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Library Services and Construction Act: Reauthorization (1989-1994): Correspondence 03

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UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

NOV 13 1988

Honorable Claiborne Pell
United States Senate
Washington, DC 20510

Dear Senator Pell:

I am writing to express the views of the Department of Education on the House and Senate versions of H.R. 2742, a bill to extend and amend the Library Services and Construction Act (LSCA). While I believe that it is now appropriate to take a more targeted approach to improving library services, as indicated by the Department's legislative proposal (H.R. 3170, S. 1257), I will limit my remarks to those issues remaining before the conference on H.R. 2742.

Let me begin by endorsing the provision in the House version of the bill that would add to title I of LSCA a library-based program to support drug abuse prevention and elimination. Libraries can be effective participants in community-wide efforts to educate the public on the myriad of drug-related problems plaguing our Nation.

I have several concerns, however, regarding the following provisions of the House and Senate bills.

Maintenance of Effort. The maintenance of effort amendments proposed in both bills are problematic. The House bill, while adding flexibility to current law, would create ambiguities and administrative burdens at the State and Federal levels. For example, since the proposed waiver provision does not clearly prohibit a State from using its expenditures in a year for which a waiver is granted as a base level in subsequent years, that provision could be interpreted as, in effect, allowing a State to reduce permanently its level of effort while still qualifying for LSCA funds. It also appears that the House provision, in removing section 7(a)(1)(B) of current law, would require maintenance of effort based on State aid to all public libraries, rather than just on projects funded under LSCA. However, I have greater concerns with the Senate provision that allows a State to determine, and notify the Secretary of, a revised expenditure level every five years. This provision appears to be inconsistent with statutory requirements pertaining to maintenance of effort that would be retained in LSCA, including the annual nature of the requirement and the Secretary's authority to determine compliance, and obscures the purpose of a maintenance of effort requirement. In light of these concerns, I

recommend retention of current law requirements, although I would prefer the maintenance of effort provisions proposed in the House bill to those in the Senate version.

Research Library. The House bill would require the Comptroller General to conduct a study of the Department of Education research library and would restrict the library's activities or functions from being contracted out or transferred from the Federal Government before September 30, 1991. Since the Department's research library has no relation to the Office of Library Programs and is not utilized to carry out any activities under LSCA, this provision is not germane and is inappropriate to an LSCA reauthorization proposal. Further, I object to the provision's contract restrictions as an unnecessary intrusion on Executive Branch responsibilities to make management decisions based on efficiency and effectiveness.

Family Learning Centers. The House bill would mandate a new formula grant program under which each State would select a single family learning center from among local public libraries meeting numerous federally prescribed application requirements. While I fully support the goals of this program, I object to the House provision; it would generate administrative burdens at the Federal, State, and local levels for an activity that is both very limited (only one center for each State) and duplicative of activities already authorized in title I of current law.

Public Meetings. The Senate version of H.R. 2742 would add to State plan requirements an assurance that libraries within a State applying for title I funds shall not discriminate on the basis of race, religion, age, gender, national origin, or handicapping condition in providing space for public meetings. I am concerned that the breadth and vagueness of this provision would engender enforcement difficulties in administering the title I program. For example, the provision refers to libraries without regard to whether they are public or private and whether or not they receive funds under LSCA. This could create an anomalous situation of applying LSCA sanctions (including the recovery of funds) against a State with a private library that does not receive LSCA funds and fails to comply with the provision. Further, the provision appears to focus on the characteristics of particular groups rather than the nature of the public meeting for which space would be provided. For example, while this language would apparently prohibit discrimination against individuals seeking to conduct a meeting on the basis of their religious beliefs, it is not clear that the language would ensure their right to meet and discuss religious matters, which I understand to be the purpose of this amendment. Finally, as currently drafted, the provision is largely duplicative of protections already established under the Fourteenth Amendment to the Constitution and Federal anti-discrimination statutes.

Childcare Library Outreach. While both bills would authorize the use of title I funds to assist libraries in providing mobile library services to licensed or certified childcare centers, the Senate bill would also make childcare centers that "otherwise meet the requirements of State law" eligible to receive these services. Since many States exempt church-based or certain home-based childcare centers from licensing and certification requirements, I prefer the flexibility offered in the Senate provision, which could make library services available to more children.

Effective Date. Since both the House and Senate bills have an effective date of October 1, 1989, this is technically not an issue before the conference. However, I would like to take this opportunity to note the difficulties presented by a retroactive effective date given the broad changes contemplated in reauthorization. This is particularly true in issuing regulatory guidance for the proposed new activities and administering the proposed maintenance of effort provisions. I suggest an amendment to the bill that would provide for an effective date of October 1, 1990.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress.

Sincerely,

A handwritten signature in black ink, reading "Lauro F. Cavazos". The signature is written in a cursive style with a long horizontal line extending to the right.

Lauro F. Cavazos