians or trying to carefully define who may do these evaluations I believe we will get some more mileage on it. It has been an important distinction over the years that I myself, as a psychologist, having struggled with in trying to come up with the exact way to define special education and learning disabilities and the right tests. It is an issue that the Congress has been dealing with for many years as well and one that I think really requires our continued attention.

So again I compliment the Members for working on this. I hope we can continue to work on this and try to refine some of these definitions so that we can get to this end perhaps by another means.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today to oppose this amendment, and let me just basically state the reason why.

We have in this country right now 4,000 young people who kill themselves each year in such a way that it is the third leading cause of death in this age group. We need to consider that two-thirds of young people who suffer from mental illness never even get help. Why? Because there is a stigma. People do not believe that there is any truth to mental illness.

While I am sure the gentleman who authored this amendment did not intend for the amendment to have this impact, what I worry about is that the impact of this amendment will be to further add to the stigma that exists towards people with mental illness by saying, basically all these kids really need is a good swift kick in the butt.
and they ought to pull themselves up by their bootstraps.

The fact of the matter is we know that there are some serious emotional disturbances that these young people are facing. To suggest that teachers right now in the classroom, administrators and principals do not already know which children need special ed and which children do not, I think is using the heavy hand of Congress to micromanage what school districts are trying to do to help these children.

So I would just ask the Members of the House to take a good hard look at this amendment and to consider the ramifications of voting for this because I think there is an unintended effect of passing this amendment that will further stigmatize people with mental illness.

Mr. SHADEGG. Mr. Chairman, I yield myself such time as I may consume to simply comment there is no intent to change the definition of mental illness nor to stigmatize in any way.

Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).  

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman from Arizona for yielding me this time.

As a Congress, we have a responsibility to not only fund special education but also to make sure the dollars spent on special education are targeted to the children who really need the extra assistance and learning. Each year, children are wrongfully identified as needing special education while many others are not identified early enough or at all.

Mr. Chairman, this misidentification reduces the resources available to serve children who are actually disabled. Furthermore, it gives some children with controllable but negative behavior the ability to misbehave without fear of punishing.  

H.R. 1350 takes important strides in addressing the problem of overidentification and the mislabeling of children with disabilities by way of prereferal services and early intervention strategies.  

It also takes important strides in reforming current discipline procedures to make our schools safer for all of our children and teachers.

The Shadegg amendment supports the efforts of this legislation before us, and expresses a sense of Congress on reducing misidentification and ensuring that our schools are safe. I encourage Members to vote for this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, right now we have no child psychiatrists in this country because there is no reimbursement because we have a discriminatory health care system that does not acknowledge mental illness as a health matter at all. So how we expect a very, very limited number of people who are experts in this area to somehow begin to deter
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Mr. GEORGE MILLER of California. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Rhode Island (Mr. KENNEDY) because I think this amendment causes a great deal of trouble in terms of the questions of the stigma of people.

I have talked to an awful lot of parents who have great qualms about whether their children should be identified in special education programs, and they try to make their child into the program when they know the child needs help or not because they are concerned about what that means in the future. We have struggled with this in the committee and on both sides of the aisle, this question of underidentification or overidentification of the illnesses that we should be treating in this setting.

I do not think that this language, and maybe it can be improved before the end of this process, but I do think that this language is proper. It suggests that only a select number of people are fit to pass judgment on whether or not these children are eligible or not, and I think it does create a problem in terms of the question of national health insurance.

Mr. NORWOOD. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).  

Mr. NORWOOD. Mr. Chairman, I say to the gentleman from California (Mr. GEORGE MILLER), we are not far off on what we want to do here. Perhaps the gentleman does not like the language exactly like it is, but I am absolutely certain the gentleman does not want children placed on the disability list when they should not be if it takes away from other children.

I think the gentleman from Arizona (Mr. SHADEGG) is doing the right thing. I am sorry it is just a sense of Congress. It should be changed language in this legislation.

The CHAIRMAN pro tempore (Mr. TERRY). All time has expired.

The question is on the amendment offered by the gentleman from Arizona (Mr. SHADEGG).  

The amendment was agreed to.  

It is now in order to consider amendment No. 8 printed in House Report 108–79.  

AMENDMENT NO. OFFERED BY MR. TANCREDO  

Mr. TANCREDO. Mr. Chairman, I offer an amendment to the CHAIRMAN pro tempore. The Clerk will designate the amendment. The text of the amendment is as follows:
Amendment No. 8 offered by Mr. TANCREDO:
Strike subparagraph (A) of section 602(27) of the Individuals with Disabilities Education Act (as proposed to be amended by section 101 of the bill) and insert the following:

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(A) IN GENERAL.—The term 'specific learning disability' means a medically detectable and diagnosable physiological condition relying on physical and scientific evidence and not based on subjective criteria.
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The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Colorado (Mr. TANCREDO) and a Member opposed each will control 5 minutes.

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

Much of the debate over this particular amendment, I think, we have actually heard over the previous amendment. It goes to the same issue, although not in the same language. I think this is an amendment to the bill. It is designed specifically for the purpose of trying to identify those children who are truly in need of the services that we appropriate money for here, those children that are not, who are placed into these programs in ever-greater numbers, thereby diluting the pool of resources available to serve children who are truly in need.

This is a language which has been with us since the beginning of this program. It was hoped it would be addressed in the reauthorization. That did not happen. The reauthorization does, in fact, what the gentleman from Rhode Island (Mr. KENNEDY) was asking for a minute ago, and that is emphasize early identification, and I am all for that. I do not believe that will change the problem.

If children are being misidentified today, they were misidentified earlier. That is the real problem, misidentification, not the time at which it happens. The problem is with it intrinsically.

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

Ms. WOOLSEY. Mr. Chairman, I claim the time in opposition to the TANCREDO amendment.

The CHAIRMAN pro tempore. The gentleman from California (Mr. GEORGE MILLER) and a Member opposed each will control 2 minutes.

Mr. GEORGE MILLER of California. Mr. Chairman, this committee has struggled long and hard over many years to try and reduce litigation in this legislation. I think we have a magnet here in terms of litigation. And I also think because the definition of "medically detectable and diagnosable physiological condition," I am not quite sure how we are going to comply with that in the number of conditions that children have. The number of conditions under which we can diagnose children I am not sure fit within that definition. By the same token, I suggest that does not mean that they are not properly enrolled in these programs and do not have a disability that requires special attention in terms of their ability a medical professional in order to receive the same special education services as those children who are medically diagnosed.

The Tancredo-Graves amendment would protect parents, and most importantly, it would protect children from being labeled with a disability that they may not have.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER. Mr. Chairman, the problem we have in this country right now is not that there are too many people who are overidentifying themselves as having mental illness; it is that it is too few people. And the notion that people are readily just going in and saying, oh, my child is disabled or I have a mental illness, you have got to be kidding me. Two thirds of those who need the help are not getting it, and if my colleagues think that the people who really are going to be at the lower-end socio-economic levels are going to be able to go to a doctor, pay for it to try to get identified so they can get this program, who do they think is going to get it under their bill? I will tell them who. People with health insurance and money. They are the only ones who are going to be able to afford to see a doctor and to get this designation. In addition to that, this mentally detectable and diagnosable, physiological condition, that has got stigma and stereotype written all over it. It is language that is basically for those who are concerned about this issue, code language for discrimination against people with mental illness; and that is a fact. And my colleagues can talk to anyone who leads any mental health organization in this country, NAMI, National Alliance for the Mentally Ill, any of those, and they will say this language here plays upon the age-old stereotype of people with mental illness. And I urge my colleagues to reject this amendment.

Mr. TANCREDO. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. MURPHY).

(Mr. MURPHY asked and was given permission to revise and extend his remarks.)
Mr. MURPHY. Mr. Chairman, I believe the Member is headed in an important direction in terms of identifying a better way of evaluating children. And speaking as the only Member of this Chamber who has done hundreds of these tests, I also like to say medical doctors for the most part do have the training or the tools to do these evaluations. We need to pursue a clearer definition. I am absolutely in agreement on that, but I am not sure this is the correct way to do this. Even the brain tissue is malformed or damaged; but they cannot say if the brain is functioning properly and therefore give some explanation or diagnosis of such concerns as Asperger’s, autism, or dyslexia at this time.

The CHAIRMAN pro tempore (Mr. TERRY). The gentlewoman from California at this time.

Mr. MURPHY. Mr. Chairman, I yield myself such time as I may consume. I would like to repeat that this amendment creates a very narrow medical condition definition, and it would keep children from getting the special education services they need to learn and be successful in school.

Mr. Chairman, I yield the balance of my time to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I would just say as my good friend has just said, the reason that doctors are not trained in identifying mental illness is that we still are living in a country where mental illness is not regarded as part of the body. In other words, brains are not considered an organ of the body currently in this country for purposes of insurance. So why should we be surprised when there are not any doctors out there who can have the training to do this? What the gentleman is doing is not helping us. It is hurting us. So I would just ask my colleagues once again please vote “no” on the Tancredo amendment.

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

The dictionary definition of physiological psychology, a branch, by the way, of physiology, is that it is concerned with the relationship between the physical functioning of an organism and behavior. So I am quite sure that this definition will cover the kinds of folks, the kinds of problems that my colleague from the other side of the aisle has brought to our attention. It is certainly not my intention to discriminate against them. It is simply my intention to make sure that only the children who need help, be it physical or mental, get that help, and they are now being refused that help. We cannot get them into the program. We only want to help them the hard way because of the many kids who are there who should not be there. I sat through many processes that were designed. As a teacher, I sat through the process designed to determine which kids should go into special ed and which kids should not, and I will tell my colleagues everything in that process is designed to push the kid in. Everybody around that table is usually there to say yes, including the parent, who does want an excuse for the problems they are having, and a lot of problems are behavioral. There are all kinds of kids in our classrooms today who are there in IDEA classrooms and handicapped education because their IQ does not fit their achievement level. But that is not necessarily a handicap and should not be a definition of a handicapping condition. We have title I for this kind of thing. That is the problem, too many put there subjectively. It is not an attempt to discriminate between mental or physical handicap one iota. I assure my colleagues I have a personal concern about those issues. I assure them.

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

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

The CHAIRMAN pro tempore. The ayes appeared to have it. There were—ayes 413, noes 0, and there were—ayes 413, noes 0, and there was a recorded vote on amendment No. 2 offered by the gentleman from Louisiana (Mr. VITTER) which was agreed to by voice vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. The ayes appeared to have it. There were—ayes 413, noes 0, and there was a recorded vote on amendment No. 2 offered by the gentleman from Louisiana (Mr. VITTER) which was agreed to by voice vote.

The Clerk redesignated the amendment No. 2 offered by Mr. VITTER as amendment No. 1 offered by Mr. VITTER.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

Mr. MURPHY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Amendment No. 2 offered by Mr. VITTER was agreed to by voice vote.

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings will now resume on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) will be postponed.

The vote was taken by electronic device, and there were—ayes 413, noes 0, not voting 21, as follows: [Roll No. 150]
Mr. OTTER. Mr. Chairman, unfortunately I missed the vote on the Vitter amendment to H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003. Had I been present, I would have voted "aye" on rollcall No. 150, had I been present I would have voted for the Vitter amendment on rollcall No. 150, had I been present I would have voted "aye" on rollcall No. 150, had I been present I would have voted "aye" on rollcall No. 150. Had I been present I would have voted "aye" on rollcall No. 150, had I been present I would have voted "aye" on rollcall No. 150, had I been present I would have voted "aye" on rollcall No. 150, had I been present I would have voted "aye" on rollcall No. 150. Had I been present I would have voted "aye" on rollcall No. 150, had I been present I would have voted "aye" on rollcall No. 150, had I been present I would have voted "aye" on rollcall No. 150.

The Clerk redesignated the amendment.

The CHAIRMAN pro tempore. Pursuant to clause 8, rule XVIII, the remaining members of the series will be conducted as 5-minute votes.

ANNOUNCEMENT OF ROLL CALL

The result of the vote was announced by the Clerk. The ayes prevailed by voice vote. The proceedings were postponed and the pending business is the demand for a recorded vote on the amendment of-der of this series will be conducted as 5-minute votes.

The CHAIRMAN pro tempore. This ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPOREoter, the amendment was agreed to.

Mr. NADLER and Ms. LINDA T. SANCHEZ of California changed their vote from "no" to "aye." So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. TERRY) (during the vote). Members are advised there are 2 minutes remaining voting on this vote.

Mr. LAMPSION. Mr. Chairman, on rollcall No. 150, I was at the White House for a bill signing. Had I been present, I would have voted "aye." Mr. ROGERS of Alabama. Mr. Chairman, on rollcall No. 150, I had been present, I would have voted "aye." Ms. JACOBS of Texas. Mr. Chairman, on rollcall No. 150, the Vitter amendment regarding the GAO study on IDEA paper work, it was unavoidable delay in a business meeting. If I had been able to be present, I would have voted "aye" on rollcall No. 150.

Mr. OTTER. Mr. Chairman, unfortunately I missed the vote on the Vitter amendment to H.R. 1350, Improving Education Results for Children With Disabilities Act of 2003. Had I been present, I would have voted "aye" on rollcall No. 150.
The CHAIRMAN pro tempore (Mr. TERRY) (during the vote). Members are reminded there are 2 minutes remaining on this vote.

So the amendment was rejected. The result of the vote was announced as above recorded.

ANNOUNCEMENT OF AMENDMENT NO. 8 OFFERED BY MR. TANCREDO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment. The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 247, not voting 11, as follows:

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The result of the vote was announced as above recorded.

ANNOUNCEMENT OF AMENDMENT NO. 9 OFFERED BY MRS. MUSGRAVE

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 6 printed in House Report 108–79 offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment. The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 247, not voting 11, as follows:

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The Clerk will redesignate the amendment. The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

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The result of the vote was announced as above recorded.
Mr. Chairman, this issue of our education system is very important. I had raised an issue of Impact Aid for our military men and women in a conflict that is just ending today, and I hope and pray that the committee takes up that issue at another time.

But I am here today about protecting the most vulnerable students in our schools. My amendment before the House recognizes that special education students face various challenges throughout their school day, and not the least of which is the danger posed by drugs on school property.

My amendment recommends, but does not mandate, that random locker searches are an effective way of reducing the severity of the drug problem in a particular school. The decision to employ this technique is left to the discretion of each school administrator.

Two high schools in my district, Libertyville High School and Vernon Hills High School, have conducted locker searches which have been hailed by parents, students, and staff as an effective and necessary method for indicating to students that the use of and sale of drugs on school property is not to be tolerated. These searches are a proactive technique that will hopefully discourage students from using or selling drugs in school.

A U.S. Supreme Court case entitled New Jersey v. T.L.O. in 1985 set the precedent that school searches fail under the Fourth Amendment’s reasonableness standard. The majority Court opinion said: “Striking the balance between schoolchildren’s legitimate expectations of privacy and a school’s equally legitimate need to maintain an environment in which learning can take place requires some easing of the restrictions in which searches by public authorities are ordinarily subject. Thus, school officials need not obtain a warrant before searching a student who is their authority.”

The goal of this amendment is not to infringe upon a student’s right to privacy; rather, it is intended to protect the entire school community from the dangers and health problems associated with the use and sale of illegal drugs.

I urge my colleagues to express their support for safe and drug-free schools by supporting the amendment.

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

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment.

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Illinois (Mr. Kirk) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Kirk).

Mr. KIRK. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today to commend the gentleman from Ohio (Chairman Boehner) and the gentleman from Delaware (Mr. Castle) for their hard work and dedication to improving our Nation’s special education system.

I also want to thank Sage Lansing of Michigan for her staff work on this issue.

Wilson (NM)  Wolf  Wynn
Wilson (SC)  Wooten  Young (AK)
Wilson (MN)  Woolsey  Young (FL)

NOT VOTING—13

Becerra  Kingston  Snyder
Combett  McCarthy (MO)  Weiler
Dreier  Owens  Whightfield
Geerhardt  Rush 
Hoeven  Slaughter

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). There are 2 minutes remaining in this vote.

1523
Mr. SOUDER. Mr. Chairman, I would like to thank the gentleman for his amendment.

As chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, few things are as important as trying to maintain order and safety in our schools.

This is a particular opportunity to point out what has been a current interest and the personal interest of the director of SAMS A, Charles Curry, on looking at co-occurring disorders. Increasingly, we are seeing the narcotics traffickers, particularly in urban centers but also in schools and elsewhere, prey upon the most vulnerable population in this country: those people who have various disabilities. We are seeing in many of the public housing areas now, not only in the United States but around the world, the vulnerability of this population to marketing and aggressive sales.

I think that the point that this amendment makes, that one of the things that keeps our schools safer for these vulnerable students is to make sure that the illegal narcotics stay out of the schools, is very important. We need to have this resolution passed.

I yield the gentleman from Illinois (Mr. Kirk) for calling attention to the specific problem of drugs in our schools, but also to the co-occurring disorders that are such a challenge in our society.

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

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Cunningham), the ace of the House.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of this amendment. I thank the gentleman for the caring amendment.

Both my daughters have gone through public school, and most of the Members here have done the same thing. We know that a war on terrorism is a war on drugs, as well.

If one is a mother with a child with special needs, or a child in a mainstream, drugs are a problem. A hearing-impaired child that sells cocaine in my opinion should be held accountable, because it has nothing to do with the actual disability.

This bill goes beyond that. It protects our schools. It makes sure that our schools and our lockers are free not just from drugs but from weapons.

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

The CHAIRMAN pro tempore. (Mr. LAH OOD). The question is on the amendment offered by the gentleman from Illinois (Mr. Kirk).

The amendment was agreed to.

The CHAIRMAN pro tempore. The amendment No. 10 offered by Mr. McKEON in section 611(f) of the Individuals with Disabilities Education Act (as proposed to be amended by section 201 of the bill), add at the end the following:

"(4) SPECIAL RULE FOR INCREASED FUNDS.—

' '(A) IN GENERAL.—If the amount available for allocations to States under subsection (e)(1)(B) by the percentage increase of the amount allocated to States for fiscal year 2003, then each State may retain not less than the amount of funds it had reserved under subsection (e)(1)(B) for fiscal year 2003.

'(B) EXCEPTION.—In any fiscal year in which the percentage increase of the amount available for allocations to States under subsection (d)(1) is equal to or greater than the rate of inflation, each State may increase its allocation under subsection (e)(1)(B) by the amount allowed under subsection (e)(1)(B) for the sole purpose of making grants under subsection (e)(4)(A).

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from California (Mr. McKEON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. McKEON). Mr. McKEON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer an amendment to H.R. 1350, the Improving Education for Children with Disabilities Act of 2003 which will make dramatic improvements to the Nation's special education law.

The amendment that I, along with my colleague, the gentlewoman from California (Ms. WOOLSEY) am offering would amend current law to require that any additional increases in Federal spending above fiscal year 2003 levels be passed down directly to the local level.

Over the past 2 years, the State of California has substituted additional Federal education money for State funds, in most cases to mask the budget deficit. The State has used Federal dollars as the sole source of increase in special education over the last 2 years, allowing the State to spend the expected increase in Federal dollars to the State on other programs.

In 2003, the State of California received an increase of $151.5 million in Federal funding to go towards educating special needs kids, and in 2004, the State is slated to receive an increase of $82.8 million. This level is likely to be very much higher for my State if Congress provides the significant increases in special education funding called for in the budget resolution.

Unfortunately, California school children have not seen the benefits of increase in the Federal Government. While this practice may not violate any law, I believe it violates the intent of our recent efforts to increase Federal education funding which is harmful to our Nation's school children.

In a Contra Costa Times article that appeared in February 2002, Sandy Harrison, spokesman for the State finance department, said "the governor substituted the new Federal funds for local funds, because it was a tough budget year."

Even though the redirection of funds in California was only supposed to be for one year, the State has decided once again to use the Federal money to replace State funding for special education.

Of additional concern is that this practice is no longer limited to only the State of California. The States of Kansas, Iowa and Oregon are contemplating similar efforts to retain Federal funding at the local level instead of sending it down to the local level where it can make the most difference.

Over the last few months and even during consideration of the bill by the Subcommittee and the Workforce, we tried many avenues to deal with this concern. Unfortunately, most were unworkable and would have been difficult to administer.

The one alternative that is easy to administer and immediately solves the problem is to mandate that any additional Federal funding above fiscal year 2003 be distributed straight to the local education agencies.

The McKeon/Woolsey amendment has the strong support of teachers and local school officials, those on the front lines in California who want to ensure that children with disabilities receive the quality education they deserve. For example, the County Office of Education which serves as the Nation's largest regional education agency, assisting 81 school districts, serving 1.6 million students, responsible for serving 30,000 children with physical and mental disabilities, said that this amendment will help us meet our responsibility to provide the highest quality education to our children by ensuring that funding reaches the local level where it is most needed.

They go on to say that the amendment enhances our Nation's investment in the future of our children and the attainment of our dreams and aspirations. By passing H.R. 1350, Congress moves closer to following through on a commitment made over 27 years ago to families and their children with special needs. If States are allowed to usurp Federal funds that are intended to supplement, not replace State funding, this commitment will never be realized.

Special needs children in my State cannot afford to be stripped of this desperately needed funding. Therefore, I am offering this amendment so that...
the unprecedented level of funding offered by Congress is not diluted because of States unwillingness to make special education funding a priority.

Mr. Chairman, I urge my colleagues to support the amendment.

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

Ms. WOOLSEY. Mr. Chairman, I claim time in opposition to the amendment, but I do not oppose it.

The CHAIRMAN pro tempore. Without objection the gentlewoman is recognized for 5 minutes.

There was no objection.

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

Mr. Chairman, there is strong bipartisan support for the McKeon/Woolsey amendment, amendment No. 10, because it guarantees that from now on, all increases in Federal IDEA funds go to local schools where they belong.

My Republican colleague and I came together to offer this amendment because we want to make certain that State do not use Federal increases in IDEA funds to solve their State budget problems. We are aware of at least 4 States, including our own California, that may be considering using IDEA funding increases at the State level for other purposes.

While we all here in this room are sympathetic to State budget problems, we agree that IDEA funding must not be used to solve these problems. The McKeon/Woolsey amendment ensures this will not happen by prohibiting States from keeping increases in IDEA funds for their own use.

Whenever I talk to the educators in my local school districts, the first thing they bring up about IDEA is funding. As we all know, the Federal government has a long way to go to fully fund the Federal share of IDEA. It is our local school districts who fulfill the obligation of providing every child with a free and appropriate public education. And it is these school districts, not the States, who must benefit from Federal IDEA funds.

Local schools desperately need every penny of Federal IDEA funds, and the McKeon/Woolsey amendment makes sure that they get them. I encourage my colleagues to vote 'aye' on the McKeon/Woolsey amendment.

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

Mr. McKEON. Mr. Chairman, I yield 1 minute to the gentleman from San Diego, California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I have spent 12 years in this body, both in the authorization and the Committee on Appropriations. My sister-in-law is in charge of all special education in San Diego city schools. She works for Alan Bersin. And what he has stated that he has got two basic problems. One of these is to try to properly say that the governor is taking Federal special education money and cutting IDEA. What he is doing is reducing the State funds for IDEA and the Federal funds are supposed to go above that to enhance the IDEA funding, and the governor is doing that to balance his budget. This amendment prevents that.

There is much more that we could do in this body. I wish that we could replace the bus of paper work. In California it is unbelievable. I wish we could cap lawyer fees, and put the money directly towards students. We cannot do all of those things. We do not have the votes on some of these issues. But this one is not only very thoughtful, but it is not needed to protect the funds that we have appropriated in a bipartisan way for IDEA.

The CHAIRMAN pro tempore. The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 108-79.

AMENDMENT NO. 11 OFFERED BY MR. NETHERCUTT

Mr. NETHERCUTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. NETHERCUTT:

In section 635(a)(16)(B) of the Individuals with Disabilities Education Act (as proposed to be amended by section 301 of the bill), amend subsection (B) at the end before the period the following: "or in a setting that is most appropriate, as determined by the parent and the individualized family service plan team".

The CHAIRMAN pro tempore. Pursuant to House Resolution 206, the gentleman from Washington (Mr. NETHERCUTT) and a Member opposed each will control 5 minutes.

Mr. NETHERCUTT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the amendment that I propose today is intended to expand the service opportunities available to young children under IDEA in an appropriate facility or facilities in conjunction with a parent and the best recommendations of the individualized family service plan team. It is an expansion of services available to children, not a contraction under IDEA.

The reason for this amendment is for the following purposes: In my district of Spokane, Washington, eastern Washington, the City of Spokane, we have a great facility called the Spokane Guild School. They have a dedicated board of trustees and dedicated volunteers and operational people from Dick Boyzer to Rick Melanson and to Jim O'Connell to many, many others who have looked at the recommendations of the Spokane Guild School and found them to be so superior to other environments that may be available to young children who are experiencing muscular conditions or neuromuscular conditions that need attention at an early intervention age.

So what they have done over the years is determine that perhaps existing law would exclude them from providing for Oregon in the State of Washington, perhaps around the country, so that the children are benefitted in conjunction with the requests and expectations of parents and the IFSP team. So this is not a threatening amendment. To the disability community it is an enhancement.

About a year or so ago about the request or suggestion of Mr. Melanson and others, we put $500,000 in to make sure that the government of the United States understands that this kind of environment for children suffering these kinds of conditions that need desperate help at an early age. We were able to get that money in to do some studies, to make sure that the recommendations of Mr. Melanson from the Department of Education through the Spokane Guild School may be replicated around the rest of the country because it is enhancing for students and little children, not diminishing.

I have Undersecretary Bob Pasternak from the Department of Education come to our district, and he did so willingly and with a critical eye, but also a welcoming expectation about the great services that are available even though they may not be precisely in a home environment. I will speak for him and say that we were delighted to have him come, and I believe he was delighted to be able to be there.

In the visit that Undersecretary Pasternak made, he made an impression as a caring person at the bureaucracy of the Department of Education and in government, but also a person who wants to, in his best expectations, have children served properly who are subject to the IDEA.

So we have a lot to offer in this environment. We have a State legislature in my State, the Senate passed legislation that said, Congress, please allow this expansion or interpretation of IDEA to cover a place like the Spokane Guild School. It passed the House by 96 to nothing. It passed the Senate in our State 49 to nothing. So it is a bipartisan, comprehensive, high-exception measure that helps children.

So I would just urge the chairman of the Committee on Education and the Workforce and the minority Member, certainly the gentleman from Ohio (Mr. BROWNSTEIN) and the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Delaware (Mr. CASTLE) are all dedicated to the best interest of young children, and I would
Mr. WOOLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Washington (Mr. NETHERCUTT) will have the floor.

Mr. NETHERCUTT. Mr. Chairman, I yield the gentleman from Washington.

Mr. WOOLEY. Mr. Chairman, I yield the gentleman from Washington.

Mr. NETHERCUTT. The gentlewoman from California (Ms. WOOLEY), the majority Whip, will have the floor.

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

Mr. NETHERCUTT. The gentleman from Washington (Mr. NETHERCUTT) will have the floor.

Mr. NETHERCUTT. Mr. Chairman, I yield the gentleman from Ohio.

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

Mr. BURTON. Mr. Chairman, I appreciate the gentleman's remarks and appreciate the gentlewoman from California (Ms. LORETTA SANCHEZ) introducing this amendment.

Mr. BURTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Chairman, I appreciate the gentleman's remarks and appreciate the gentlewoman from California (Ms. LORETTA SANCHEZ) introducing this amendment.

Mr. BURTON. Mr. Chairman, I appreciate the gentleman's remarks and appreciate the gentlewoman from California (Ms. LORETTA SANCHEZ) introducing this amendment.

Mr. BURTON. Mr. Chairman, I appreciate the gentleman's remarks and appreciate the gentlewoman from California (Ms. LORETTA SANCHEZ) introducing this amendment.
Many of these children do have problems occasionally, where they flap their arms, they will bang their heads against the wall, they will even speak incoherently. It takes somebody who understands to be able to deal with them. It is very difficult for some children who do not understand: aggressiveness, for example; committing self-injury to themselves. It is a behavior that is often difficult to explain to people, law enforcement sometimes, who do not really understand what type of a child this may be. Therefore, they may handle them in a different way, and that way they might be more injurious towards the student. That is why the Sanchez amendment would include language in this bill that would authorize the use of funds to develop and to improve programs to train school safety personnel and first responders who work with our school facilities to recognize autism spectrum disorders.

The goal of the amendment, Mr. Chairman, is to train school safety personnel and our first responders. Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time just to say that we are in support of the amendment. We actually think it is a very good amendment on this side. We thank the gentlewoman, and we hope that everybody will support it.

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

The CHAIRMAN pro tempore. The text of the amendment offered by the gentlewoman from California (Ms. Davis)....
Mr. WILSON of South Carolina. Mr. Chairman, I’d like to thank Congressman Wu for his amendment that provides greater opportunities to States in reducing over-identification of children with disabilities.

Each school district faces unique challenges in educating its youth. This amendment allows school districts and teachers to improve their ability to appropriately identify special education students. It also provides more support for early intervention so school districts can provide more services and behavioral programs to help reduce the number of children identified as having a learning disability.

Steps like this amendment combined with my bill entitled Teacher Recruitment and Retention Act, which will provide $17,500 in loan forgiveness for special education teachers, will demonstrate our resolve to students with disabilities and those who teach them.

Ms. HOOLEY of Oregon. Mr. Chairman, I support his amendment and I support full funding of IDEA.

While I am pleased that this Congress is tackling the issue of special education today, I am disappointed that this bill does not substantively address several important issues including fully funding IDEA and the misidentification of children with disabilities.

Misidentification is a serious problem in our schools. Many general education teachers are not trained to identify learning disabilities and students are placed in special education when all they need is a little extra assistance. Not only is this detrimental to the student, but it diverts precious funding away from students with serious disabilities.

Full funding of IDEA has been one of my top priorities during my time in Congress. When Congress first addressed this issue in 1975, we made a commitment to provide children with disabilities access to a quality public education. But not once in the past 28 years has Congress lived up to its obligation to fund education. But not once in the past 28 years has Congress lived up to its obligation to fund education. I commend them for their sponsorship of this legislation. Their efforts and work has basically seen to it that we are addressing the educational needs of all children, including those children with disabilities, to make sure that they receive a quality education. I commend them for their efforts.

My amendment will require that the Secretary of Education conduct a study on the amount of cost to States to comply with the requirements of the individuals with Disabilities Education Act.

Mr. Chairman, I rise today to offer what I think is probably one of the simplest amendments that we will see today and, hopefully, for that reason, a non-controversial amendment to H.R. 1350, the Improving Education Results for Children with Disabilities Act of 2003.
CONGRESSIONAL RECORD – HOUSE

April 30, 2003

Matters of jurisdictional interest to your Committee in the future.
I thank you for working with me regarding this matter. I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 1350 on the House floor.

Sincerely,

JOHN A. BOEHNER,
Chairman.

Mr. GARRETT of New Jersey. Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY of California. Mr. Chairman, I claim the time in opposition to this amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

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

Mr. GARRETT of New Jersey. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

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

The CHAIRMAN pro tempore. The question is on the committee amendment, as amended.

The CHAIRMAN pro tempore. There being no further amendments in order, the amendment is in the nature of a substitute, as amended.

The CHAIRMAN pro tempore. In the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BUTTOW of Indiana) having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had in mind consideration of the bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes, pursuant to House Resolution 206, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment or in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

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

The ayes appeared to have it.

The rule, the previous question is ordered.

The Speaker pro tempore announced that a quorum is not present.

The vote was taken by electronic device, and there were—yeas 251, nays 171, not voting 12, as follows:

[Roll No. 154]

YEAS—251

Mr. AHERD
Mr. ADKINS
Mr. ANDREWS
Mr. BARBER
Mr. BAKER
Mr. BARTON (NC)
Mr. BEAUPREZ
Mr. BELL
Mr. BERGER
Mr. BILLIK
Ms. BOBBY
Mr. BONNER
Mr. BOEHMER
Mr. BONILLA
Mr. BONNER
Mr. BOWEN
Mr. BURR
Mr. BURCH
Mr. BURTON (IN)
Mr. CALVERT
Mr. CANTOR
Mr. CARPOSO
Mr. CARDOZA
Mr. CARTER
Mr. CASE
Mr. CASTLE
Mr. CHABOT
Mr. CHAPIT
Mr. CIRILLO
Mr. COX
Mr. CRAIN
Mr. CRENSHAW
Mr. CULBORN
Mr. CUNNINGHAM
Mr. DAVIS
Mr. DAVIS (GA)
Mr. DE MINT
Mr. DIAZ-BALART
Mr. DICKS
Mr. DOOLEY
Mr. DODD
Mr. DUNCAN
Mr. DUNN
Mr. EDWARDS
Mr. EHlers
Mr. EMERSON
Mr. ENGLISH
Mr. EVETT
Mr. FEENEY
Mr. FERGUSON
Mr. FLETCHER
Mr. FORBES
Ms. FORSELLA

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

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

The Question is on the Committee of the Whole

The Speaker pro tempore announced that a quorum is not present.

The question is on the committee amendment, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. Under the rule, the Committee rises.

Mr. OWENS of Georgia. Mr. Speaker, because of an emergency in my district, I missed rollcall votes No. 149, No. 151, No. 152, No. 153 and No. 154. If present, I would have voted "yea" on roll call No. 150; I would have voted "nay" on rollcall votes No. 149, No. 151, No. 152, No. 153 and No. 154.

PERSONAL EXPLANATION

Ms. SLAUGHTER of Georgia. Mr. Speaker, I was unable to be present for rollcall votes 149, 150,