



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

Zelkowitz

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B-214456

May 14, 1984

The Honorable Lowell P. Weicker, Jr.
Chairman, Subcommittee on Labor, Health
and Human Services, and Education
Committee on Appropriations
United States Senate

DO NOT MAKE AVAILABLE TO PUBLIC READING
FOR 30 DAYS

Dear Mr. Chairman:

This is in response to your letter of February 14, 1984, regarding the fiscal year 1985 authorization levels for Department of Education programs which may be continued under the automatic extension provision contained in section 414 of the General Education Provisions Act, 20 U.S.C. § 1226a. Specifically, you wish to know whether the authorization level for each program should be the level originally contained in the enacting legislation for the program or the level specified for fiscal year 1984 in the Omnibus Education Reconciliation Act of 1981 (Reconciliation Act), Pub. L. No. 97-35, Title V, 95 Stat. 441-50 (1981). For the reasons indicated below, we conclude that the level authorized for these programs for fiscal year 1985 is the fiscal year 1984 level contained in the Reconciliation Act.

Basically, section 414 of the General Education Provisions Act provides for the automatic extension of an education program for 1 fiscal year (2 fiscal years for advance-funded programs), when the Congress fails to enact legislation to formally extend the program before it expires. The extension provision provides that for those programs continuing under its authority "[t]he amount appropriated for each additional fiscal year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during [its] terminal year." 20 U.S.C. § 1226a. Thus, a program operating under this provision shall be continued at a rate not exceeding the level authorized for the program in the preceding fiscal year.

The authorization and authorization levels for the affected programs for fiscal years 1982, 1983, and 1984 are

contained in the Reconciliation Act. That Act provides that to the extent that any other provision of law established levels of funding inconsistent with the levels of funding specified in the Act, these pre-existing authorization levels are superseded. See sections 502(a), (b), 95 Stat. 441. The Act then sets forth authorization levels for the various education programs for fiscal year 1982, and in many instances for fiscal years 1983 and 1984. Sections 503 through 527, 95 Stat. 442-50. Finally, in section 528, the Act extends through fiscal year 1984 the authorization of appropriations contained in certain designated statutes.

In effect, although not expressly, the Reconciliation Act amended the various statutes authorizing appropriations for education programs. In fiscal year 1984, therefore, the authorization levels for these programs are those contained in the Reconciliation Act rather than those previously contained in the enacting legislation for these programs.^{1/} Therefore, unless otherwise extended by some other legislation, where the final year of authorization for a particular education program is 1984, the automatic extension provision authorizes the continuation of the program at the level prescribed for this program for fiscal year 1984 in the Reconciliation Act.

Additionally, for your information, following is a list of programs which the Department of Education informs us will be subject to the automatic extension provision in fiscal year 1985. According to the Department, this list does not include any program that received its last appropriation in fiscal year 1983 or earlier. We have not made any attempt to compare this list with the list compiled by the Congressional Research Service.

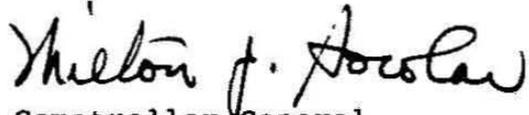
^{1/} Further, we have been informed by the Department of Education that the authorizations contained in the original enacting legislation for all programs funded in fiscal year 1984, and which can be extended under the General Education Provisions Act, expired in fiscal year 1983 or earlier. Therefore the fiscal year 1984 authorization for these programs could have been contained only in the Reconciliation Act.

Program

Woman's educational equality
General aid to the Virgin Islands
Territorial teacher training
Ellender fellowships
Indian Education
Bilingual education
Bilingual vocational training
Vocational training
Adult education
Minority institutions science
improvement program
National Institute of Education
National Center for Education
Statistics
Public Library Sciences
Interlibrary cooperation

We hope that we have been of assistance to you. Unless we hear otherwise from your office, this opinion will be available for release 30 days from today.

Sincerely yours,



Acting Comptroller General
of the United States

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