engage in egregious misconduct that would result in expulsion except that such student is covered by IDEA. In those instances, I believe expulsion is merited and should be left to policies developed by the States and the localities. On February 5, 1997, the Circuit Court of Appeals for the Fourth Circuit ruled that the U.S. Department of Education was without authority to condition receipt by the Commonwealth of Virginia of IDEA funding on the continued provision of free education to disabled students who have been expelled or suspended long term for criminal or other serious misconduct unrelated to their disability. I agree that decisionmaking on these very case-specific instances should be left to localities and States and disagree with this aspect of this bill.

On the whole, however, this bill offers improvements and gives schools greater flexibility, promotes cost-sharing between State and local agencies and recognizes the role of teachers.

Mr. CUNNINGHAM. Mr. Speaker, I am proud to rise in support of H.R. 5, the IDEA Improvement Act. I am pleased to see it moving toward enactment, hopeful that continued improvements can be made, and thankful to those citizens, staff, and members who have made it possible.

The Individuals with Disabilities Education Act, or IDEA, is based on one principle: That children with disabilities deserve a fighting chance to achieve the American Dream. Since its enactment in the 1970's, this law has made education and opportunity available for millions of children with disabilities. Many of these Americans, who once would have been consigned to costly institutions for life, have used their education to sustain themselves and become contributing members of society. They are better for it, and the country is better, too.

But the law has not been perfect. Over time, cooperation in pursuit of education has gradually given way to divisive and costly litigation that usurps scarce resources from children's schooling. Congress and successive administrations have failed to keep their promise to fund 40 percent of States' costs to comply with IDEA and provide free, appropriate public education in the least restrictive environment, as the law requires. And the distribution of funds among the States has grown unfair and unequal, with some States receiving substantially more funding per school-age child than others.

In the 104th Congress, we pledged and worked to do better. And we did. I was privileged at the time to serve as chairman of the House Subcommittee on Early Childhood, Youth and Families. We assembled a historic coalition of citizen representatives of children with disabilities, educators, the administration, Republicans, and Democrats to develop an IDEA Improvement Act that we could all agree upon. We reported a bill out of subcommittee, to the full committee, to the House, and forwarded it to the Senate by voice vote. Unfortunately, the late-session crunch and latent divisions forestalled its enactment. Nevertheless, Congress recognized the progress we had made by providing an equally historic, first-time substantial increase in IDEA funding, some $4 billion total in fiscal year 1997, $700 million more than in fiscal year 1996.

Now, the 105th Congress is completing the work we began in the 104th Congress. Under the leadership of Education Committee Chairman BILL GOODLING, Early Childhood Subcommittee Chairman FRANK RIGGS, and the majority leader of the other body, we now have an IDEA Improvement Act that all sides agree is an improvement. It focuses anew on the education of children with disabilities. It improves schools' administration of special education. It assures that additional IDEA appropriations are distributed in a more equitable manner, freeing the Appropriations Committee on which I now serve to fund IDEA more robustly and responsibly. And it replaces litigation and division with mediation and a more cooperative process for resolving disputes.

Like the IDEA Improvement Act of the 104th Congress, this measure before us today is not perfect. H.R. 5 does not address the inequitable distribution of current IDEA funding. It does not give States enough relief from certain mandates, particularly those relating to IDEA-mandated educational services for convicts in jail. And it does not give schools and communities as much flexibility as I would prefer in implementing an educational program, and ensuring the fair conduct of disciplinary procedures. It is a product of compromise and a great deal of hard work and sacrifice from all parties. And I am glad to say that it is, on balance, a very good bill that will do well by our children and our schools.

Finally, I would like to publicly recognize a number of the people who made this measure possible. Chairmen GOODLING and RIGGS, and my former Early Childhood Subcommittee ranking member DALE KILDEE—now ranking on the Higher Education Subcommittee—have done yeoman's work in carrying this difficult task through. The Senate majority leader, and his chief of staff, David Hoppe, coordinated a months-long march of meetings between all parties to hammer out an agreeable bill, and they have done marvelously. And Jay Eagen, Sally Lovejoy, and Todd Jones of the Education and Workforce Committee staff deserve recognition for distinguished service on this issue on behalf of many Members of the Congress. I was privileged to work with all of them in the 104th Congress. Many others deserve special recognition, especially the families, special education students, teachers, school board members, and administrators who contributed their work and experience to this measure.

I urge Members to support H.R. 5. It goes to show that when we work together, we can get the job done.

Mr. PAUL. Mr. Speaker, I rise to oppose H.R. 5, the Individuals with Disabilities Reauthorization Act of 1997 [IDEA]. I oppose this bill as strong supporter of doing all possible to advance the education of persons with disabilities. However, I do not think that a huge bureaucracy is the best way to educate disabled children. Parents and local communities know their children so much better than any Federal bureaucrat, and they can do a better job of meeting a child's needs than we in Washington. There is no way that the unique needs of my grandchildren, and some young boy or girl in Los Angeles, CA or New York City can be educated by some sort of ''Cookie Cutter'' approach.

At a time when Congress should be returning power and funds to the States, IDEA increases Federal control over education. According to the Congressional Budget Office Federal expenditures on IDEA will reach over $20 billion by the year 2002. This flies in the face of many Members' public commitment to place limits on the scope of the Federal bureaucracy.

H.R. 5 imposes significant costs on State governments and localities. For example, the new bill requires one regular education teacher to take part in each individual education plan [IEP]. According to certain education experts, this could require as many as 10 to 15 teachers be present at each IEPO meeting. This bill also requires States to include disabled students in all statewide assessments by 1998 and develop alternatives for students unable to participate in the regular exams by the year 2000. According to the National Association of State Boards of Education [NASBE], this mandate will increase assessment costs by 12 percent.

NASBE's May 9 letter to Congress identifies several other provisions in H.R. 5 that will impose new financial burdens on the States. I ask that the letter be read into the RECORD.

As I see Members of Congress applaud the imposition of more mandates on States, I cannot help but think of a letter I received from the high school principal asking for some relief from Federal mandates imposed on her by laws like IDEA. I would ask all my colleagues to consider whether we are truly aiding education by imposing new mandates or just making it more difficult for hard-working, education professionals like this principal to properly educate our children?

The major Federal mandate in IDEA is that disabled children be educated in the least restrictive setting. In other words, this bill makes mainstreaming the Federal policy. Many children may thrive in a mainstream classroom environment, however, I worry that some children may be mainstreamed solely because school officials believe it is required by Federal law, even though the mainstream environment is not the most appropriate for that child.

On May 10, 1994, Dr. Mary Wagner Testified before the Education Committee that disabled children who are not placed in a mainstream classrooms graduate from high school at a much higher rate than disabled children who are mainstreamed. Dr. Wagner quite properly accused Congress of sacrificing children to ideology.

Mr. Speaker, it is time to stop sacrificing children on the alter of ideology. Every child is unique and special. Given the colossal failure of Washington's existing interference, it is clear that all children will be better off when we get Washington out of their classroom and out of their parents' pocketbooks. I therefore urge my colleagues to cast a vote for constitutionally limited government and genuine compassion by opposing H.R. 5.

NATIONAL ASSOCIATION OF
STATE BOARDS OF EDUCATION,
Alexandria, VA, May 9, 1997.

DEAR REPRESENTATIVE: The National Association of State Boards of Education (NASBE) is a private nonprofit association representing state and territorial boards of education. We are writing to express our opposition to the changes made to the state set-aside formula in the compromise agreement on the individuals with Disabilities Education Act (IDEA).

Under the new legislation, the state share is capped at the FY97 level, with all future increases equal to the rate of inflation or the federal appropriations increase—whichever is less. This new formula also applies to the state's 5% administration reserve. This

limit, especially as applied to state administration, will place severe burdens on already strained state education budgets and will result in an enormous federally unfunded mandate.

IDEA is a highly prescriptive law requiring vigilant state monitoring and evaluation to ensure disabled students are receiving all appropriate educational services. The new mandates will create even more administrative and oversight responsibilities for state education agencies (SEAs), while at the same time significantly decreasing the federal funds necessary to carry out such functions. Because of the artificial limits placed on the states' administrative share, the excess costs of administering the programs, distributing grants and ensuring local education agency (LEA) compliance with the law will be borne solely by the SEA.

In addition, the proposed legislation directs the states to implement the following new programs: (1) Include disabled students in all state-wide assessments by 1998 and to develop alternatives for students unable to participate in regular exams by the year 2000. (At the very least, this mandate will increase state assessment costs by 12%, the national average of disabled students in the general school population); (2) Establish and operate a mediation system for use by LEAs and parents; (3) Develop and implement state performance goals and indicators for disabled students.

The states are responsible for all of the costs incurred by creating and maintaining the above programs. The federal government is providing absolutely no new financial assistance to help offset these expenses.

The reduction of the state set-aside severely undermines the historic federal, state and local partnership and 20-year old cost-sharing arrangement that have worked so well in delivering a free, appropriate public education to disabled students. We urge you to amend the IDEA compromise agreement by allowing funding increases of up to 5% annually for state administration.

Sincerely,

BRENDA L. WELBURN,
Executive Director.

Mr. GILMAN. Mr. Speaker, I rise today in support of the Individuals With Disabilities Education Improvement Act, H.R. 5, and commend its sponsor, the distinguished chairman of the Committee on Education and the Workforce, Mr. GOODLING, and the chairman of the Subcommittee on Early Childhood, Youth and Families, Mr. RIGGS, for their diligent work in bringing this important bipartisan legislation to the floor.

This measure effectively incorporates numerous initiatives that have been proposed by educators and school board members in my district. This bill seeks to give the classroom teacher the ability to maintain adequate discipline with regard to special education students. While previous law prohibited a school from suspending or expelling a disabled student for more than 10 days, except in the situation where the student has brought a gun to school, this bill provides for removal to an alternative placement for students who bring weapons to school, bring illegal drugs to school, or illegally distribute drugs in schools, students who engage in assault or battery and students, who by proof of substantial evidence present a danger to himself or others. I believe that this bill effectively addresses that issue of classroom safety, while still maintaining protection for the students against arbitrary placement changes.

Furthermore, this measure requires States to make mediation available to school authorities and parents who disagree over a disabled student's educational plan, instead of forcing the parties to move their dispute into the court. It is our hope that an increase in the use of mediation will reduce the acrimony involved in these disputes and will save money that has in the past been spent on attorney fees. Furthermore, it is my hope that the new formula changes phased in over 10 years will reduce overidentification and promote the effective use of government resources.

Accordingly, Mr. Speaker, I urge my colleagues to support this worthy measure to reform our Nation's special education programs.

Mr. GOODLATTE. Mr. Speaker, I want to first congratulate the chairman on his dedication to this important issue and his hard work toward crafting a bill that will help schools improve the quality of education for students with disabilities.

This bill includes a number of provisions that I strongly support. It streamlines and consolidates the requirements that States must meet for individualized education plans, allows parents to participate in all IEP decisions, guarantees that parents have access to all records relating to their children, and includes a number of provisions to limit attorney's fees and reduce litigation.

While I support most of the provisions in this bill, I am deeply concerned that in an effort to reach a compromise with the administration, this bill includes language that tramples the rights of States and localities to ensure safety and discipline in their classrooms.

The bill includes a provision that effectively overturns a recent Federal Appeals Court decision allowing States to suspend or expel disabled students for criminal or other serious misconduct when the action is unrelated to their disability. The administration's policy, which not only exceeds the mandate of IDEA, sets a glaring double standard by establishing two discipline codes—one for disabled students and another for nondisabled students. Including this provision in the bill ties the hands of States and localities when it comes to effectively disciplining students.

While I believe that the overall bill is good for disabled students, good for parents and teachers, and good for the American taxpayers, it would have been a great deal better had this provision not been included. With that, I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 5, as amended.

The question was taken.

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

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5.

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

There was no objection.

CONCURRING IN SENATE AMENDMENT TO H.R. 914, TECHNICAL CORRECTIONS IN HIGHER EDUCATION ACT, WITH AMENDMENTS

Mr. MCKEON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 145) providing for the concurrence of the House with the amendment of the Senate to H.R. 914, with amendments.

The Clerk read as follows:

H. RES. 145

Resolved, That upon the adoption of this resolution the bill (H.R. 914), to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures, shall be considered to have been taken from the Speaker's table to the end that the Senate amendments thereto be, and the same are hereby, agreed to with amendments as follows:

Insert before section 1 the following:

TITLE I—TECHNICAL AMENDMENTS

Redesignate sections 1 through 5 as sections 101 through 105, and at the end of the bill add the following:

SEC. 106. PAYMENTS RELATING TO FEDERAL PROPERTY.

Section 8002(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(i)) is amended to read as follows:

''(i) PRIORITY PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(1)(B), and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

''(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency described in paragraph (2); and

''(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section.

''(2) LOCAL EDUCATIONAL AGENCY DESCRIBED.—A local educational agency described in this paragraph is a local educational agency that—

''(A) received a payment under this section for fiscal year 1996;

''(B) serves a school district that contains all or a portion of a United States military academy;

''(C) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

''(D) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.''.

TITLE II—COST OF HIGHER EDUCATION REVIEW

SEC. 201. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Cost of Higher Education Review Act of 1997''.