

Options for National Test Language

Options 1-3 are drafted as free-standing amendments that would expire at the end of FY1999.

Option 1: Senate Language

Sec. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 2: Restriction on Pilot Test With Individual Scores (Consistent with format that passed last year)

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to field test, implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 3: Restriction on Pilot Test and Field Test With Individual Scores (Consistent with format that passed last year)

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test or field test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 4: Amendment to GEPA as in House provision

NOTE: THIS APPROACH AMENDS UNDERLYING, PERMANENT LAW; WE CAN ONLY ACCEPT THIS APPROACH IF IT INCLUDES LANGUAGE RESTRICTING ITS APPLICATION TO FY 1999 FUNDS!!!

Sec. 305 Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end thereof the following:

“Sec. 447 Limitation on Federally Sponsored Testing

“(a) GENERAL LIMITATION.-- Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in any Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test: Provided, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998.

(b) same as House bill (b)

Sec. 305 Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end thereof the following:

“Sec. 447 Limitation on Federally Sponsored Testing

“(a) GENERAL LIMITATION.-- Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in any Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test: Provided, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998.

(b) same as House bill (b).

The National Academy of Sciences shall conduct a study to determine the feasibility of including test items from the National Assessment of Education Progress or other tests in state and commercial assessments for the purpose of producing individual scores linked to the National Assessment of Education Progress achievement levels, in 4th grade reading and 8th grade math. The study shall also examine the utility of the information provided by this procedure to parents, teachers and students. The study shall be completed by June 1, 1999.

Restriction on Pilot Test With Individual Scores (Consistent with Senate format)

Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to field test, implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

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1 SEC. ____.

2 (a) IN GENERAL.—Part C of the General Education
3 Provisions Act (20 U.S.C. 1231 et seq.) is amended by
4 adding at the end the following:

5 "SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TEST-
6 ING.

7 "(a) GENERAL PROHIBITION.—Notwithstanding any
8 other provision of Federal law and except as provided in
9 subsection (b), no funds provided to the Department of
10 Education or to an applicable program, may be used to
11 pilot test, field test, implement, administer or distribute
12 in any way any federally sponsored national test in read-
13 ing, mathematics, or any other subject that is not specifi-
14 cally and explicitly provided for in authorizing legislation
15 enacted into law.

16 (b) EXCEPTIONS.—Subsection (a) shall not apply to
17 the Third International Mathematics and Science Study
18 or other international comparative assessments developed
19 under the authority of section 404(a)(6) of the National
20 Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)
21 et seq.) and administered to only a representative sample
22 of pupils in the United States and in foreign nations."

23 (b) AUTHORITY OF NATIONAL ASSESSMENT GOV-
24 ERNING BOARD.—Subject to section 447 of the General
25 Education Provisions Act, the exclusive authority over the
26 direction and all policies and guidelines for developing vol-

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1 untary national tests pursuant to contract RJ97153001
2 previously entered into between the United States Depart-
3 ment of Education and the American Institutes for Re-
4 search and executed on August 15, 1997, and subse-
5 quently modified by the National Assessment Governing
6 Board on February 11, 1998, shall continue to be vested
7 in the National Assessment Governing Board established
8 under section 412 of the National Education Statistics Act
9 of 1994 (20 U.S.C. 9011).

10 (c) STUDIES.—

and Achievement Levels.

11 (1) PURPOSE ~~AND~~ DEFINITION.—The National
12 Assessment Governing Board shall determine and
13 clearly articulate in a report the purpose, design for-
14 mat, ~~and~~ ^{and} intended use(s) of any proposed federally
15 sponsored test. Such report shall also include—

16 (A) a definition of the meaning of the term
17 “voluntary” in regards to the development or
18 ~~the administration of any~~ ^{the administration of any} national test; and

19 (B) a description of the achievement levels
20 and reporting methods to be used in grading
21 any national test, ~~and the relationship between~~
22 ~~test questions and such achievement levels.~~

23 The report shall be submitted to the White House,
24 the Committees on Education and the Workforce of
25 the House of Representatives, the Committee on

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1 Labor and Human Resources of the Senate, and the
2 Committees on Appropriations of the House of Rep-
3 resentatives and the Senate not later than Septem-
4 ber 30, 1999.

5 (2) RESPONSE TO ~~REPORT CARD~~.—The Na-
6 tional Assessment Governing Board shall develop
7 and submit to the entities identified in paragraph
8 (1) a report, not later than September 30, 1999,
9 that addresses and responds to the findings reported
10 by the National Academy of Sciences in the report
11 entitled "Grading the Nation's Report Card: Evalu-
12 ating NAEP and Transforming the Assessment of
13 Educational Progress" that assert that the achieve-
14 ment levels ~~proposed by~~ the National Assessment of
15 Educational Progress (NAEP) are fundamentally
16 flawed.

17 (3) TECHNICAL FEASIBILITY.—The National
18 Academy of Sciences shall conduct a study regarding
19 the technical feasibility of including items from the
20 National Assessment of Educational Progress
21 (NAEP) or other tests in State and district assess-
22 ments to provide a measure of individual student
23 performance against the standards established by
24 the National Assessment of Educational Progress
25 (NAEP) for 4th grade reading and 8th grade math-

National Academy of Sciences
Report

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1 ematics and the quality of the information regarding
2 a student's performance that is to be provided to
3 parents and teachers. The National Academy of
4 Sciences shall ~~report the results of the study to the~~
5 ~~entities identified in paragraph (1) not later than~~
6 ~~September 30, 1999.~~

*provide an informal interim progress
report to the entities identified in
paragraph (1) not later than June 30, 1999,
and a final report not later than September
30, 1999.*

Sandra Yamin
10/06/98 04:19:12 PM

Record Type: Record

To: Michael Cohen/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Answers to questions on national testing

Below are our answers to the national test questions.

----- Forwarded by Sandra Yamin/OMB/EOP on 10/06/98 04:18 PM -----

Wei-Min C. Wang 10/06/98
02:32:43 PM

Record Type: Record

To: Barbara Chow/OMB/EOP@EOP
cc: Sandra Yamin/OMB/EOP@EOP, Wayne Upshaw/OMB/EOP@EOP, Barry White/OMB/EOP@EOP, Mary I. Cassell/OMB/EOP@EOP
Subject: Answers to questions on national testing

Here's the latest info on voluntary national tests, in response to your questions last night.

Answers to Questions on Voluntary National Tests (VNT)

Definition of a pilot test: A pilot test is a standard step in developing a new test. It is designed to identify as early as possible major flaws in procedures or individual test items. It answers questions such as:

- How well students will understand and interpret the questions;
- How different ethnic, racial, or gender groups will respond to the questions;
- If the questions measure the content area they are supposed to measure;
- If the questions are too easy or too difficult for the target population;
- If the questions assess the range of skills and abilities of all the students; and
- If the questions are appropriate for the grade level.

As a part of the test development process, pilot testing precedes field testing. Pilot testing allows us to determine from a representative sample of students which questions are valid and reliable, and which ones need to be discarded before field testing and, ultimately, operational testing. It should be stressed that information from pilot testing is used to refine the test itself, *not* to evaluate student achievement.

Number of students involved in VNT pilot tests:

Test date	Test subject	# of students	# of schools
March 1999	4th grade reading	27,600	672

2. Prohibition on pilot testing until NAS certifies that NAGB has the achievement levels right

Option 1: Prohibit pilot testing and redefine in report language

Sec. ____ Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to pilot test, field test, implement or administer any federally sponsored national test in reading, mathematics, [or any other subject, or to engage in any other testing activity that would enable comparisons of test results among school districts]: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

— Could
the
NAGB

Report Language

The Committee bill provides that the National Assessment Governing Board retains exclusive authority over the policies, direction and guidelines for voluntary national tests for 4th grade reading and 8th grade math. The bill includes language prohibiting the use of funds to pilot test, field test, implement, or administer any federally sponsored national tests. This prohibition is intended to preclude the use of funds for pilot testing [and field testing] that would produce test scores for individual students, schools, school districts, and states, or report such information to parents, students, teachers or other school officials.

Option 2: Prohibition on pilot testing unless Congress authorizes in NAEP reauthorization

Sec. ____ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to implement or administer any federally sponsored national test in reading, mathematics or any other subject that is not specifically and explicitly provided for in authorizing legislation for the National Assessment of Education Progress enacted into law: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998

— Pilot test, field test

Report language

Pilot Test, Field Test

Option 3: No Implementation Without Authorization & NAGB Develops Plan for Test Implementation and Use

Sec. ____ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to implement or administer any federally sponsored national test in reading, mathematics or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law. The National Assessment Governing Board shall develop a plan for the continued development and implementation of national tests that measure individual student performance against National

— Pilot test, field test

Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. The plan shall include policies for the administration and use of national tests. In developing this plan, NAGB shall consider the feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. NAGB shall present a written plan to the Committee on Education and Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the President for their consideration by July 1 (prior to reauthorization of the National Assessment of Education Progress).

But for

P.L. 101-504
The Committee bill provides that the National Assessment Governing Board retains exclusive authority over the policies, direction and guidelines for voluntary national tests for 4th grade reading and 8th grade math, and permits NAGB to continue test development work. The bill prohibits implementation or administration of the tests unless such ^{achievement} implementation is explicitly authorized in law. The Committee expects that Congress will consider such authorization as part of the forthcoming reauthorization of the National Assessment of Education Progress. In order to help inform Congressional deliberations, the committee bill directs NAGB to develop and present to the authorizing committees and the President a plan for implementation and use of the national tests. In developing this plan, NAGB should consider the feasibility of including items from NAEP in state or local tests in order to measure students against NAEP achievement levels without requiring the administration of a separate national test. ~~It is the intent of the Committee that, if technically feasible, NAGB make it possible for~~ Further, the ~~Committee~~

2. Prohibition on pilot testing until NAS certifies that NAGB has the achievement levels right

Option 1: Prohibit pilot testing and redefine in report language

Sec. ____ Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to pilot test, field test, implement or administer any federally sponsored national test in reading, mathematics, [or any other subject, or to engage in any other testing activity that would enable comparisons of test results among school districts]: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Report Language

The Committee bill provides that the National Assessment Governing Board retains exclusive authority over the policies, direction and guidelines for voluntary national tests for 4th grade reading and 8th grade math. The bill includes language prohibiting the use of funds to pilot test, field test, implement, or administer any federally sponsored national tests. This prohibition is intended to preclude the use of funds for pilot testing [and field testing] that would produce test scores for individual students, schools, school districts, and states, or report such information to parents, students, teachers or other school officials.

Option 2: Prohibition on pilot testing unless Congress authorizes in NAEP reauthorization

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Voluntary National Test

Plans for the Pilot Test

Pilot testing of questions developed for the voluntary national tests is scheduled for March 1999. Pilot testing is the final step in the process of writing test questions. The purpose is to determine whether each question is good, the degree of difficulty of each question, and fairness, i.e., whether individual questions should be rejected for possible race, gender, or cultural bias. This step occurs prior to the construction of actual tests, which involve selecting test questions that reflect a specified range of difficulty and content that can be determined only on the basis of the data collected on the individual items from the pilot test.

Since the focus of the pilot test is on the quality of the individual test questions, the data collected will be analyzed question by question, not by individual student or school. This data will be used to reject or keep questions and to decide which questions will be selected to build comparable tests for field testing. No individual student or school results will be reported from the pilot test.

The sample will be, generally, nationally representative. The size of the sample is determined in large part by the number of questions being tried out. The plan for March 1999 is to try out about 1,100 questions, respectively, in reading and in math. In order to get stable information, about 800 students need to take each test question. In reading, the 1,100 questions will be divided into sets of 45 questions; in mathematics, into sets of 60 questions. As a result of the pilot test, the number of questions will be winnowed down to 270 and 360 for reading and mathematics respectively, the number needed for 6 field test booklets each.

The number of schools in the sample will be 1,044 or about 1 percent of all U.S. schools. The number of schools in the sample for 4th grade reading will be 672; for 8th grade mathematics 372.

The number of students in the sample will be about 27,600 for 4th grade reading test questions, or less than 1 percent of all U.S. 4th graders. The number of students in the sample will be about 21,600 for 8th grade mathematics test questions, again, less than 1 percent of all U.S. 8th graders.

any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end the following:

"SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TESTING.

"(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program, may not be used to develop, plan, implement (including pilot testing or field testing), or administer any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6) et seq.), and administered to only a representative sample of pupils in the United States and in foreign nations."

SEC. 306. Notwithstanding any other provision of law, any institution of higher education which receives funds under title III of the Higher Education Act, except for grants made under section 326, may use up to 20 percent of its award under part A or part B of the Act for

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Nat'l
Tests

EDUCATION

ID: 202-395-4875

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12:59 No.002 P.02

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$31,242,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clus-

Labar/HHS/Ed Senate Committee Bill

tering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program, may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: *Provided*, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998.

This section shall not apply to the Third International Mathematics and Science Study, the National Assessment of Education Progress or other international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6) et seq.), and administered to only a representative sample of pupils in the United States and in foreign nations.

SEC. 306. Notwithstanding any other provision of law, any institution of higher education which receives funds under title III of the Higher Education Act, except for grants made under section 326, may use up to 20 percent of its award under part A or part B of the Act for endowment building purposes authorized under section 331. Any institution seeking to use part A or part B funds for endowment building purposes shall indicate such intention in its application to the Secretary and shall abide by departmental regulations governing the endowment challenge grant program.

SEC. 307. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part

B of title IV of such Act that is equal to or less than \$5,000,000.

This title may be cited as the "Department of Education Appropriations Act, 1999".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$70,745,000, of which \$15,717,000 shall be for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$275,039,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limita-

Labar/HHS/Ed Senate Committee Report

256

ment to report to Congress within 90 days of enactment of this act on the actions taken on this issue.

OFFICE OF THE INSPECTOR GENERAL

Appropriations, 1998	\$30,242,000
Budget estimate, 1999	31,242,000
Committee recommendation	31,242,000

The Committee recommends \$31,242,000 for the Office of the Inspector General, \$1,000,000 above the 1998 appropriation and the same as the administration request.

The Office of the Inspector General has the authority to investigate all departmental programs and administrative activities, including those under contract or grant, to prevent and detect fraud and abuse, and to ensure the quality and integrity of those programs. The Office investigates alleged misuse of Federal funds, and conducts audits to determine compliance with laws and regulations, efficiency of operations, and effectiveness in achieving program goals.

GENERAL PROVISIONS

The Committee bill contains language which has been included in the bill since 1974, prohibiting the use of funds for the transportation of students or teachers in order to overcome racial imbalance (sec. 301).

The Committee bill contains language included in the bill since 1977, prohibiting the transportation of students other than to the school nearest to the student's home (sec. 302).

The Committee bill contains language which has been included in the bill since 1980, prohibiting the use of funds to prevent the implementation of programs of voluntary prayer and meditation in public schools (sec. 303).

The Committee bill includes a provision giving the Secretary of Education authority to transfer up to 1 percent of any discretionary funds between appropriations (sec. 304).

The Committee bill includes language prohibiting the use of funds to field test, implement, or administer any federally sponsored national test (sec. 305).

The Committee bill includes language requiring institutions of higher education to include in applications to the Secretary regarding funds to be used for endowment challenge grants (sec. 306).

The Committee bill includes language regarding the enforcement of certain provisions of the Higher Education Act with respect to lender loan portfolios that is equal to or less than \$5,000,000 (sec. 307).

National Tests

Fax Transmission



COMMITTEE ON EDUCATION AND THE WORKFORCE

Office of the Staff Director
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

(202) 225-4527, phone
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TO:

Bruce Reed
Elaina Kagen
Mike Cohen

COMPANY:

DATE:

10/13/98

FAX NUMBER:

202/456-5581

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FROM:

☒ KEVIN TALLEY, STAFF
DIRECTOR

ROBERT BAYLOR, ASSISTANT TO
THE STAFF DIRECTOR

☒ URGENT

☒ FOR REVIEW

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 (TTY)---(202) 226-3372
 MINORITY---(202) 226-3725
 (TTY)---(202) 226-3118

To: Mr. Bruce Reed, Assistant to the President for Domestic Policy
 Ms. Elaine Kagen, Deputy Assistant to the President for Domestic Policy
 Mr. Mike Cohen, Special Assistant to the President for Education
 BY FACSIMILE 202/456-5581

From: Kevin Talley, Staff Director *KG*

CC: Jack Howard, Assistant to the Speaker of the House
 Dave Hoppe, Chief of Staff, Senate Majority Leader
 Hon. Trent Lott
 Hon. Bill Goodling
 Hon. Slade Gorton
 Hon. John Ashcroft

Date: October 13, 1998

Re: National Testing

As we discussed this morning, please find attached a response to your recent alternative to the continuation of current law regarding federal testing.

The attached language describes additional activities that should be undertaken by NAGB with the continuation of the test development contract. These would be beyond those that are currently under way or NAGB concludes needs to be accomplished during FY1999. We have included in this proposal the NAS study on embedding NAEP that you suggested. In report language to accompany the legislation, additionally the Chairman would be willing to consider the finds of this study and the administration's position on national testing during NAGB reauthorization next year. We have changed the date for the NAS study completion because NAS has informed us today that it would be "extremely difficult" to meet a June 1, 1999 deadline.

Please review and let me know your reaction. I can be reached at 202/225-4527.

Activities to be considered by NAGB during FY1999

1. **Prohibition on national testing.** Prohibition on pilot testing, field testing, implementation, administration or distribution of national tests, unless specifically and explicitly authorized.

Sec ____ Part C of the General Education Provisions Act (20 USC 1231 et seq) is amended by adding at the end the following:

"Sec 447. Prohibition on Federally Sponsored Testing.

(a) **General Prohibition**---Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program, may be used to pilot test, field test, implement, administer or distribute in any way any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

(b) **Exceptions**---Subsection (a) shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 USC 9003(a)(6) et seq.) and administered to only a representative sample of pupils in the United States and in foreign nations."

2. **Continued limited test development.** NAGB's contractor may continue development and modification of test items (as allowed in FY1998).

3. **Voluntary nature of the tests.** NAGB will determine what "voluntary" means as to the proposed national tests and report to Congress on whether the tests are proposed to be voluntary as to the student, the school, the school district, or the state. Report shall be due no later than September 30, 1999.

4. **National Academy of Sciences Study.** National Academy of Sciences will conduct a study of the technical feasibility of imbedding test items from NAEP into state and district assessments.

The National Academy of Sciences shall conduct a study of the technical feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics and the quality of the information about a student's performance that would be provided to parents and teachers. The National Academy of Sciences shall provide an informal interim progress report to Congress no later than June 30, 1999, and a final report no later than September 30, 1999.

5. **Purpose of the proposed national tests.** NAGB will determine and clearly articulate in a report to Congress the intended purpose of the tests. The report shall state whether the tests are being designed for and will be used for diagnostic purposes, accountability/high stakes purposes, and/or other purposes. Report shall be due no later than September 30, 1999.

6. **Response to National Academy of Sciences Study.** NAGB will develop and submit to Congress a report of how it intends to address the National Academy of Sciences findings in the study "**Grading the Nation's Report Card: Evaluating NAEP and Transforming the Assessment of Educational Progress**" which stated that the achievement levels of NAEP (basic, proficient, advanced) are fundamentally flawed. How NAGB addresses this issue will directly affect the achievement levels of the proposed national tests, which are to be based on the same achievement levels of NAEP. Report shall be due no later than September 30, 1999.

Additionally, the National Academy of Sciences Study "**Evaluation of the Voluntary National Tests: Phase I**", in describing the achievement levels to be used on the national tests, stated that issues such as achievement level setting, reporting, relationship between test items and achievement level descriptions, etc. should be resolved early in the test development process, rather than following other test development activities.

Insert A

Provided, that NAGB may conduct studies to determine the technical quality of test items that may be used for the purpose of incorporation in state or local tests in order to measure student progress against National Assessment of Education Progress benchmarks.

Report Language

In addition to the report language you have suggested, we propose the following:

The Committee bill provides that the National Assessment Governing Board retains exclusive authority over the policies, direction and guidelines for voluntary national tests for 4th grade reading and 8th grade math. The bill includes language prohibiting the use of funds to pilot test, field test, implement, or administer any federally sponsored national tests. This prohibition is intended to preclude the use of funds for pilot testing and field testing that would produce test scores for individual students, schools, school districts, and states, or report such information to parents, students, teachers or other school officials.

The Committee recognizes that many states and local communities have already developed tests aligned with state and local academic standards, and may wish to have an efficient way of also determining how well students perform relative to the National Assessment of Education Progress achievement levels. Therefore, the bill also provides that the National Academy of Sciences conduct a study to determine the feasibility of incorporating items from NAEP or other tests into state or local tests for these purposes. Further, the Committee bill permits NAGB to conduct studies to determine the technical quality of test items developed under its authority for these purposes. Such studies may address issues including how well students understand and interpret the questions, how different ethnic, racial or gender groups respond to the questions, if the questions measure the content area they are supposed to measure, if the questions are too easy or too difficult for the target population, if the questions assess the range of skills and abilities of all the students, and if the questions are appropriate for the grade level.

1 SEC. ____.

2 (a) IN GENERAL.—Part C of the General Education
3 Provisions Act (20 U.S.C. 1231 et seq.) is amended by
4 adding at the end the following:

5 "SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TEST-
6 INC.

7 "(a) GENERAL PROHIBITION.—Notwithstanding any
8 other provision of Federal law and except as provided in
9 subsection (b), no funds provided to the Department of
10 Education or to an applicable program, may be used to
11 pilot test, field test, implement, administer or distribute
12 in any way any federally sponsored national test in read-
13 ing, mathematics, or any other subject that is not specifi-
14 cally and explicitly provided for in authorizing legislation
15 enacted into law.

16 (b) EXCEPTIONS.—Subsection (a) shall not apply to
17 the Third International Mathematics and Science Study
18 or other international comparative assessments developed
19 under the authority of section 404(a)(6) of the National
20 Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)
21 et seq.) and administered to only a representative sample
22 of pupils in the United States and in foreign nations."

23 (b) AUTHORITY OF NATIONAL ASSESSMENT GOV-
24 ERNING BOARD.—Subject to section 447 of the General
25 Education Provisions Act, the exclusive authority over the
26 direction and all policies and guidelines for developing vol-

1 untary national tests pursuant to contract RJ97153001
 2 previously entered into between the United States Depart-
 3 ment of Education and the American Institutes for Re-
 4 search and executed on August 15, 1997, and subse-
 5 quently modified by the National Assessment Governing
 6 Board on February 11, 1998, shall continue to be vested
 7 in the National Assessment Governing Board established
 8 under section 412 of the National Education Statistics Act
 9 of 1994 (20 U.S.C. 9011).

10 (c) STUDIES.—

11 (1) PURPOSE ~~AND~~ DEFINITION.—The National
 12 Assessment Governing Board shall determine and
 13 clearly articulate in a report the purpose, ~~design for-~~
 14 ~~mat, and~~ ^{and} intended use(s) of any proposed federally
 15 sponsored test. Such report shall also include—

16 (A) a definition of the meaning of the term
 17 “voluntary” in regards to the ~~development or~~
 18 ~~the administration of any~~ ^{administration of any} national test; and

19 (B) a description of the achievement levels
 20 and reporting methods to be used in grading
 21 any national test, ~~and the relationship between~~
 22 ~~test questions and such achievement levels.~~

23 The report shall be submitted to the White House,
 24 the Committees on Education and the Workforce of
 25 the House of Representatives, the Committee on

1 Labor and Human Resources of the Senate, and the
2 Committees on Appropriations of the House of Rep-
3 resentatives and the Senate not later than Septem-
4 ber 30, 1999.

5 (2) RESPONSE TO ~~REPORT CARD~~.—The Na-
6 tional Assessment Governing Board shall develop
7 and submit to the entities identified in paragraph
8 (1) a report, not later than September 30, 1999,
9 that addresses and responds to the findings reported
10 by the National Academy of Sciences in the report
11 entitled "Grading the Nation's Report Card: Evalu-
12 ating NAEP and Transforming the Assessment of
13 Educational Progress" that assert that the achieve-
14 ment levels ~~proposed by~~ ^{of} the National Assessment of
15 Educational Progress (NAEP) are fundamentally
16 flawed.

17 (3) TECHNICAL FEASIBILITY.—The National
18 Academy of Sciences shall conduct a study regarding
19 the technical feasibility of including items from the
20 National Assessment of Educational Progress
21 (NAEP) or other tests in State and district assess-
22 ments to provide a measure of individual student
23 performance against the standards established by
24 the National Assessment of Educational Progress
25 (NAEP) for 4th grade reading and 8th grade math-

National Academy of Sciences
Report

1 ematics and the quality of the information regarding
2 a student's performance that is to be provided to
3 parents and teachers. The National Academy of
4 Sciences shall ~~report the results of the study to the~~
5 ~~entities identified in paragraph (1) not later than~~
6 ~~September 30, 1999.~~

*provide an informal interim progress
report to the entities identified in
paragraph (1) not later than June 30, 1999,
and a final report not later than September
30, 1999.*

F:\RG\EDUCATION\TEST99.001

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6 ING.

7 "(a) GENERAL PROHIBITION.—Notwithstanding any
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10 Education or to an applicable program, may be used to
11 pilot test, field test, implement, administer or distribute
12 in any way any federally sponsored national test in read-
13 ing, mathematics, or any other subject ^{✓ [INSERT A]} ~~that is not specifi-~~
14 ~~cally and explicitly provided for in authorizing legislation-~~
15 ~~enacted into law.~~ ^{provided that NAGB [incorporate]}

16 (b) EXCEPTIONS.—Subsection (a) shall not apply to
17 the Third International Mathematics and Science Study
18 or other international comparative assessments developed
19 under the authority of section 404(a)(6) of the National
20 Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)
21 et seq.) and administered to only a representative sample
22 of pupils in the United States and in foreign nations."

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3 ment of Education and the American Institutes for Re-
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7 in the National Assessment Governing Board established
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10 (c) STUDIES.—

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16 (A) a definition of the meaning of the term
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19 (B) a description of the achievement levels
20 and reporting methods to be used in grading
21 any national test, ~~and the relationship between~~
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23 The report shall be submitted to the White House,
24 the Committees on Education and the Workforce of
25 the House of Representatives, the Committee on

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2 Committees on Appropriations of the House of Rep-
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4 ber 30, 1999.

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National Academy of Sciences
Report

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4

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4 Sciences shall ~~report the results of the study to the~~
5 ~~entities identified in paragraph (1) not later than~~
6 ~~September 30, 1999.~~

*provide an informal interim progress
report to the entities identified in
paragraph (1) not later than June 30, 1999,
and a final report not later than September
30, 1999.*

~~In report language: "For purposes of this section,~~

Option 1: Senate Language

Sec. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 2: Restriction on Pilot Test With Individual Scores (Consistent with Senate format)

Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to field test, implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 3: Restriction on Pilot Test and Field Test With Individual Scores (Consistent with Senate format)

Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used for a pilot test or field test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 4: Amendment to GEPA as in House provision

NOTE: THIS APPROACH AMENDS UNDERLYING, PERMANENT LAW; WE CAN ONLY ACCEPT THIS APPROACH IF IT INCLUDES LANGUAGE RESTRICTING ITS APPLICATION TO FY 1999 FUNDS!!!

Sec. 305. Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end thereof the following:

"Sec. 447 Limitation on Federally Sponsored Testing

"(a) GENERAL LIMITATION.-- Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in any Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test: Provided, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of

Education Appropriations Act, 1998.

(b) same as House bill (b)

Option 1: Senate Language

Sec. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Options for National Test Language

Options 1-3 are drafted as free-standing amendments that would expire at the end of FY1999.

Option 1: Senate Language

Sec. 305, Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 2: Restriction on Pilot Test With Individual Scores

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to field test, implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Option 3: Restriction on Pilot Test and Field Test With Individual Scores

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test or field test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

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(b) same as House bill (b)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Education Branch**Education, Income Maintenance, and Labor Division****FAX COVER**DATE: 10/6/98TIME: 1:10 pmTO: Mike Cohen, DPKFAX NUMBER: 6-7028

FROM:

☐ Wayne Upshaw☐ Lorenzo Rasetti☐ Leslie Mustain☒ Wei-Min Wang☐ Jonathan Travers☐ Kathy Stack☐ David Rowe☐ Mary CassellNUMBER OF PAGES: Cover + 4

Notes:

To: Elena Kagan

From: Mike

4 pages

~~Senate language is also~~
~~included in~~

The National Academy of Sciences shall conduct a study to determine the feasibility of including test items from the National Assessment of Education Progress or other tests in state and commercial assessments for the purpose of producing individual scores linked to the National Assessment of Education Progress achievement levels, in 4th grade reading and 8th grade math. The study shall also examine the utility of the information provided by this procedure to parents, teachers and students. The study shall be completed by June 1, 1999.

Voluntary National Test

Plans for the Pilot Test

Pilot testing of questions developed for the voluntary national tests is scheduled for March 1999. Pilot testing is the final step in the process of writing test questions. The purpose is to determine whether each question is good, the degree of difficulty of each question, and fairness, i.e., whether individual questions should be rejected for possible race, gender, or cultural bias. This step occurs prior to the construction of actual tests, which involve selecting test questions that reflect a specified range of difficulty and content that can be determined only on the basis of the data collected on the individual items from the pilot test.

Since the focus of the pilot test is on the quality of the individual test questions, the data collected will be analyzed question by question, not by individual student or school. This data will be used to reject or keep questions and to decide which questions will be selected to build comparable tests for field testing. No individual student or school results will be reported from the pilot test.

The sample will be, generally, nationally representative. The size of the sample is determined in large part by the number of questions being tried out. The plan for March 1999 is to try out about 1,100 questions, respectively, in reading and in math. In order to get stable information, about 800 students need to take each test question. In reading, the 1,100 questions will be divided into sets of 45 questions; in mathematics, into sets of 60 questions. As a result of the pilot test, the number of questions will be winnowed down to 270 and 360 for reading and mathematics respectively, the number needed for 6 field test booklets each.

The number of schools in the sample will be 1,044 or about 1 percent of all U.S. schools. The number of schools in the sample for 4th grade reading will be 672; for 8th grade mathematics 372.

The number of students in the sample will be about 27,600 for 4th grade reading test questions, or less than 1 percent of all U.S. 4th graders. The number of students in the sample will be about 21,600 for 8th grade mathematics test questions, again, less than 1 percent of all U.S. 8th graders.

Sec. 305 Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: Provided, That the National Assessment Governing Board etc.

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board etc.

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test or field test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board etc.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$31,242,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clus-

Labr/HHS/Ed Senate Committee Bill

tering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program, may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: *Provided*, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998.

National Tests

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requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end the following:

"SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TESTING.

"(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program, may not be used to develop, plan, implement (including pilot testing or field testing), or administer any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6) et seq.), and administered to only a representative sample of pupils in the United States and in foreign nations."

SEC. 306. Notwithstanding any other provision of law, any institution of higher education which receives funds under title III of the Higher Education Act, except for grants made under section 326, may use up to 20 percent of its award under part A or part B of the Act for

63
Labor/HHS/Ed
House
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Bill

Nat'l
Tests

National Tests (cont.)

This section shall not apply to the Third International Mathematics and Science Study, the National Assessment of Education Progress or other international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6) et seq.), and administered to only a representative sample of pupils in the United States and in foreign nations.

SEC. 306. Notwithstanding any other provision of law, any institution of higher education which receives funds under title III of the Higher Education Act, except for grants made under section 326, may use up to 20 percent of its award under part A or part B of the Act for endowment building purposes authorized under section 331. Any institution seeking to use part A or part B funds for endowment building purposes shall indicate such intention in its application to the Secretary and shall abide by departmental regulations governing the endowment challenge grant program.

SEC. 307. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part

B of title IV of such Act that is equal to or less than \$5,000,000.

This title may be cited as the "Department of Education Appropriations Act, 1999".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$70,745,000, of which \$15,717,000 shall be for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$275,039,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limita-

Labor/HHS/Ed Senate Committee Report

256

ment to report to Congress within 90 days of enactment of this act on the actions taken on this issue.

OFFICE OF THE INSPECTOR GENERAL

Appropriations, 1998	\$30,242,000
Budget estimate, 1999	\$1,242,000
Committee recommendation	\$1,242,000

The Committee recommends \$31,242,000 for the Office of the Inspector General, \$1,000,000 above the 1998 appropriation and the same as the administration request.

The Office of the Inspector General has the authority to investigate all departmental programs and administrative activities, including those under contract or grant, to prevent and detect fraud and abuse, and to ensure the quality and integrity of those programs. The Office investigates alleged misuse of Federal funds, and conducts audits to determine compliance with laws and regulations, efficiency of operations, and effectiveness in achieving program goals.

GENERAL PROVISIONS

The Committee bill contains language which has been included in the bill since 1974, prohibiting the use of funds for the transportation of students or teachers in order to overcome racial imbalance (sec. 301).

The Committee bill contains language included in the bill since 1977, prohibiting the transportation of students other than to the school nearest to the student's home (sec. 302).

The Committee bill contains language which has been included in the bill since 1980, prohibiting the use of funds to prevent the implementation of programs of voluntary prayer and meditation in public schools (sec. 303).

The Committee bill includes a provision giving the Secretary of Education authority to transfer up to 1 percent of any discretionary funds between appropriations (sec. 304).

The Committee bill includes language prohibiting the use of funds to field test, implement, or administer any federally sponsored national test (sec. 305).

The Committee bill includes language requiring institutions of higher education to include in applications to the Secretary regarding funds to be used for endowment challenge grants (sec. 306).

The Committee bill includes language regarding the enforcement of certain provisions of the Higher Education Act with respect to lender loan portfolios that is equal to or less than \$5,000,000 (sec. 307).

National Tests

Sec. 305 Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end thereof the following:

"Sec. 447 Limitation on Federally Sponsored Testing

"(a) GENERAL LIMITATION.-- Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in any Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test: Provided, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998.

(b) same as House bill (b)

"Sec. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to pilot test, field test implement or administer, any federally sponsored voluntary national test in reading, mathematics, or any other subject, yielding individual student, school, school district or state scores: Provided, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998."

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board etc.

Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test or field test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board etc.

Sec. 305 Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: Provided, That the National Assessment Governing Board etc.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$31,242,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clus-

Labar/HHS/Ed Senate Committee Bill

tering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program, may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: *Provided*, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998.

CAUTION

ID:202-395-4875

OCT 06 '98 13:00 NO.002 P.03
National Tests

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$31,242,000.

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Labar/HHS/Ed Senate Committee Bill

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CAUTION

ID:202-395-4875

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(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program, may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: *Provided*, That the National Assessment Governing Board shall retain the exclusive authority over the development of voluntary national tests as described in section 307 of the Department of Education Appropriations Act, 1998.

March 1999	8th grade mathematics	21,600	372
March 2000	4th grade reading	20,800	506
March 2000	8th grade mathematics	16,600	286
March 2001	4th grade reading	20,800	506
March 2001	8th grade mathematics	16,600	286

Alternative ways to say "pilot test": test item validation, test question evaluation, item tryouts, piloting test items.

Do we still need \$15 million for VNT? No. The absolute minimum that would be necessary to continue ongoing test development would be \$3 million. This would include \$1.5 million for the National Assessment Governing Board (NAGB) to continue developing and refining test items, and \$1.5 million for the National Academy of Sciences to continue evaluating the initiative. *However*, these numbers are very rough estimates. Contracts for the tests are still being negotiated with multiple parties, and the Department would strongly prefer a total of \$5 million in FY 1999 funds to allow for some flexibility and to account for unforeseen costs.

Message Copied To:

Wei-Min C. Wang/OMB/EOP
Wayne Upshaw/OMB/EOP
Barry White/OMB/EOP
Mary I. Cassell/OMB/EOP
Barbara Chow/OMB/EOP

leg. options

① Sonate language, with modifications

② Keep ~~House~~ language from pilot testing, add report language that makes clear planned "item tryouts" are permitted, as described above



Adina_Kole@ed.gov
10/07/98 12:29:00 PM

Record Type: Record

To: Michael Cohen
cc:
Subject: Re:

David, Sue, Paul and Mike,

I had a discussion with Steve Winnick about this suggested language. We don't think that adding this language about trial administration will accomplish the objective of authorizing pilot tests. We would suggest adding some of the suggested report language into the statute, to read:

"program may not be used for a trial administration yielding individual student, school, district or state scores, field test, or to implement or administer any federally sponsored"

Additionally, we note that the Senate language does not preclude use of FY 1997 funds for pilot tests, in the same manner that the 1998 appropriations bill did. As you undoubtedly recall, Section 304 of the 1998 bill prohibited the use of FY 1997 funds for pilots because of the language that states "no funds provided to the Department of Education or to an applicable program of the GEPA, in this Act or in any other Act in fiscal year 1998, may be used to field test, pilot test," etc. Since the current Senate language does not include the language "in this Act or in any other Act" we believe, as a legal matter, that it would be okay to use FY 1997 funds in FY 1999, since any of the prohibitions in the FY 1999 appropriations act would only be applicable to FY 1999 funds.

Adina

We have lots of suggestions. This is the current state of play. Please email your responses to everyone listed above. I will be out of the office of an hour, but Sue will be around.

Thanks

David

Working text

Senate Section 305.

change line 3 and 4 to

"program may not be used for a trial administration or field test, or to implement or administer any federally sponsored"

Suggested report language

The conferees agree that there should be no trial administration of a voluntary national test in fiscal year 1999.

The conferees further agree that the development of items in fiscal year 1999 shall not yield individual student, school, district, or state scores.

The bill also provides that the National Assessment Governing Board shall retain the exclusive authority over the contract for the development of voluntary tests and test items [including evaluating whether individual items are appropriate and fair based on student responses to the items].

Voluntary National Test

Plans for the Pilot Test

Pilot testing of questions developed for the voluntary national tests is scheduled for March 1999. Pilot testing is the final step in the process of writing test questions. The purpose is to determine whether each question is good, the degree of difficulty of each question, and fairness, i.e., whether individual questions should be rejected for possible race, gender, or cultural bias. This step occurs prior to the construction of actual tests, which involve selecting test questions that reflect a specified range of difficulty and content that can be determined only on the basis of the data collected on the individual items from the pilot test.

Since the focus of the pilot test is on the quality of the individual test questions, the data collected will be analyzed question by question, not by individual student or school. This data will be used to reject or keep questions and to decide which questions will be selected to build comparable tests for field testing. No individual student or school results will be reported from the pilot test.

The sample will be, generally, nationally representative. The size of the sample is determined in large part by the number of questions being tried out. The plan for March 1999 is to try out about 1,100 questions, respectively, in reading and in math. In order to get stable information, about 800 students need to take each test question. In reading, the 1,100 questions will be divided into sets of 45 questions; in mathematics, into sets of 60 questions. As a result of the pilot test, the number of questions will be winnowed down to 270 and 360 for reading and mathematics respectively, the number needed for 6 field test booklets each.

The number of schools in the sample will be 1,044 or about 1 percent of all U.S. schools. The number of schools in the sample for 4th grade reading will be 672; for 8th grade mathematics 372.

The number of students in the sample will be about 27,600 for 4th grade reading test questions, or less than 1 percent of all U.S. 4th graders. The number of students in the sample will be about 21,600 for 8th grade mathematics test questions, again, less than 1 percent of all U.S. 8th graders.

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1 SEC. ____ NATIONAL TESTING.

2 (a) IN GENERAL.—Part C of the General Education
3 Provisions Act (20 U.S.C. 1231 et seq.) is amended by
4 adding at the end the following:

5 "SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TEST-
6 ING.

7 "(a) GENERAL PROHIBITION.—Notwithstanding any
8 other provision of Federal law and except as provided in
9 subsection (b), no funds provided to the Department of
10 Education or to an applicable program, may be used to
11 pilot test, field test, implement, administer or distribute
12 in any way any federally sponsored national test in read-
13 ing, mathematics, or any other subject that is not specifi-
14 cally and explicitly provided for in authorizing legislation
15 enacted into law.

16 "(b) EXCEPTIONS.—Subsection (a) shall not apply to
17 the Third International Mathematics and Science Study
18 or other international comparative assessments developed
19 under the authority of section 404(a)(6) of the National
20 Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)
21 et seq.) and administered to only a representative sample
22 of pupils in the United States and in foreign nations."

23 (b) AUTHORITY OF NATIONAL ASSESSMENT GOV-
24 ERNING BOARD.—Subject to section 447 of the General
25 Education Provisions Act, the exclusive authority over the
26 direction and all policies and guidelines for developing vol-

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2

1 untary national tests pursuant to contract RJ97153001
2 previously entered into between the United States Depart-
3 ment of Education and the American Institutes for Re-
4 search and executed on August 15, 1997, and subse-
5 quently modified by the National Assessment Governing
6 Board on February 11, 1998, shall continue to be vested
7 in the National Assessment Governing Board established
8 under section 412 of the National Education Statistics Act
9 of 1994 (20 U.S.C. 9011).

10 (c) STUDIES.—

11 (1) PURPOSE, DEFINITION, AND ACHIEVEMENT
12 LEVELS.—The National Assessment Governing
13 Board shall determine and clearly articulate in a re-
14 port the purpose and intended use of any proposed
15 federally sponsored national test. Such report shall
16 also include—

17 (A) a definition of the meaning of the term
18 “voluntary” in regards to the administration of
19 any national test; and

20 (B) a description of the achievement levels
21 and reporting methods to be used in grading
22 any national test.

23 The report shall be submitted to the White House,
24 the Committees on Education and the Workforce of
25 the House of Representatives, the Committee on

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3

1 Labor and Human Resources of the Senate, and the
2 Committees on Appropriations of the House of Rep-
3 resentatives and the Senate not later than Septem-
4 ber 30, 1999.

5 (2) RESPONSE TO REPORT.—The National As-
6 sessment Governing Board shall develop and submit
7 to the entities identified in paragraph (1) a report,
8 not later than September 30, 1999, that addresses
9 and responds to the findings reported by the Na-
10 tional Academy of Sciences in the report entitled
11 "Grading the Nation's Report Card: Evaluating
12 NAEP and Transforming the Assessment of Edu-
13 cational Progress" that assert that the achievement
14 levels of the National Assessment of Educational
15 Progress (NAEP) are fundamentally flawed.

16 (3) TECHNICAL FEASIBILITY.—The National
17 Academy of Sciences shall conduct a study regarding
18 the technical feasibility, validity, and reliability of in-
19 cluding test items from the National Assessment of
20 Educational Progress (NAEP) for 4th grade reading
21 and 8th grade mathematics or from other tests in
22 State and district assessments for the purpose of
23 providing a common measure of individual student
24 performance. The National Academy of Sciences
25 shall submit, to the entities identified under para-

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4

- 1 graph (1), an interim progress report not later than
- 2 June 30, 1999 and a final report not later than Sep-
- 3 tember 30, 1999.

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1 SEC. ____.

2 (a) IN GENERAL.—Part C of the General Education
3 Provisions Act (20 U.S.C. 1231 et seq.) is amended by
4 adding at the end the following:

5 "SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TEST-
6 INC.

7 "(a) GENERAL PROHIBITION.—Notwithstanding any
8 other provision of Federal law and except as provided in
9 subsection (b), no funds provided to the Department of
10 Education or to an applicable program, may be used to
11 pilot test, field test, implement, administer or distribute
12 in any way any federally sponsored national test in read-
13 ing, mathematics, or any other subject that is not specifi-
14 cally and explicitly provided for in authorizing legislation
15 enacted into law.

16 (b) EXCEPTIONS.—Subsection (a) shall not apply to
17 the Third International Mathematics and Science Study
18 or other international comparative assessments developed
19 under the authority of section 404(a)(6) of the National
20 Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)
21 et seq.) and administered to only a representative sample
22 of pupils in the United States and in foreign nations."

23 (b) AUTHORITY OF NATIONAL ASSESSMENT GOV-
24 ERNING BOARD.—Subject to section 447 of the General
25 Education Provisions Act, the exclusive authority over the
26 direction and all policies and guidelines for developing vol-

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2

1 untary national tests pursuant to contract RJ97153001
2 previously entered into between the United States Depart-
3 ment of Education and the American Institutes for Re-
4 search and executed on August 15, 1997, and subse-
5 quently modified by the National Assessment Governing
6 Board on February 11, 1998, shall continue to be vested
7 in the National Assessment Governing Board established
8 under section 412 of the National Education Statistics Act
9 of 1994 (20 U.S.C. 9011).

10 (c) STUDIES.—

11 (1) PURPOSE ~~AND~~ DEFINITION.—The National
12 Assessment Governing Board shall determine and
13 clearly articulate in a report the purpose, ~~design for-~~
14 ~~mat, and~~ ^{and} intended use ^(s) of any proposed federally
15 sponsored test. Such report shall also include—

16 (A) a definition of the meaning of the term
17 “voluntary” in regards to the ~~development or~~
18 ~~administration of any~~ ^{the administration of any} national test; and

19 (B) a description of the achievement levels
20 and reporting methods to be used in grading
21 any national test, ~~and the relationship between~~
22 ~~test questions and such achievement levels.~~

23 The report shall be submitted to the White House,
24 the Committees on Education and the Workforce of
25 the House of Representatives, the Committee on

and Achievement Levels.

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3

1 Labor and Human Resources of the Senate, and the
2 Committees on Appropriations of the House of Rep-
3 resentatives and the Senate not later than Septem-
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5 (2) RESPONSE TO ~~REPORT CARD~~.—The Na-
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7 and submit to the entities identified in paragraph
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9 that addresses and responds to the findings reported
10 by the National Academy of Sciences in the report
11 entitled "Grading the Nation's Report Card: Evalu-
12 ating NAEP and Transforming the Assessment of
13 Educational Progress" that assert that the achieve-
14 ment levels ~~proposed by~~ the National Assessment of
15 Educational Progress (NAEP) are fundamentally
16 flawed.

17 (3) TECHNICAL FEASIBILITY.—The National
18 Academy of Sciences shall conduct a study regarding
19 the technical feasibility of including items from the
20 National Assessment of Educational Progress
21 (NAEP) or other tests in State and district assess-
22 ments to provide a measure of individual student
23 performance against the standards established by
24 the National Assessment of Educational Progress
25 (NAEP) for 4th grade reading and 8th grade math-

National Academy of Sciences
Report

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4

1 ematics and the quality of the information regarding
2 a student's performance that is to be provided to
3 parents and teachers. The National Academy of
4 Sciences shall ~~report the results of the study to the~~
5 ~~entities identified in paragraph (1) not later than~~
6 ~~September 30, 1999.~~

*provide an informal interim progress
report to the entities identified in
paragraph (1) not later than June 30, 1999,
and a final report not later than September
30, 1999,*

1 SEC. ____.

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10 Education or to an applicable program, may be used to
11 pilot test, field test, implement, administer or distribute
12 in any way any federally sponsored national test in read-
13 ing, mathematics, or any other subject [✓]that is not specifi-
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17 the Third International Mathematics and Science Study
18 or other international comparative assessments developed
19 under the authority of section 404(a)(6) of the National
20 Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)
21 et seq.) and administered to only a representative sample
22 of pupils in the United States and in foreign nations."

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 7 in the National Assessment Governing Board established
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 9 of 1994 (20 U.S.C. 9011).

10 (c) STUDIES.—

11 (1) PURPOSE ~~AND~~ DEFINITION.—The National
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 13 clearly articulate in a report the purpose, design for-
 14 mat, ^{and} intended use(s) of any proposed federally
 15 sponsored test. Such report shall also include—

16 (A) a definition of the meaning of the term
 17 “voluntary” in regards to the development or
 18 ^{the administration of any} ~~administration of any~~ national test; and

19 (B) a description of the achievement levels
 20 and reporting methods to be used in grading
 21 any national test, ~~and the relationship between~~
 22 ~~test questions and such achievement levels.~~

23 The report shall be submitted to the White House,
 24 the Committees on Education and the Workforce of
 25 the House of Representatives, the Committee on

1 Labor and Human Resources of the Senate, and the
2 Committees on Appropriations of the House of Rep-
3 resentatives and the Senate not later than Septem-
4 ber 30, 1999.

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6 tional Assessment Governing Board shall develop
7 and submit to the entities identified in paragraph
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9 that addresses and responds to the findings reported
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13 Educational Progress" that assert that the achieve-
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25 (NAEP) for 4th grade reading and 8th grade math-

National Academy of Sciences
Report

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2 a student's performance that is to be provided to
3 parents and teachers. The National Academy of
4 Sciences shall ~~report the results of the study to the~~
5 ~~entities identified in paragraph (1) not later than~~
6 ~~September 30, 1999~~

*provide an informal interim progress
report to the entities identified in
paragraph (1) not later than June 30, 1999,
and a final report not later than September
30, 1999,*

Sec. ____ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to pilot test, field test, implement or administer any federally sponsored national test in reading, mathematics or any other subject: Provided, That the National Assessment Governing Board (NAGB) shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998; and provided further, that NAGB ~~may~~ ^{shall} conduct studies to determine the technical quality of test items for the purpose of incorporating those items in state or local tests in order to measure student progress against National Assessment of Education Progress benchmarks.

AND

The National Academy of Sciences shall conduct a study of the technical feasibility of including items from the National Assessment of Educational Progress or other tests into state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. The National Academy of Sciences shall report the results of the study to Congress by June 1, 1999.

Report Language

The Committee bill provides that the National Assessment Governing Board retains exclusive authority over the policies, direction and guidelines for voluntary national tests for 4th grade reading and 8th grade math. The bill includes language prohibiting the use of funds to pilot test, field test, implement, or administer any federally sponsored national tests.

The Committee recognizes that many states and local communities have already developed tests aligned with state and local academic standards, and may wish to have an efficient way of also determining how well students perform relative to the National Assessment of Education Progress achievement levels. Therefore, the bill also provides that the National Academy of Sciences conduct a study to determine the feasibility of incorporating items from NAEP or other tests into state or local tests for these purposes. Further, the Committee bill permits NAGB to conduct studies to determine the technical quality of any test items for the purpose of incorporating them into state or local tests. These studies may address such issues as: how well students understand and interpret the questions; how different ethnic, racial or gender groups respond to the questions; whether the questions measure the content area they are supposed to measure; whether the questions are too easy or too difficult for the target population; whether the questions assess the range of skills and abilities of all the students; and whether the questions are appropriate for the grade level.

Sec. ____ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law. The National Assessment Governing Board shall develop a plan for the continued development and implementation of national tests that measure individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. The plan shall include policies for the administration and use of national tests. In developing this plan, NAGB shall consider the feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. NAGB shall present a written plan to the Committee on Education and Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the President for their consideration by ____ (prior to reauthorization of the National Assessment of Education Progress).

Report Language

The Committee bill provides that the National Assessment Governing Board retains exclusive authority over the policies, direction and guidelines for voluntary national tests for 4th grade reading and 8th grade math. The bill prohibits implementation or administration of the tests unless such implementation is explicitly authorized in law. The Committee expects that Congress will consider such authorization as part of the forthcoming reauthorization of the National Assessment of Education Progress. In order to help inform Congressional deliberations, the committee bill directs NAGB to develop and present to the authorizing committees and the President a plan for implementation and use of the national tests. In developing this plan, NAGB should consider the feasibility of including items from NAEP in state or local tests in order to measure students against NAEP achievement levels without requiring the administration of a separate national test.

Sec. ____ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics or any other subject, nor shall any funds be used to pilot test any federally sponsored national test until Congress enacts legislation for the reauthorization of the National Assessment of Education Progress: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998