

MINUTES OF THE MEETING
JOINT SUBCOMMITTEE ON EDUCATION
HOUSE OF REPRESENTATIVES
49th LEGISLATURE
SPECIAL SESSION III

June 17, 1986

The meeting of the joint subcommittee on Education was called to order by Chairman Gene Donaldson at 8:05 A.M. on Tuesday, June 17, 1986 in room 312-2 of the Capitol.

ROLL CALL The roll call was called by the secretary. All members were present except Sen. Haffey who joined the meeting shortly.

Jane Hamman of the LFA office handed out Exhibit # 1. The purpose of the meeting was to determine if the committee would like to take any follow-up action relating to the following issues; No. 1 Administrative Changes or Consolidation, No. 2 Administrative and Faculty Contracts, No. 3 Pay Plan Impacts/Equity Issues, No. 4 Federal Funding, No. 5 Program Plans tied to Fiscal Plans and No. 6 Viability of Tech.

Chairman Donaldson reported that a letter regarding the consolidation of administration of the Cooperative Extension Service and the Agricultural Experiment Station would be drafted and circulated to the committee for approval. It would then be sent to the Commissioner of Higher Education and the leadership so that when the issue comes to the floor the committee will be able to discuss it and indicate they have taken some definitive action. He asked if the committee felt that would be an appropriate action.

In regard to issue No. 2, Administrative and Faculty Contracts Chairman Donaldson said it basically deals with flexibility. He stated he would like to have the commissioners office report back to the legislature any ways in which the flexibility is being encumbered and if there is anything the legislators can do to help in that nature. He then stated that Dr. Tietz had remarked that he could do the job cheaper if he had the ability to have some flexibility and asked Dr. Krause if he would like to comment on that.

Carrol Krause, (7-1-A 3:57) Commissioner of Higher Education stated he would have to ask Dr. Tietz specifically what he was referring to because in the area of having the flexibility to move people from campus to campus, they do have that ability. However, if they are tenured on a specific campus they may not be able to necessarily transfer unless they were qualified for another position. He stated he was not aware of any statute that would preclude the campuses from moving people from one to another. Rep. Peck questioned since they had the ability, if it had ever been done. Dr. Krause stated that the board has not transferred anyone to his knowledge, although people have taken positions at other campuses.

Rep. Peck then questioned Dr. Krause if he had given any more thought to the possibility of having system wide negotiations with professional staff rather than unit negotiations, or if he had approached the board with it. Dr. Krause replied they would prefer to have system wide negotiations but the problem is the unit. He stated when the board first entered into negotiations he understood that they asked for a system wide bargaining unit from the Commissioner of Labor and lost their request. Rep. Peck stated it would probably be done statutorily if it was something that was desired and could be looked at for the 1987 session.

Rep. Peck then asked if the board had any rules or regulations that restrict flexibility such as Chairman Donaldson was speaking of. Dr. Krause stated he would also refer the question to Mr. Noble but the only provision he could think of is that some individual faculty members are tenured on a specific campus, they don't have system wide tenure. He said that part of that results from the fact that all campuses don't have the same disciplines, so in some cases it would be impossible to move a tenured faculty member to another campus. To which Rep. Peck inquired if it had ever been seriously looked at. Dr. Krause responded that it would be possible but it's the cost of relocating that is the controlling factor. Mr. Jack Noble stated that the board would oppose a system like that because it would be a disadvantage rather than an advantage.

A lengthy discussion regarding the requirements for tenure and also concerning bargaining units on the campuses was held.

Chairman Donaldson stated that as the committee is going through the process of studying to restructure the university system, they would like to know if there are any restrictions that would encumber the system to have the flexibility to do the things and provide the services to the students that need to be done. Dr. Krause replied he believed the concern about flexibility was in the movement of resources, from the physical plant to the personnel. He stated that is what he thought Dr. Tietz was also concerned about, that they don't have the ability to move money around between the different categories, using the best management techniques in order to get the maximum dollars. Rep. Peck inquired if that restriction came from the board or the legislature. Mr. Noble responded that the board does require approval on fund transfer programs and the reason for that is so they can come to legislature and explain why they moved money between programs.

Chairman Donaldson concluded the discussion by asking if it were agreeable with the committee they could include in the letter questions relating to whether there were any areas within the personnel or budgeting where they feel uncomfortable about the flexibility.

The next issue to come before the committee was the declining enrollment at Montana Tech. Chairman Donaldson said the declining enrollments in the mineral extraction part of their school is getting to the point where the school itself is not very viable. He stated it would be cheaper to send those students on a WICHE program to Colorado, but since we are one of the few schools to offer these kind of courses, we would like to see some kind of proposal that would really bring Tech to the forefront as a real leader in this area. He then asked Gary Langley if he would like to say a few words about how he perceives the industry's side of the issue.

Gary Langley (7-1-A 21:10) Executive Director of the Montana Mining Association. Mr. Langley stated he thought the decline in the enrollment at Tech could be attributed to the decline in the mining industry, not only hard rock, but also oil and gas and coal. He said if metal and mineral prices were to stabilize or increase they have the potential within the next decade of opening several new mines, particularly gold and silver in Montana that would produce 1500 to 1700 new jobs. He said he would like to agree with the chairman that Tech has reached a new era in its existence with a dynamic new leader in Dr. Lindsey Norman and that it could become a world class mining technology school.

Chairman Donaldson asked Mr. Langley what the reaction to the private sector is to getting involved with Tech by helping them set some goals for what the mining industry might need, or maybe even to the point of contributions by the mining industry to bolster facets of it. Mr. Langley replied he wouldn't think there would be any financial contributions to Tech other than to provide scholarships. He said the mining association awards several scholarships every year to mining engineering students. He also said that several of their board members are involved in a number of advisory councils with the Tech faculty, and they are extremely involved with the Montana Bureau of Mines. He said they hope in the future to run a training program for high school teachers on the mining industry in hopes they will place a small segment about the mining industry within their curriculum in the high schools, and that would have to be run through Montana Tech.

There followed a lengthy discussion concerning the number of graduates from Montana Tech that are being used in the mining industry, the question whether with the Butte mines

closed are their laboratory facilities still readily available to the students that go to Tech, and the number of other mines that would be available to students in close proximity to Montana Tech.

Chairman Donaldson thanked Mr. Langley for coming and said the committee will study the possibility of whether or not they could turn Tech into a regional, national or world class type institution. He encouraged him to visit with Dr. Norman because the committee feels it is vitally important that the industry is involved. Mr. Langley stated the mining industry would be glad to participate in any study the committee would undertake.

The next issue up for discussion was the pay plan. Chairman Donaldson stated it had been discussed quite a bit as to the problems it presents for the higher education. He noted that there are a number of methods in which that additional millage might be implemented, and that it will probably be discussed to a great extent as they go along in the session. There followed a lengthy discussion on the issue. Rep. Hand asked the chairman to share his ideas on where the revenue is now, what the subcommittees were able to get out last week and where they are now. Chairman Donaldson said the subcommittees came out reasonably close as far as the 5% was concerned. He said when a lot of the legislators came to town they thought the easiest thing would be to take the governor's proposal and to go home, but the problem is today is if the new revenue projections are correct, then that won't fill the gap. He said there's been some slippage in some places and some areas like the six mill levy that the LFA has picked up on that can be used someplace. He said his main concern is the big ticket items, if we lose them we are in big trouble. He said on the revenue side they are restricted to the gas tax and the PSC proposal and neither one is very popular and it's hard to say where they will go.

Rep. Peck inquired if the LFA staff and the governor's budget office had been attempting to reconcile the difference that exists in those two projections. Chairman Donaldson said he was sure the LFA staff had been working with the revenue committee and that the revenue subcommittee would be reporting to taxation today and would bring that revenue estimate bill out to the floor as quickly as possible for debate.

Chairman Donaldson stated he didn't know if the committee would want to go through the rest of the Federal funding. He commented that there is a bill introduced by Sen. McCallum to make the one and one-half mill. levy mandatory for vo-tech systems, which would help in the maintenance of effort.

Rep. Moore reported that the joint rules committee had decided that the bill was within the scope of the call.

There followed discussion concerning the maintenance of effort for the vo-tech centers, also whether the centers were using all the federal money that they had been appropriated authority for and if the OPI could lend some assistance in helping them write their grants properly so they could utilize the full amount of the authority that was given to them.

EXECUTIVE ACTION

Sen. Jacobson (7-1-B 11:24) moved to send a letter to OPI and to the center asking them to come to the legislature in 1987 with a plan for some of these federal monies to see what they can really use and what they can't use both in funds for job training and the new innovative programs.

Rep. Moore said he thought it would be appropriate to request that OPI contact the task forces in the 12 state assumed counties primarily - looking into getting the possibility of getting those people into the closest vo-tech school, like is being done in Cascade county.

Sen. Jacobson said that is what she meant by job training and she would certainly amend the motion to include that. Chairman Donaldson asked for any discussion. The question was called and the motion CARRIED unanimously. He stated that the letter would go to the OPI, to each of the centers and if it would be agreeable to send it also to those assumed counties to those directors who handle it.

Sen. Hammond then inquired whether it would be possible to contact our congressmen and request that not quite so much money be assigned to innovative programs. He stated he would like to see some of those funds support the good things that are already being done.

Chairman Donaldson commented on how it seems like the more the federal government reduces the budget the more restrictions they place on the state and local government. There were several reference made to areas where rules and regulations were growing. Sen. Hammond stated that the federal level is have the same problem as we are on the state level, rules and regulations that we can't control. Rep. Peck stated as the federal government withdraws funds they promulgate more rules to make sure you are complying, and funding probably what they're withdrawing.

Sen. Hammond stated that rather than just talk about it, the committee should do something. Chairman Donaldson said

if it was the desire of the committee to draft a letter they should have a motion on that. Sen. Hammond so moved. Chairman Donaldson repeated that a motion had been made to send a letter to our congressional delegation, the governor and other appropriate individuals of the committees concerns regarding the excessive rules and regulations that are being imposed. The question was called for, motion CARRIED unanimously

The last issue to be considered is no. 5. Chairman Donaldson remarked that Sen. Jacobson is concerned about this one, Program Plans tied to Fiscal Plans.

Sen. Jacobson stated she would like to have some idea of where the universities were heading, that if the committee had some sort of a game plan for two years, that perhaps what happened to the dairy program in Miles City and losing the FTE might not happen. She asked if it would be possible on some limited basis, without creating too much paper work for the universities to give the committee some direction where they were headed so that it would be easier to look at the kind of funding we would be doing for them but also it would be easier for them to come to the committee when they begin to change direction and have them understand what they are doing.

Chairman Donaldson asked for any discussion. Sen. Hammond stated he hated to tie them up with more work to inform the committee. He said it would restrict them in the things they should be trying to do in improving their program. He said he realizes it is trying to plan ahead but he hates to tie people with so much responsibility in keeping others informed they don't have time to do what they should be doing, so he hesitates to support it. Sen. Jacobson said she didn't think it was anything you need to support or not, it was just something to discuss.

Then Chairman Donaldson told the committee he had one other issue he would like to discuss. He said there had been some discussion from the Agriculture Experiment Station and the Co-Operative Extension Service that they would like to visit with legislators sometime before they make their final decisions to make sure they are on the right track. Also the board of regents are going through this study in the discussion of the university system, there was some concern about whether the issues the regents study would be the ones the legislature might be concerned about. He inquired whether there would be interest in the subcommittee meeting in September or October to review the progress of where they are going.

Several of the committee members voiced their approval of such a meeting. Sen. Hammond expressed a concern whether such a meeting would meet with the approval of the leadership, and what would other committees and other legislators attitude be.

Chairman Donaldson then asked Carrol Krause to respond as to whether he felt such a meeting would be helpful to the regents.

Carrol Krause (7-1-B 29:09) stated that he thought it would be invaluable to have the input of this committee in the studies of the coop and the ag. exp. station. Chairman Donaldson inquired when he planned to have his report in a draft. Dr. Krause replied it would be pretty late in September because of the time constraints he has. Chairman Donaldson stated that it could be mailed out but what he finds the most constructive is the interaction of the committee. He then said he would ask Sen. Jacobson to talk to the Senate and he would talk to the House leadership to discuss the proposed meeting.

At this point in the meeting Chairman Donaldson asked if there was anything else to discuss. He said there were a number of letters to be drafted, and then they will be circulated among the committee so that everyone feels comfortable with them and then perhaps meet again if they get a few minutes to do so.

Rep. Peck stated he had a letter, see exhibit # 2, in response to the request from OPI concerning the special ed requirement. He said that Montana requirements are basically taken off the federal law. He pointed out one problem however, in that the U.S. Senate has passed the 3 to 5 year old special ed requirement. It has not been acted on in the U. S. House yet but OPI is concerned about it. In effect if SB 2294 passes then local public schools will be responsible for special education for 3 and 4 year olds. He questioned, where we end with education, pretty soon they will start taking them out of the nursery at the hospital and making public school districts responsible.

Chairman Donaldson remarked they were two good points. He commented that as the committee reviewed the senate bill and the contents they may want to take some further action.

Being no further business to come before the committee at this time it will stand adjourned at 9:30 A.M. until the call of the chair.


Gene Donaldson, Chairman

VISITORS' REGISTER

EDUCATION

SUB. COMMITTEE

BILL NO. _____

DATE JUNE 17, 1986

SPONSOR _____

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WORKING DRAFT
EXHIBIT #1
LFA STAFF
JUNE 17, 1986

EDUCATION SUBCOMMITTEE

June 16, 1986

Organizational and philosophical points were raised during the hearings and are summarized herein to enable the Education Subcommittee to consider whether or not any follow-up action should be taken.

1. Administrative Changes or Consolidation

a. The subcommittee voted to send a letter to the Cooperative Extension Service and Agricultural Experiment Station directors, with copies to the Commissioner of Higher Education and the MSU president, requesting that they work with the LFA to prepare an administrative consolidation plan for submission to the Fiftieth Legislature. What issues are involved and what are the subcommittee expectations?

b. During the Fire Services Training School hearing, reference was made to improving support from the State Board of Public Education or to possible relocation under the Department of Justice Fire Marshall Bureau or Department of Commerce Licensing Bureau. It was suggested the subcommittee send a letter encouraging further study of these options, but no action was taken. Does the subcommittee wish to take any action?

c. During the Vocational Technical Centers hearing, references again were made that the present system is not working. This matter is being studied by an interim study committee. Does the subcommittee wish to discuss administration or governance?

2. Administrative and Faculty Contracts

Representative Peck provided copies of pertinent MCA sections and personnel administrative rules indicating that lack of work and lack of funds may be used to relieve employees from duties. There appear to be three related issues.

a. The perception of education agency administrators that these laws and rules do not apply to their agencies and, for all university units, agencies, and community colleges under the Board of Regents, apparent legal opinion that they do not apply. Is this true? Is legal research required?

b. For this reason, some agencies appear to be eliminating new, priority programs in their 5 percent cuts. For example, the community colleges and the vo-techs reported retention of traditional classes and elimination of the evening and summer non-traditional secretarial word processor training, computer technology, and job skills

upgrading and retraining programs. At the same time, the institutions reported these non-traditional programs are providing their greatest student growth because that is the priority need. Does the subcommittee wish to comment on this?

c. Incongruously, the six units spoke the loudest about being unable to break contracts and then presented 5 percent reduction plans which were primarily comprised of FTE cuts. The units' personal services cuts were \$3,356,152 for up to 187.11 FTE, with \$697,434 for operating expense and \$300,000 for equipment and capital. Does the subcommittee wish to comment on this?

3. Pay Plan Impacts/Equity Issues

The pay plan freeze would appear to have significant impact on higher education agencies because the six units and the experiment stations would probably implement the scheduled 3.6 percent increase and make further reductions. In this regard, the subcommittee may wish to discuss three points:

a. Implementation would increase the disparity between education salaries and other state salaries;

b. Implementation would require deeper program cuts;
and

c. Utilization of the six mill levy fund balance solely for the six units may require further consideration.
Options may include:

- (1) Appropriating \$2,941,000 to fund the pay plan of the six units and reverting \$201,000 to the general fund;
- (2) Appropriating the entire \$3,142,800 to fund 85 percent of the pay plan totaling \$3,706,977 for all agencies under the Board of Regents' supervision, consistent with the comprehensive purpose of the levy as stated in 15-10-105, MCA;
- (3) Appropriating a sum sufficient to fund a given percentage of the six units' pay plan and reverting the balance;
- (4) Appropriating a sum sufficient to fund a given percentage of agencies under the regents and reverting the balance;
- (5) Reverting the entire fund balance to (a) help prevent cuts in all agencies or (b) to fund

one-third of the pay plan for all state employees, including higher education;

(6) Advise the Department of Revenue the levy can be reduced during the coming fiscal year by the amount of the fund balance; or

(7) Take no action.

4. Federal Funding

General fund reductions approved by the subcommittee to date have a potential ~~no~~ impact only vocational education in terms of maintenance of effort and matching federal funds requirements. Because the legislature appropriates the funds for the foundation and permissive program, the LFA position is that they are state funds and could be used for maintenance of effort purposes, if necessary. Does the subcommittee wish to consider this? The subcommittee may also wish to consider whether OPI could provide technical assistance to the vo-techs in preparing federal proposals to meet all requirements of the Perkins Act.

In addition, the subcommittee may wish to consider the proposed amendment to MCA 20-7-324 to bring the one-and-one-half mill county levy into consideration as state revenue for the vo-tech system and alleviate shortfall in maintenance of effort.

5. Program Plans Tied to Fiscal Plans

It was suggested that program plans integrated and submitted with the biennial budget request forms would help the subcommittee make more informed and priority-conscious decisions than is possible now from hearing testimony. Does the subcommittee wish to discuss this?

6. Viability of Tech

It was suggested that Montana Tech might be removed from the funding formula and appropriations be made based on program budgets. Related to this proposal are accreditation requirements and the question of whether Tech should be a college among the six units or a specialty school. Does the subcommittee wish to discuss this?



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

June 16, 1986

TO: Representative Gene Donaldson
Chairman, Appropriations Subcommittee on Education

From: Gail Gray, Director, Special Education
Department of Special Services, OPI

Re: Information Request

This is in response to your question, "Where and how does Montana Statute on special education exceed federal statutes on special education?"

The Montana statutes and administrative rules on special education closely parallel the federal statutes and regulations on this subject. There are some differences as to additional approvals by parents for things such as Individual Education Plans and annual permissions for placement. Federal regulations require documentation of parental participation in the planning but no parental signature when done. This requirement does not cost additional money and, we feel, provides additional protection for parents and school personnel. If this was eliminated it would not result in fiscal savings.

The definition of special education, handicapped children, related services and the specific handicapping condition is virtually the same in both state and federal statutes and regulations.

The only difference which results in additional expenditure of funds is that of the mandatory age groups for service. The federal requirements are for services age 6-18. In addition, they mandate services to handicapped children and youth age 3-5 and 19-21 unless it is contrary to state statute. In 1979, the Montana Legislature adopted a permissive service option at the district's discretion for age birth through five and 19-21. It should be noted that where a school serves students age five years in a kindergarten program or age 19 in a regular high school program it would be discrimination on the basis of handicap to deny services to handicapped children and youth in this age group.

The U.S. Senate has passed unanimously S. 2294 as amended this month which, if passed by the House, would mandate preschool services to handicapped children age 3-5. The effective date of this mandate would be three years from the effective date of the law when passed. Even if our state were to remove their permissive service options for preschool services, this decision would be superceded by the Congress if S. 2294 were to prevail.

Representative Gene Donaldson

June 16, 1986

Page two

Enclosed for your information is a copy of the December 1, 1985 count of handicapped children with the permissive age categories highlighted. Also enclosed is a copy of S. 2294 with applicable sections highlighted.

Please contact me if you desire additional information.

Enclosures

cc: Pamela Joehler

MONTANA OFFICE OF PUBLIC INSTRUCTION - SPECIAL EDUCATION UNIT
STATEWIDE SUMMARY OF HANDICAPPED STUDENTS
BY AGE - DOMINANT HANDICAP
(Count Taken - 12/01/85)

AGE	HH	D	MR	OH	OI	SI	VI	LD	ED	NC	DB	MH	TOTAL
1			3		3	7		4		12			29
2	2		5			9		2		26		1	45
3	4		14	1	6	69		2		102		5	203
4	8	1	15	2	9	124	2	1	1	206		7	376
5	10	4	33	3	8	668	3	41		176	2	25	973
6	8	1	47	10	16	908	3	233	14			13	1253
7	8	2	83	8	7	779	5	435	16		1	21	1365
8	11	1	67	13	12	633	11	625	29			24	1426
9	10	3	85	11	10	417	3	667	42		2	8	1258
10	4	3	92	15	8	212	4	705	53			19	1115
11	7	1	78	10	7	136	5	683	57		1	10	995
12	12	1	82	8	6	69	5	705	52		1	15	956
13	6	1	86	6	6	48	2	707	69		1	22	954
14	7		90	18	7	35	4	713	77		1	22	974
15	7		100	16	6	22	4	666	91		1	21	934
16	8	1	101	19	4	16	5	565	59			16	794
17	4	1	92	15	2	15	1	476	33			12	651
18	5		72	5	2	7	2	257	16		1	17	384
19			42	1	1	6		59	1		2	4	116
20		1	24	1		3		8	1		2	7	47
21			6			1		1			2	1	11
TOTAL 121 21 1217 162 120 4184 59 7555 611 522 17 270 14859													

SCHOOL AGE (5/21) 12/1/85:

107	20	1180	159	102	3975	57	7546	610	176	17	257	14206
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SCHOOL AGE (5-21) 12/1/84:

96	14	1308	138	87	4462	47	7608	664		16	309	14749
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NET CHANGE:

+11	+6	-128	+21	+15	-487	+10	-62	-54		+1	-52	-543
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% CHANGE:

+10	+30	-10.8	+13	+15	-12	+18	-.8	-9	NA	+5.9	-20	-3.8 SA
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*% TOTAL MT ENROLLMENT

.07	.01	.77	.10	.07	2.58	.04	4.90	.40	.11	.01	.17	9.23
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**% NATIONAL:

.12	.12	1.60	.16	.12	2.85	.05	4.67	.85		.00	.14	10.57
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% OF SPECIAL ED:

.81	.14	8.19	1.09	.81	28.16	.40	50.84	4.11	3.51	.11	1.82	99.99
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* TOTAL MONTANA SCHOOL POPULATION AGES 5-12 10/1/85: 153,864

**TOTAL HARD OF HEARING AND DEAF

HH - Hard of Hearing

D - Deaf

MR - Mentally Retarded

OH - Other Health Impaired

OI - Orthopedically Impaired

SI - Speech Impaired

VI - Visually Impaired

LD - Learning Disabled

ED - Emotionally Disturbed

DB - Deaf Blind

MH - Multihandicapped

NC - Noncategorical Handicap
(Age 5 and Below Only)

EDUCATION OF THE HANDICAPPED AMENDMENTS OF 1986

JUNE 2, 1986.—Ordered to be printed

Mr. HATCH, from the Committee on Labor and Human Resources,
submitted the following

REPORT

[To accompany S. 2294]

The Committee on Labor and Human Resources, to which was referred the bill (S. 2294) to reauthorize certain programs under the Education of the Handicapped Act, to authorize an early intervention program for handicapped infants, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

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I. SUMMARY OF THE BILL

As approved by the Committee on Labor and Human Resources, the Education of the Handicapped Amendments of 1986 provides new Federal incentives for the education of handicapped infants and young children under part B of the Education of the Handicapped Act (EHA), and extends the authority for part B evaluations and discretionary assistance programs under parts C through F of the Act through fiscal year 1989.

The bill amends part B of the EHA to promote education and early intervention services to preschool handicapped children in

two ways. The State grant program, as authorized by P.L. 94-142, would be amended to require States to provide a free appropriate public education to all handicapped children from age 3 by repealing an exception in current law for services to 3 through 5 year old children. States must comply with the new mandate within 3 years after the enactment of the amendments, but not in any fiscal year before September 30, 1990 if the appropriation for the State grant program is not at least \$1.3 billion.

The bill also establishes under part B a new Federal program of formula grants to States for the development and operation of early intervention services for handicapped infants from birth through age 2. To be eligible for this assistance, States would be required, within 3 years, to have a statewide comprehensive early intervention service program available to all handicapped infants, defined as children from birth through age 2 who are substantially developmentally delayed or who have congenital or acquired conditions for which they require early intervention. Services that might be provided to these children would include special education as well as a range of therapeutic, health, parent support, and social services. The authorization for the program is \$100 million for each fiscal year through 1989. If the appropriation does not reach at least \$50 million, States could receive their annual allocation for a "good faith" effort to comply with the program's requirements.

The authority for comprehensive early childhood planning grants, currently found in part C of the Act, is moved to the new early intervention program by the bill, and is provided a separate authorization of appropriations through fiscal year 1989.

Other amendments to part B in the bill change the computation of the 12 percent limit on children counted for purposes of determining a State's part B allocation; increase the proportion of a State's set-aside funds that may be used for certain administrative costs; and establish new authorizations for evaluation activities through fiscal year 1989.

The basic authority for parts C through F discretionary programs is not substantially changed by the bill. Amendments to the authorization for the Early Education for Handicapped Children program under part C refocus this assistance on experimental, training, and research programs in early intervention. Other part C amendments provide new references to physical education under the Regional Resource Centers, deaf-blind, and secondary and transitional services programs. Other amendments require early intervention discretionary assistance and assistance for the severely handicapped in part to address the needs of native American children, including native Hawaiians.

Part D, personnel training programs, amendments direct assistance to areas with personnel shortages and to personnel development in the field of transition programs. Amendments would entitle organizations serving native Americans and native Hawaiians to receive parent training grants.

The bill amends part E, providing assistance for research, to set-aside funding for activities addressing the needs of underserved secondary school-aged handicapped youth and to provide research funding for demonstration projects addressing the needs of native Hawaiians. Part F, Instructional Media for the Handicapped,

would be amended to provide specific authority for the National Theater of the Deaf.

The bill repeals the authorization for the National Advisory Committee on Education of the Handicapped.

II. BACKGROUND AND NEED FOR LEGISLATION

The Committee recognizes the need to amend Part B of the Education of the Handicapped Act (EHA) as well as to authorize a new subpart of Part B for a program of services to meet the needs of handicapped children beginning at birth. There is a great deal of evidence to support this new initiative.

The positive effects of the EHA for handicapped children are indisputable; however, the law is permissive with respect to the provision of services to handicapped children who are younger or older than the traditional school age 5-17. Currently, under Part B of the Act, participating states are mandated to provide a free and appropriate public education for all handicapped children aged 3-21, unless it is inconsistent with state law or practice regarding children aged 3-5 and aged 18-21 inclusive. In addition, section 619 of Part B encourages the provision of services to handicapped children beginning at birth by providing incentive grants for this purpose, although states may only count handicapped children aged 3-5, inclusive, for the purpose of generating federal funds. Finally, the allocation formula for disbursement of the federal share of the cost of educating handicapped children limits the number of handicapped children a state may count for the purpose of generating federal funds to 12 percent of the traditional school aged population, i.e. children in the state aged 5-17, inclusive. Limiting the handicapped child count in this way serves as a disincentive for states to serve handicapped children who are younger or older than traditional school age.

As a result of current law, handicapped children outside of the traditional school age range do not have universal access to services. Rather, as depicted in Table I, the availability of services depends on such factors as the state of residence, the particular handicapping condition of the infant or young child, and age.

TABLE 1.—MINIMUM AGES MANDATED BY STATES AND TERRITORIES FOR PROVIDING SPECIAL EDUCATION TO ALL HANDICAPPED CHILDREN: JULY 1985

Birth	Age 2	Age 3	Age 4	Age 5	Age 6 or "school-age"
Iowa	Virginia	Alaska	Delaware *	Arizona	Alabama
Maryland		California	Minnesota *	Arkansas	Florida
Michigan		Connecticut	Oklahoma *	Colorado	Georgia
Nebraska		District of	Tennessee	Kansas	Idaho
New Jersey		Columbia .....	.....	Maine	Indiana
Oregon		Hawaii .....	.....	Missouri	Illinois
South Dakota		Illinois .....	.....	Nevada	Kentucky
American Samoa		Louisiana .....	.....	New Mexico *	Mississippi
Trust Territory		Massachusetts .....	.....	New York	Montana *
Guam		New Hampshire .....	.....	N. Carolina	Vermont
.....		North Dakota .....	.....	Ohio	Wyoming *
.....		Rhode Island .....	.....	.....	.....
.....		Texas *	.....	.....	.....
.....		Washington .....	.....	.....	.....

Calendar No. 667

99TH CONGRESS
2D SESSION

S. 2294

[Report No. 99-315]

To reauthorize certain programs under the Education of the Handicapped Act, to authorize an early intervention program for handicapped infants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14 (legislative day, APRIL 8), 1986

Mr. WEICKER (for himself, Mr. KERRY, Mr. ANDREWS, Mr. INOUE, Mr. MATSUNAGA, Mr. STAFFORD, Mr. KENNEDY, Mr. SARBANES, Mr. WARNER, Mr. RIEGLE, Mr. SIMON, Mr. MATHIAS, Mr. HATCH, Mr. GRASSLEY, Mr. PELL, and Mr. BENTSEN) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

JUNE 2, 1986

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To reauthorize certain programs under the Education of the Handicapped Act, to authorize an early intervention program for handicapped infants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

AUTHORIZATION OF APPROPRIATIONS FOR PART B

SAC. 17. Section 654 of the Act (as redesignated by this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SAC. 654. For the purpose of carrying out this part, there are authorized to be appropriated \$18,000,000 for fiscal year 1987, \$10,000,000 for fiscal year 1988, and \$20,100,000 for fiscal year 1989."

INSTRUCTIONAL MEDIA

SAC. 18. (a) ~~THAT~~—Section 661(e)(1)(B) of the Act (as redesignated by this Act) is amended by inserting after "films" the following: "and through theater".

(b) ~~MEDIA~~ TECHNOLOGY.—Section 651(e)(2) of the Act is amended by inserting after "media" each time it appears a comma and the following: "material and technology".

(c) ~~NATIONAL THEATRE OF THE DEAF~~—Section 653 of the Act is amended by adding at the end thereof the following new subsection:

"(e) The Secretary is authorized to make grants to or enter into contracts or cooperative agreements with the National Theater of the Deaf for the purpose of providing theatrical experiences to—

"(1) enrich the lives of deaf children and adults;

"(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf people; and

"(3) promote the integration of hearing and deaf people through shared cultural experiences."

AUTHORIZATION OF APPROPRIATIONS FOR PART F

SAC. 19. Section 664 of the Act (as redesignated by this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SAC. 664. For the purpose of carrying out this part, there are authorized to be appropriated \$18,500,000 for fiscal year 1987, \$10,600,000 for fiscal year 1988, and \$20,800,000 for fiscal year 1989."

REPEALS

SAC. 20. Section 604 of the Act is repealed.

SHORT TITLE

SECTION 1. This Act may be cited as the "Education of the Handicapped Amendments of 1986".

DEFINITION OF HANDICAPPED CHILDREN

SEC. 2. Section 602(a)(1) of the Education of the Handicapped Act (hereafter in this Act referred to as the "Act") is amended by inserting before the period at the end thereof a comma and the following: "and for children aged three to five inclusive, includes developmentally delayed children".

ALLOCATIONS

SEC. 3. (a) ~~AGE CATEGORY LIMITATION REVISION~~—Section 611(a)(5)(A)(i) of the Act is amended by inserting before the semicolon a comma and the following:

1 "except that the age category for the number of all children
2 subject to the per centum limitation under this clause shall,
3 in the case of a State which actually provides free appropri-
4 ate public education for a different age category, be the age
5 category which the State actually serves".

6 (b) SUPPORT SERVICES.—Section 611(c)(2)(A)(ii) of
7 the Act is amended to read as follows:

8 "(ii) the remainder shall be used by such State to
9 provide support services and direct services, in accord-
10 ance with the priorities established under section
11 612(3), and for the administrative costs of monitoring
12 and complaint investigation, but only to the extent that
13 such costs exceed the costs of administration incurred
14 during fiscal year 1985."

15 ELIGIBILITY

16 SEC. 4. (a) GENERAL RULE.—Section 612(2)(B) of
17 the Act is amended by striking out "aged three to five and".

18 (b) EFFECTIVE DATE AND APPLICABILITY.—(1) The
19 amendment made by subsection (a) of this section shall take
20 effect three years after the date of enactment of this Act with
21 respect to States which, in order to comply with the amend-
22 ment made by subsection (a), have to qualify under State
23 laws.

24 (2)(A) The amendment made by subsection (a) of this
25 section shall not apply in any fiscal year in which the appro-

1 priations for subpart 1 of part B of the Education of the
2 Handicapped Act do not equal or exceed \$1,300,000,000.

3 (B) The provisions of subparagraph (A) are repealed on
4 September 30, 1990.

5 AUTHORIZATION FOR EVALUATION

6 SEC. 5. Section 618(g) of the Act is amended to read as
7 follows:

8 "(g) There are authorized to be appropriated \$3,800,000
9 for fiscal year 1987, \$4,000,000 for fiscal year 1988, and
10 \$4,200,000 for fiscal year 1989 to carry out the provisions of
11 this section."

12 EARLY INTERVENTION PROGRAM FOR HANDICAPPED

13 INFANTS

14 SEC. 6. (a) GENERAL AUTHORITY.—The Act is
15 amended—

16 (1) by inserting after the heading for part B the
17 following:

18 "SUBPART 1—EDUCATION OF ALL HANDICAPPED
19 CHILDREN";

20 (2) by redesignating sections 631 through 638 as
21 sections 631 through 638, respectively;

22 (3) by redesignating sections 631 through 635 as
23 sections 641 through 645, respectively;

24 (4) by redesignating sections 641 through 644 as
25 sections 651 through 654, respectively;

1 (5) by redesignating section 651 through section
 2 654 as sections 661 through 664, respectively; and
 3 (6) by adding after section 620 the following:

4 "SUBPART 2—EARLY INTERVENTION FOR HANDICAPPED

5 INFANTS

6 "PROGRAM AUTHORIZED

7 "SEC. 621. (a) The Secretary shall make grants, in
 8 accordance with the provisions of this subpart, to States to
 9 carry out an early intervention program for handicapped
 10 infants.

11 "(b)(1) There are authorized to be appropriated
 12 \$100,000,000 for the fiscal year 1987, and for each succeed-
 13 ing fiscal year ending prior to October 1, 1989, to carry out
 14 the provisions of this subpart other than section 628.

15 "(2) There are authorized to be appropriated
 16 \$6,870,000 for fiscal year 1987, \$7,270,000 for fiscal year
 17 1988, and \$7,710,000 for fiscal year 1989, to carry out the
 18 provisions of section 627.

19 "(c) During any fiscal year in which the amount appro-
 20 priated for this subpart is less than \$50,000,000 each State
 21 shall be entitled to receive its allotment under this subpart if
 22 the Secretary determines that the State is making a good
 23 faith effort to comply substantially with the provisions of this
 24 subpart.

1 "ALLOTMENT TO STATES

2 "SEC. 622. (a)(1) From the sums appropriated to carry
 3 out this subpart for any fiscal year, the Secretary shall re-
 4 serve 1 per centum for payments to Guam, American Samoa,
 5 the Virgin Islands, the Republic of the Marshall Islands, the
 6 Federated States of Micronesia, the Republic of Palau, and
 7 the Commonwealth of the Northern Mariana Islands, to be
 8 allotted in accordance with their respective needs.

9 "(2)(A) For each of the fiscal years 1987 and 1988
 10 from the remainder of such funds, the Secretary shall allot to
 11 each State an amount which bears the same ratio to the
 12 amount of such remainder as the number of eligible infants
 13 in the State bears to the number of eligible infants in all
 14 States, except that no State shall receive less than 0.5 per
 15 centum of such remainder.

16 "(B) For the purpose of subparagraph (A)—

17 "(i) the term 'infants' means children from birth
 18 to age two, inclusive; and

19 "(ii) the term 'eligible infants' means two percent
 20 of the infants in a State and in all States.

21 "(C) For each fiscal year after September 30, 1988,
 22 from the remainder of such funds the Secretary shall allot to
 23 each State an amount which bears the same ratio to the
 24 amount of such remainder as the number of eligible handi-
 25 capped infants served to the number of such infants served by

1 all States, except that no State shall receive less than 0.5 per
2 centum of such remainder.

3 "(D) For the purpose of this paragraph, the term 'State'
4 does not include the jurisdictions described in paragraph (1).

5 "(b) If any State elects not to receive its allotment
6 under this part, the Secretary shall reallocate, among the re-
7 maining States, amounts from such State in accordance with
8 subsection (a) of this section.

9 "ELIGIBILITY

10 "SEC. 623. In order to qualify for assistance under this
11 subpart in each fiscal year, a State shall demonstrate to the
12 Secretary that the State has—

13 "(1) met the eligibility requirements of section
14 612;

15 "(2) a State plan approved under section 613;

16 "(3) a State Early Intervention Council which
17 meets the requirements of section 624(a) for the pur-
18 pose of ensuring that the State provides a compre-
19 hensive system of early intervention for handicapped
20 infants;

21 "(4) beginning three years after the date of enact-
22 ment of this subpart, a comprehensive early childhood
23 plan for services to handicapped children from birth to
24 age five, inclusive, which address service delivery to all
25 handicapped infants and includes the transition to
26 services under subpart I;

1 "(5) beginning three years after the date of enact-
2 ment of this subpart, a statewide comprehensive system
3 of early intervention services available to serve all
4 handicapped infants; and

5 "(6) a State agency administration which meets
6 the requirements of section 624(b).

7 "EARLY INTERVENTION COUNCIL; STATE

8 ADMINISTRATION

9 "SEC. 624. (a)(1) The Governor shall appoint, or des-
10 ignate an existing agency as, an Early Intervention Council
11 which shall be composed of members who represent each
12 public agency within the State providing services to handi-
13 capped infants including the grant recipient under section
14 627, one member representing the Governor, and at least two
15 individuals involved in or concerned with the needs of handi-
16 capped infants, such as members of the State Advisory Coun-
17 cil on Special Education, members of the Developmental
18 Disabilities Council, or representatives of the Parent Train-
19 ing Center established under part D of this Act.

20 "(2) The Early Intervention Council shall—

21 "(A) identify the sources of fiscal and other sup-
22 port for services for early intervention programs and
23 ensure that each State agency is making a financial
24 contribution to support;

25 "(B) promote the development of formal interagen-
26 cy agreements for services for handicapped infants;

"(C) assist the State agency in the development of and approval of the comprehensive early childhood plan and the application for assistance under this subpart;

"(D) ensure that the application for assistance under this subpart is coordinated with grants awarded in the State under section 627;

"(E) disseminate information regarding early intervention programs; and

"(F) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs operated within the State for handicapped infants.

"(3) The report required by clause (F) of paragraph (2) of this subsection shall include recommendations on the appropriate use of Federal and State funds, together with a statement of statewide policy for the early intervention program for handicapped infants within the State.

"(4) A summary of the data required by this section shall be included in the annual report of the Secretary under section 618 of this Act.

"(5) The Early Intervention Council required by this section shall meet at least quarterly in each fiscal year.

"(b)(1)(A) Subject to the provisions of subparagraph (B), the Governor shall establish or designate a State agency for the purpose of administering this subpart in accordance

with the provisions of this subsection. In carrying out this paragraph, the Governor may designate the State educational agency, the mental health agency, the mental retardation agency, a State health or social service agency, or a State Early Intervention Council.

"(B) In any State in which there is a State agency administering a program which is substantially the same as the program authorized by this subpart on the date of enactment of the Education of the Handicapped Amendments of 1986, the Governor shall designate that agency for the purpose of administering this subpart pursuant to subparagraph (A).

"(2) The agency designated under paragraph (1) shall have responsibility for the general administration, supervision, and monitoring of the comprehensive system of early intervention services for handicapped infants within the State including the delivery of services to such infants. The State agency shall also be responsible either directly or by contract or other agreement with other agencies or organizations for coordinating multidisciplinary referrals of handicapped infants, conducting in-depth assessments of such infants, and coordinating early intervention services for handicapped infants within the State.

"PROGRAM COMPONENTS

"SEC. 625. (a) Each State shall develop and carry out a comprehensive plan to serve handicapped infants in accordance with the provisions of subsections (b), (c), and (d).

"(b) The State has or will establish an early intervention services program serving all handicapped infants from birth to age two, inclusive, within the State.

"(c) Each handicapped infant shall have—

"(1) a multidisciplinary assessment of individual needs and services required to meet such needs;

"(2) a written individualized program plan developed by a multidisciplinary team, including the parent or guardian describing necessary services which may include but is not limited to—

"(A) special education;

"(B) speech and language pathology/audiology;

"(C) occupational therapy;

"(D) physical therapy;

"(E) psychological services;

"(F) health services;

"(G) parent and family support services; and

"(H) social services; and

"(3) access to all services described in the early intervention program plan without cost, to the extent not inconsistent with Federal or State law, to the parent or guardian.

"(d)(1) Each individualized program shall be reviewed at least annually.

"(2) Services under the individualized program shall be provided by qualified personnel.

"(3) The individualized program shall include provisions which support the transition of handicapped infants to services provided under subpart 1 of this part.

"PROCEDURAL SAFEGUARDS

"SEC. 626. (a) Any State agency which receives assistance under this subpart shall establish and maintain procedures to assure that handicapped infants and their parents or guardians are guaranteed procedural safeguards with respect to the provision of early intervention services.

"(b)(1) The procedures required by this section shall include, but shall not be limited to—

"(A) an opportunity for the parents or guardian of a handicapped infant to examine all records relating to the assessment of that infant's need for early intervention services, and the development of that infant's individualized program plan;

"(B) procedures to protect the rights of the infant whenever the parents or guardian of the child are not

known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency or local service program funded under this subpart) to act as a surrogate for the parents or guardian;

"(C) written prior notice to the parents or guardian of the infant whenever the State agency or local service program funded under this subpart—

"(i) proposes to initiate or change, or

"(ii) refuses to initiate or change,

the assessment of such infant's need for early intervention services or the provision of such services.

"(D) procedures designed to assure that the notice required by clause (C) fully inform the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

"(E) an opportunity for the parents or guardian to present complaints with respect to any matter relating to the assessment of the handicapped infant's need for early intervention services or the provision of services to such infant.

"(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hear-

ing which shall be conducted by the State agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency directly involved in the provision of early intervention services to the handicapped infant who is the subject of the hearing.

"(c) Any party to any hearing conducted pursuant to subsection (b) shall be accorded (1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention for handicapped infants, (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written findings of fact and decisions (which findings and decisions shall also be transmitted to the Early Intervention Council established pursuant to section 624(c)).

"(d)(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) shall be final, except that any party involved in such hearing may appeal such decisions under paragraph (2) of this subsection.

"(2) Any party aggrieved by the findings and decision made under subsection (b) shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United

1 States without regard to the amount in controversy. In any
 2 action brought under this paragraph, the court shall receive
 3 the records of the administrative proceedings, shall hear addi-
 4 tional evidence at the request of a party, and, basing its deci-
 5 sion on the preponderance of evidence, shall grant such relief
 6 as the court determines is appropriate.

7 "(3) During the pendency of any proceedings conducted
 8 pursuant to this section, unless the State agency and the par-
 9 ents or guardian otherwise agree, the infant shall receive
 10 early intervention services not subject to dispute.

11 "(4) The district courts of the United States shall have
 12 jurisdiction of actions brought under this subsection without
 13 regard to the amount in controversy.

14 "APPLICATION

15 "SEC. 627. (a) Each State meeting the eligibility re-
 16 quirements set forth in section 623 and desiring to partici-
 17 pate in the program under this subpart shall submit an appli-
 18 cation to the Secretary through the Early Intervention Coun-
 19 cil at such time, in such manner, and containing or accompa-
 20 nied by such information, as the Secretary may reasonably
 21 require.

22 "(b) Each such application shall—

23 "(1) specify the role and financial contribution of
 24 each State agency providing services to handicapped
 25 infants;

1 "(2) identify and describe the services which shall
 2 be available to handicapped infants and their families;

3 "(3) describe the procedures used to identify and
 4 serve handicapped infants;

5 "(4) set forth policies and procedures designed to
 6 assure that, to the extent consistent with the number
 7 and location of handicapped infants in the State, pro-
 8 vision is made for the participation of such infants in
 9 the program assisted or carried out under this subpart
 10 by providing for such children community based early
 11 intervention services;

12 "(5) provide assurances that Federal funds made
 13 available under this subpart (A) will not be commin-
 14 gled with State funds, and (B) will be so used as to
 15 supplement and increase the level of State and local
 16 funds expended for the purposes described in this sub-
 17 part and in no case to supplant such State and local
 18 funds; and

19 "(6) provide assurances that the State will not
 20 expend more than 10 per centum of its allotment on
 21 administrative costs of carrying out the early interven-
 22 tion services for which assistance is sought.

23 "PLANNING, DEVELOPMENT, AND IMPLEMENTATION

24 GRANTS

25 "SEC. 628. (a) The Secretary shall make one of the
 26 following types of grants to each State through the State

1 agency for services for which handicapped children aged birth
2 through 5 are eligible. Grants under this section may be
3 made to any State which submits an application which meets
4 the requirements of this section:

5 “(1) **PLANNING GRANT.**—A grant for a maxi-
6 mum of two years for the purpose of assessing needs
7 within the State and establishing a procedure and
8 design for the development of a comprehensive early
9 childhood State plan which includes parent participa-
10 tion and training of professionals and others.

11 “(2) **DEVELOPMENT GRANT.**—A grant for a
12 maximum of two years for the purpose of developing a
13 comprehensive early childhood State plan, and gaining
14 approval of the plan from the State educational agency,
15 the Secretary of Education, or other designated official
16 of the appropriate State agency.

17 “(3) **IMPLEMENTATION GRANT.**—A grant for a
18 maximum of one year for the purpose of implementing
19 and evaluating the comprehensive early childhood State
20 plan.

21 “(b) Each State educational agency or other State
22 agency desiring to receive a grant under this subsection shall
23 submit an application at such time, in such manner, and
24 containing or accompanied by such information as the Secre-

1 tary considers necessary. Each such application shall con-
2 tain assurances and evidence that—

3 “(1) The State agency receiving the grant will co-
4 ordinate with other appropriate State agencies (includ-
5 ing the State educational agency) in carrying out the
6 grant.

7 “(2) The State plan will address the early inter-
8 vention and the special education and related service
9 needs of all handicapped children from birth through
10 five years of age with special emphasis on children who
11 are often not identified and children who are not now
12 served.

13 “(3) The State plan will be closely coordinated
14 with child-find efforts under section 612(2)(C) and
15 with preschool incentive grant activities under section
16 619 of this Act.

17 “(c) The Secretary shall include in the annual report
18 under section 618 of this Act the following:

19 “(1) The States and State agencies receiving
20 grants under this subsection and the types of grants re-
21 ceived.

22 “(2) A description of the activities in each State
23 being undertaken through grants under this subsection.

24 “(3) Beginning in fiscal year 1987, in consulta-
25 tion with the National Council on the Handicapped a

1 description of the status of early intervention programs
 2 for handicapped children from birth through five years
 3 of age (including children receiving services through
 4 Head Start, Developmental Disabilities Program, Ma-
 5 ternal and Child Health Services, Mental Health/
 6 Mental Retardation Agency Services, and State child-
 7 developmental centers and private agencies under con-
 8 tract with State agencies or local schools).

9 "(d) Any planning or development grant application
 10 submitted pursuant to section 623(b) prior to the date of en-
 11 actment of the Education of the Handicapped Amendments of
 12 1986 shall qualify for a grant under this section.

13 "RESTRICTION

14 "SEC. 629. Nothing in this subpart shall be
 15 construed—

16 "(1) to permit the State to reduce medical assist-
 17 ance available, or to alter eligibility, under title XIX
 18 of the Social Security Act, relating to medicaid, for
 19 handicapped infants within the State; and

20 "(2) to encourage the reduction in benefits paid
 21 under other public or private insurance coverage.

22 "APPLICABILITY OF CERTAIN PROVISIONS OF LAW

23 "SEC. 630. The provisions of sections 616, 617, 618,
 24 and 620 of this Act shall, to the extent not inconsistent with
 25 this subpart, apply to the program authorized by this subpart,
 26 except that—

1 "(1) any reference to a State educational agency
 2 shall be deemed to be a reference to the State agency
 3 established or designated under section 624(b);

4 "(2) any reference to the education of handi-
 5 capped children and the education of all handicapped
 6 children and the provision of public education to all
 7 handicapped children shall be deemed to be a reference
 8 to the provision of services to handicapped infants in
 9 accordance with this subpart; and

10 "(3) any reference to local educational agencies
 11 and intermediate educational units shall be deemed to
 12 be local service providers under this subpart."

13 (b) STUDY OF SERVICES.—(1) The Comptroller Gen-
 14 eral shall conduct a study of the services provided for under
 15 subpart 2 and the extent and manner in which such services
 16 are available in the States.

17 (2) Not later than 18 months after the date of the enact-
 18 ment of this Act, the Comptroller General shall prepare and
 19 submit a report to the Congress describing the findings of the
 20 study required under paragraph (1) of this subsection.

21 (c) CONFORMING AMENDMENTS.—(1) Section 601(c)
 22 of the Act is amended by inserting before the period at the
 23 end thereof a comma the following: "and to assure that all
 24 handicapped infants have available to them a free appropriate

1 early intervention program designed to meet their unique
2 needs".

3 (2) Section 602(a) of the Act is amended by inserting
4 after paragraph (1) the following new paragraph:

5 "(2) The term 'handicapped infants' means indi-
6 viduals from birth to age two, inclusive, who are sub-
7 stantially developmentally delayed or children with
8 specific congenital or acquired conditions who by
9 reason thereof require early intervention."

10 (3) Section 602 of the Act is amended by redesignating
11 subsection (b) as subsection (c) and by inserting after subsec-
12 tion (a) the following new subsection:

13 "(b) For the purpose of subpart 2 of part A of this
14 title—

15 "(1) the term 'early intervention' means a pro-
16 gram of services including special education integrated
17 services as specified in section 625;

18 "(2) the term 'Early Intervention Council' means
19 the Council established in accordance with the provi-
20 sions of section 624(a);

21 "(3) the term 'Governor' means the chief execu-
22 tive of any State; and

23 "(4) the term 'State agency' means the State
24 agency established or designated in accordance with
25 section 624(b)."

1 (4)(A) Section 611(a)(1) of the Act is amended by strik-
2 ing out "part" and inserting in lieu thereof "subpart".

3 (B) Section 611(g)(1) of the Act is amended by striking
4 out "part" and inserting in lieu thereof "subpart".

5 (C) Section 612 of the Act is amended—

6 (i) by striking out "part" in the matter preceding
7 paragraph (1) and inserting in lieu thereof "subpart";
8 and

9 (ii) by striking out "part" in paragraph (6) and
10 inserting in lieu thereof "subpart".

11 (D) Section 613 of the Act is amended by striking out
12 "part" each time it appears and inserting in lieu thereof
13 "subpart" each such time.

14 (5)(A) Section 618(b) of the Act is amended by insert-
15 ing "0-2," before "3-5" each time it appears.

16 (B) Section 618 of the Act is amended by inserting "in-
17 fants," before "children and youth" each time it appears.

18 (C) Section 618(f)(1) of the Act is amended by striking
19 out "and the National Advisory Committee on the Education
20 of Handicapped Children and Youth".

21 (D) Section 618(f)(3)(B) of the Act is amended to read
22 as follows:

23 "(B) data reported under sections 631, 632, 633,
24 637, 644, 651, and 663."

1 (6) Section 619(c) of the Act is amended by striking out
2 ", and for providing special education and related services for
3 handicapped children from birth to three years of age".

4 REGIONAL RESOURCE CENTERS

5 SEC. 7. (a) PHYSICAL EDUCATION INCLUDED.—Sec-
6 tion 631(a) of the Act (as redesignated by this Act) is
7 amended—

8 (1) by inserting after "special education" in
9 clause (1) a comma and the following: "including
10 physical education,"; and

11 (2) by inserting after "special education" in
12 clause (2) a comma and the following: "including
13 physical education,".

14 (b) DISSEMINATION OF SUCCESSFUL TRANSITION
15 ACTIVITIES.—Section 631(a) of the Act is further
16 amended—

17 (1) by striking out "and" at the end of clause (3);

18 (2) by inserting at the end of clause (4) a semi-
19 colon and the word "and"; and

20 (3) by adding at the end thereof the following new
21 clause:

22 "(5) gather and disseminate information to State
23 educational agencies within the region on successful
24 activities developed under section 636 relating to tran-
25 sitional services for handicapped youth."

1 SERVICES FOR DEAF AND BLIND YOUTH

2 SEC. 8. Section 632(a)(2)(ii) of the Act is amended by
3 inserting after "education" the following: "including physi-
4 cal education".

5 EARLY INTERVENTION AND PRESCHOOL SERVICES FOR
6 HANDICAPPED CHILDREN

7 SEC. 9. (a) GENERAL AUTHORITY.—Section
8 633(a)(1) of the Act (as redesignated by this Act) is amended
9 to read as follows:

10 "SEC. 633. (a)(1) The Secretary is authorized to ar-
11 range by contract, grant, or cooperative agreement with ap-
12 propriate public agencies, institutions of higher education
13 (including university affiliated facilities program under the
14 Developmental Disabilities Act of 1984 and the satellite net-
15 work of the developmental disabilities program and the re-
16 search and training centers under the Rehabilitation Act of
17 1973 specifically designed to address the needs of handi-
18 capped infants), and other appropriate nonprofit organiza-
19 tions for—

20 "(A) the development and operation of programs
21 of experimental early intervention for traditionally un-
22 served handicapped infants and children and their
23 families;

24 "(B) preservice and inservice training of person-
25 nel including volunteers and paraprofessionals as well
26 as physicians, nurses, occupational and physical thera-

1 pists, educators, psychologists, social workers, speech
2 and language pathologists, and administrators in early
3 intervention practices; and

4 "(C) research pertaining to the intellectual, emo-
5 tional, physical, social, and language development of
6 handicapped children including investigations of the
7 cost effectiveness of various approaches to service
8 delivery."

9 (b) SPECIAL RULE.—Section 633(a)(3) of the Act is
10 amended by adding at the end thereof the following: "In car-
11 rying out the provisions of this Act the Secretary shall, due to
12 the overrepresentation of native Americans, including native
13 Hawaiians, in statistical reports of children with handicaps,
14 make one grant under paragraph (1) of this subsection within
15 the State of Hawaii to address the needs of native Hawaiian
16 children with handicaps, and make an additional grant to
17 address the needs of native American children with handi-
18 caps. The grant made under the previous sentence shall be in
19 addition to any other grant which may be made to Hawaii
20 under this section."

21 (c) RESERVATIONS.—(1) Section 633(b) of the Act is
22 amended to read as follows:

23 "(b)(1) Not less than 10 per centum of the funds avail-
24 able in any fiscal year for purposes of this section shall be
25 available for the provision of training and technical assist-

1 ance for States preparing to receive or receiving grants under
2 subsection (a)(1)(A) of this section, and under part B.

3 "(2) Not less than 10 per centum of the funds available
4 in any fiscal year for the purposes of this section shall be
5 used for research pertaining to the intellectual, emotional,
6 physical, social, and language development of handicapped
7 infants and children, including studies providing information
8 on various cost-effective approaches to service delivery as well
9 as the impact and effectiveness of early intervention
10 programs."

11 (2) Subsection (c) of section 633 of the Act is repealed.

12 (d) TECHNICAL AMENDMENT.—The heading of section
13 633 of the Act is amended to read as follows:

14 "EARLY INTERVENTION AND PRESCHOOL SERVICES FOR
15 HANDICAPPED CHILDREN".

16 RESEARCH, INNOVATION, TRAINING, AND DISSEMINATION
17 ACTIVITIES

18 SEC. 10. Section 634(c) of the Act is amended by in-
19 serting before the period the following: "including severely
20 handicapped native American, including native Hawaiian
21 and other native pacific basin children and youth".

22 SECONDARY EDUCATION AND TRANSITIONAL SERVICES
23 FOR HANDICAPPED YOUTHS

24 SEC. 11. (a) NEW ACTIVITIES.—Section 636(b) of the
25 Act (as redesignated by this Act) is amended—

1 (1) by redesignating clauses (5), (6), and (7) as
2 clauses (6), (7), and (8), respectively, and

3 (2) by inserting after clause (4) the following new
4 clause:

5 "(5) specifically designed physical education and
6 therapeutic recreation programs to increase the poten-
7 tial of handicapped youths for community participa-
8 tion,".

9 (b) CONDITIONS FOR PROJECTS.—Section 636(d) of
10 the Act is amended to read as follows:

11 "(d) Projects funded under this section shall—

12 "(1) be coordinated with other State agencies pro-
13 viding services for which the student is eligible;

14 "(2) provide individual transition plans for stu-
15 dents served by projects funded under this section; and
16 "(3) to the extent appropriate provide for the
17 direct participation of handicapped students and the
18 parents of such students in the planning, development,
19 and implementation of such projects."

20 AUTHORIZATION OF APPROPRIATIONS FOR PART C

21 SEC. 12. Section 638 of the Act (as redesignated by this
22 Act) is amended to read as follows:

23 "AUTHORIZATION OF APPROPRIATIONS

24 "SEC. 638. (a) There are authorized to be appropriated
25 to carry out the provisions of section 631 \$6,700,000 for the

1 fiscal year 1987, \$7,100,000 for the fiscal year 1988, and
2 \$7,500,000 for the fiscal year 1989.

3 "(b) There are authorized to be appropriated to carry
4 out the provisions of section 632 \$15,900,000 for the fiscal
5 year 1987, \$16,800,000 for the fiscal year 1988, and
6 \$17,800,000 for the fiscal year 1989.

7 "(c) There are authorized to be appropriated to carry out
8 the provisions of section 633 \$17,600,000 for the fiscal year
9 1987, \$18,600,000 for the fiscal year 1988, and
10 \$19,700,000 for the fiscal year 1989.

11 "(d) There are authorized to be appropriated to carry
12 out the provisions of section 634 \$5,300,000 for the fiscal
13 year 1987, \$5,600,000 for the fiscal year 1988, and
14 \$5,900,000 for the fiscal year 1989.

15 "(e) There are authorized to be appropriated to carry out
16 the provisions of section 635 \$5,900,000 for the fiscal year
17 1987, \$6,200,000 for the fiscal year 1988, and \$6,600,000
18 for the fiscal year 1989.

19 "(f) There are authorized to be appropriated to carry out
20 the provisions of section 636 \$7,300,000 for the fiscal year
21 1987, \$7,700,000 for the fiscal year 1988, and \$8,100,000
22 for the fiscal year 1989."

23 GRANTS FOR PERSONNEL TRAINING

24 SEC. 13. (a) PRIORITY.—Section 641(a) of the Act is
25 amended—

26 (1) by inserting "(A)" after paragraph (4);

1 (2) by adding at the end thereof the following new
2 subparagraph:

3 "(B) Whenever possible, the Secretary shall give priori-
4 ty to applications from States with areas where shortages
5 exist or where problems of implementation remain."

6 (b) PARENTAL TRAINING SPECIAL RULES.—(1) Sec-
7 tion 641(c)(1) of the Act (as redesignated by this Act) is
8 amended by inserting at the end thereof the following new
9 sentence: "Two such grants shall be made to nonprofit orga-
10 nizations serving the needs of native Americans, including
11 native Hawaiians. The grant to Hawaii shall be in addition
12 to and not in place of any other parent training grant made
13 to an agency in the State of Hawaii."

14 (2) Section 641(c)(4) of the Act is amended by adding
15 at the end thereof the following new sentence: "The Secretary
16 shall give priority to grants under this subsection which in-
17 volve unserved geographic areas."

18 (3) Section 641(c)(6) of the Act is amended by adding
19 at the end thereof the following new sentence: "Staff person-
20 nel of parent training and information programs may assist
21 parents directly in activities under part B."

22 (c) SPECIAL TRAINING DEMONSTRATION
23 PROJECTS.—Section 641 of the Act is amended by adding at
24 the end thereof the following new subsection:

1 "(d)(1) The Secretary is authorized to make grants to
2 institutions of higher education and other appropriate public
3 agencies and private nonprofit organizations to conduct dem-
4 onstration projects which—

5 "(A) replicate model programs designed to train
6 transition resource teachers who will serve the handi-
7 capped in secondary school classes and in adult service
8 programs in the community; and

9 "(B) are designed to address the need to fill criti-
10 cal shortages of special education personnel.

11 "(2) No grant may be made under this section unless an
12 application is made to the Secretary at such time, in such
13 manner, and containing such information as the Secretary
14 may reasonably require."

15 GRANTS FOR TRAINEESHIPS

16 SEC. 14. Section 642 of the Act (as redesignated by this
17 Act) is amended—

18 (1) by striking out "to State educational agen-
19 cies" and inserting in lieu thereof "to each State edu-
20 cational agency";

21 (2) by striking out "teachers of" the first time it
22 appears and inserting in lieu thereof "personnel serv-
23 ing"; and

24 (3) by striking out "teachers" the second time it
25 appears and inserting in lieu thereof "personnel".

1 GRANTS TO IMPROVE RECRUITMENT OF EDUCATIONAL

2 PERSONNEL

3 SEC. 15. (a) PHYSICAL EDUCATION.—Section
4 643(a)(2) of the Act is amended by inserting after "educa-
5 tion" a comma and the following: "including physical
6 education,".

7 (b) TRANSITIONAL SERVICES.—Section 643(b) of the
8 Act is amended by inserting after "available" the following:
9 "transitional services and programs as well as".

10 AUTHORIZATION OF APPROPRIATIONS FOR PART D

11 SEC. 16. (a) GENERAL.—Section 645(a) of the Act (as
12 redesignated by this Act) is amended to read as follows:

13 "(a) There are authorized to be appropriated to carry
14 out the provisions of this part (other than section 643)
15 \$70,400,000 for fiscal year 1987 and \$74,500,000 for fiscal
16 year 1988, and \$79,000,000 for fiscal year 1989. There are
17 authorized to be appropriated to carry out the provisions of
18 section 643, \$1,200,000 for fiscal year 1987, \$1,400,000 for
19 fiscal year 1988, and \$1,500,000 for fiscal year 1989."

20 (b) RESERVATION.—Section 645 of the Act is
21 amended—

22 (1) by redesignating subsection (b) as subsection
23 (c); and

24 (2) by inserting after subsection (a) the following
25 new subsection:

1 "(b) Of the funds appropriated pursuant to subsection
2 (a) for any fiscal year, the Secretary shall reserve not less
3 than 65 per centum for activities described in clauses (A)
4 through (E) of section 641(a)(1)."

5 (c) TECHNICAL AMENDMENT.—Section 645(c) of the
6 Act (as redesignated by subsection (b) of this section) is
7 amended by striking out "section 631(c)" and inserting in
8 lieu thereof "section 641(c)".

9 RESEARCH AND DEMONSTRATION PROJECTS

10 SEC. 17. (a) USES SPECIAL RULE.—Section 651 of
11 the Act (as redesignated by this Act) is amended by—

12 (1) redesignating subsections (b), (c), (d), and (e)
13 as subsections (c), (d), (e), and (f), respectively, and

14 (2) by adding after subsection (a) the following
15 new subsection:

16 "(b) Not less than 5 per centum of the funds made
17 available in any year for the purpose of this section shall be
18 used to address the needs of underserved secondary school-
19 aged handicapped youth."

20 (b) ADDITIONAL ACTIVITIES.—Section 651(a) of the
21 Act is amended by adding after paragraph (5) the following
22 new paragraph:

23 "(6) The development of program models and
24 demonstrations for native Hawaiian handicapped chil-
25 dren and youth by an educational agency providing
26 comprehensive elementary and secondary educational

1 services to native Hawaiians. A grant contract or coop-
 2 erative agreement under this section shall be in addi-
 3 tion to and not in place of any other grant made to
 4 other Hawaiian public or private agencies under this
 5 part."

6 AUTHORIZATION OF APPROPRIATIONS FOR PART E

7 SEC. 18. Section 654 of the Act (as redesignated by this
 8 Act) is amended to read as follows:

9 "AUTHORIZATION OF APPROPRIATIONS

10 "SEC. 654. For the purpose of carrying out this part,
 11 there are authorized to be appropriated \$18,000,000 for fiscal
 12 year 1987, \$19,000,000 for fiscal year 1988, and
 13 \$20,100,000 for fiscal year 1989."

14 INSTRUCTIONAL MEDIA

15 SEC. 19. (a) THEATER.—(1) Section 661(a)(1)(A) of
 16 the Act (as redesignated by this Act) is amended by inserting
 17 after "films" the following: "and through theater".

18 (2) Section 661(a)(1)(B) of the Act is amended by in-
 19 serting after "films" the following: "and through theater".

20 (b) MEDIAN TECHNOLOGY.—Section 661(a)(2) of the
 21 Act is amended by inserting after "media" each time it ap-
 22 pears a comma and the following: "material and technology".

23 (c) NATIONAL THEATER OF THE DEAF.—Section 662
 24 of the Act is amended by adding at the end thereof the follow-
 25 ing new subsection:

1 "(c) The Secretary is authorized to make grants to or
 2 enter into contracts or cooperative agreements with the Na-
 3 tional Theater of the Deaf for the purpose of providing theat-
 4 rical experiences to—

5 "(1) enrich the lives of deaf children and adults,

6 "(2) increase public awareness and understanding
 7 of deafness and of the artistic and intellectual achieve-
 8 ments of deaf people, and

9 "(3) promote the integration of hearing and deaf
 10 people through shared cultural experiences."

11 AUTHORIZATION OF APPROPRIATIONS FOR PART F

12 SEC. 20. Section 664 of the Act (as redesignated by this
 13 Act) is amended to read as follows:

14 "AUTHORIZATION OF APPROPRIATIONS

15 "SEC. 664. For the purpose of carrying out this part,
 16 there are authorized to be appropriated \$18,500,000 for fiscal
 17 year 1987, \$19,600,000 for fiscal year 1988, and
 18 \$20,800,000 for fiscal year 1989."

19 REPEAL

20 SEC. 21. Section 604 of the Act is repealed.