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UNITED STATES DEPARTMENT OF EDUCATION  
PRESIDENT'S COMMISSION ON  
EXCELLENCE IN SPECIAL EDUCATION

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FIFTH MEETING

Washington Hilton Hotel  
1919 Connecticut Avenue, N.W.  
Monroe Room  
Washington, D.C.

The meeting was held pursuant to notice, on  
Friday, June 14, 2002, at 9:05 a.m., Terry Branstad,  
presiding.

## 1           ATTENDEES:

2           TERRY EDWARD BRANSTAD, Chairman

3           PAULA C. BUTTERFIELD

4           DAVID W. GORDON

5           C. TODD JONES

6           JAY G. CHAMBERS

7           WADE HORN

8           DOUGLAS HUNTT

9           THOMAS ALBERT FLEMING

10          BETH ANN BRYAN

11          FLOYD H. FLAKE

12          ED SONTAG

13          STEVE BARTLETT

14          ROBERT PASTERNAK

15          CHERYL REI TAKEMOTO

16          ALAN COULTER

17          JAY DISKEY

18          MICHAEL J. RIVAS

19          G. REID LYON

20          NANCY S. GRASMICK

21          BRYAN HASSEL

22          TODD

JONES

1 PRESIDENT'S COMMISSION ON EXCELLENCE

2 IN SPECIAL EDUCATION

3 (9:05 p.m.)

4 CHAIRMAN BRANSTAD: Good morning. I'm  
5 pleased to call order the President's Commission on  
6 Excellence in Special Education. We're going to make  
7 an effort to take a real run at seeing if we can  
8 complete this this morning by about noon. That's  
9 what my goal is. I just wanted to announce it at the  
10 get-go. We'll see how it goes, and if we can't  
11 complete our work by about 12:00 or 12:30.

12 Commissioner Bartlett has informed me that he has an  
13 amendment back in the accountability section that I  
14 guess is being printed right now. We'll go to that  
15 when that comes. I think we have some technical  
16 amendments that Bob Pasternack has prepared. Do you  
17 want to start out with that, Todd?

18 MR. JONES: What I was going to suggest  
19 is, since I don't weigh in on substance but I do  
20 weigh in on technical amendments, you can be more  
21 succinct than that. What I thought I would do is  
22 there are ten amendments that were put forward in a

1 package by Commissioner Pasternack yesterday that he  
2 classified as technical that I thought at least you  
3 deserved to decide whether they are technical or not.  
4 Some of them are just word choice but at least one of  
5 them delete major sections of the report. I thought  
6 I would take you through those. That way you can  
7 evaluate them, and since the consensus seemed to be  
8 to accept them, if anyone had any problems, then the  
9 rest of you can bring up whether something is an  
10 issue or not.

11 The first one is on page 13.

12 CHAIRMAN BRANSTAD: These are the  
13 amendments by Commissioner Pasternack. They're the  
14 ones that are in large print, right?

15 MR. JONES: No. It looks like this and  
16 the first is on page 6 of those amendments. The  
17 first one is somewhat stylistic. It's page 13, line  
18 13. It's to drop the use of the word "barriers" in  
19 this context, and I'll read the paragraph. If these  
20 gains only reveal part of the story since 1975 many  
21 of the positive effects realized by federal  
22 involvement in special ed have been overshadowed by

23

1 the growth in paperwork and administrative  
2 entanglements. The barriers reduce the focus on  
3 individual children. Commissioner Pasternack would  
4 like to drop the reference to barriers and not refer  
5 to them as barriers. That at least seemed  
6 substantive enough a characterization of the nature  
7 of federal paperwork that you all deserve to review  
8 it. I don't know if you want to take again,  
9 Governor, there are only ten of them, do you want to  
10 take them up and see what folks see?

11 MR. HUNTT: Move the accept the  
12 amendments.

13 CHAIRMAN BRANSTAD: We have a motion from  
14 Commissioner Hunt to accept. Is there a second?

15 MR. LYON: Second.

16 MR. BUTTERFIELD: Seconded by Commissioner  
17 Butterfield. Discussion on that amendment?  
18 Commissioner Chambers?

19 MR. CHAMBERS: Maybe it's more a matter of  
20 clarity. I always hate to start a sentence with  
21 these without referring to these something. Maybe  
22 barriers isn't the right word; you never know what

23

1 the these are unless it's specific. Is there another  
2 word that we could use that wouldn't be so loaded or  
3 charged? That's what I was searching for but I  
4 couldn't find it.

5 (Pause.)

6 Obviously, I'm just throwing this out.

7 CHAIRMAN BRANSTAD: Commissioner  
8 Pasternack, we're taking up your amendment, the one  
9 that eliminates the word "barriers."

10 MR. PASTERNAK: Thank you, Mr. Chairman.  
11 I apologize. My office just came over. Business in  
12 government never stops. Did we decide we're going  
13 through these one at a time, Mr. Chairman?

14 MR. JONES: I went through them last night  
15 with our staff and identified ten of them which  
16 reviewed as possibly substantive, at least meriting  
17 the Commission reviewing individually those ten would  
18 then be taken up individually. I say ten, it's ten  
19 pages. I think it's about 12.

20 MR. CHAMBERS: Maybe just repeat the word;  
21 I don't know, maybe it's obvious to everybody and no  
22 worth the hassle. These entanglements. So it's

23

1 clear what you're referring to.

2 CHAIRMAN BRANSTAD: Do you want to offer  
3 that as a friendly amendment?

4 MR. CHAMBERS: Yes.

5 CHAIRMAN BRANSTAD: Is that acceptable?

6 MR. PASTERNAK: So taken, Mr. Chairman.

7 CHAIRMAN BRANSTAD: We'll accept that as a  
8 friendly amendment. Entanglements I think is the  
9 word. Is there any further discussion of the  
10 Pasternack amendment as amended?

11 (No response.)

12 CHAIRMAN BRANSTAD: If not, all those in  
13 favor signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTAD: Opposed?

16 (No response.)

17 CHAIRMAN BRANSTAD: It is approved.

18 MR. JONES: The next one is on the next  
19 page of the amendment package, page 37 of 32.  
20 Reference to page 17, line 9, the Commission report  
21 was to read that while OCEP tells states that a  
22 monitoring report will be issued within two months of

23

1 the exit conference, that is to be struck and  
2 replaced with four-to-six, within four to six months.  
3 That language was originally at the direction of task  
4 force Chairman Coulter. That was his understanding.  
5 My assumption is that Mr. Pasternack can provide an  
6 explanation of this as to why it was four to six.

7 CHAIRMAN BRANSTAD: Commissioner  
8 Pasternack?

9 MR. PASTERNAK: Mr. Chairman, members of  
10 the Commission, since we had no direct testimony from  
11 OSEP staff, these actually are just clarifications of  
12 the facts around what states are told by OSEP  
13 regarding the length of time between the site visit  
14 and the issuance of the report. It reflects the  
15 discovery that we did based on the observation  
16 brought to us by Commissioner Sontag. I just wanted  
17 to make sure that the report to the President is  
18 factual and accurate.

19 MR. HUNTT: Move to accept the amendment.

20 CHAIRMAN BRANSTAD: Is there a second?

21 MR. HASSLE: Second.

22 CHAIRMAN BRANSTAD: Moved by Commissioner

23



1 Huntt, seconded by Commissioner Hassle to accept the  
2 amendment. Further discussion?

3 (No response.)

4 CHAIRMAN BRANSTAD: All in favor of the  
5 motion signify by saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN BRANSTAD: Opposed?

8 (No response.)

9 CHAIRMAN BRANSTAD: It is approved.

10 MR. JONES: The next one, page 22, line 1,  
11 this is on page 10 of 32 in the amendment package,  
12 the sentence is "funding for effective programs at  
13 the local level is often complicated by a lack of  
14 coordination among agencies with separate funding.  
15 Commissioner Pasternack had suggested striking this  
16 sentence, lines 1 and 2 of page 22.z

17 CHAIRMAN BRANSTAD: Commissioner Sontag?

18 MR. SONTAG: I'm not quite sure why we  
19 would strike that

20 CHAIRMAN BRANSTAD: What's the rationale  
21 for striking this?

22 MR. PASTERNAK: Originally I was going to

23

1 talk about the fact that this might be the place to  
2 talk about Medicaid funding, but since we really had  
3 no testimony about that during our many hearings, I  
4 feel unfortunately, since that's such an important  
5 issue for us to discuss, we just tempt to take out  
6 language that we did not seem to have testimony to  
7 support.

8 CHAIRMAN BRANSTAD: Commissioner Takemoto?

9 MS. TAKEMOTO: I believe we did have  
10 testimony in both the juvenile justice and foster  
11 care testimony that talked about the disconnect  
12 between Medicaid and those services so we did hear  
13 testimony. I think part of the problem is that not  
14 all of us have been at every single hearing and have  
15 not read every single testimony because the sheer  
16 volume, but I do believe we covered that.

17 MR. PASTERNAK: In that case, Mr. Chair,  
18 I would gladly amendment my amendment to go to my  
19 original sentence which reads "funding for effective  
20 programs for students with disabilities at the local  
21 level is often complicated by a lack of coordination  
22 among agencies with separate funding targeting the

23

1 major needs of these students, e.g., Medicaid.

2 MR. HUNTT: Second.

3 CHAIRMAN BRANSTAD: We have a motion by  
4 Commissioner Hunt to accept that language. Is there  
5 a second?

6 MR. FLEMING: Second.

7 CHAIRMAN BRANSTAD: Commissioner Fleming  
8 seconds it. Commissioner Takemoto also seconds it.  
9 Discussion? Commissioner Takemoto?

10 MR. FLEMING: I'm wondering if you would  
11 accept a friendly amendment that includes, for  
12 example, Medicaid, child welfare funds. There are a  
13 number of different funding sources that that  
14 included or just striking Medicaid because I believe  
15 there's further discussion that discusses that.

16 MR. PASTERNAK: In that case, I'll just  
17 remove "Medicaid" and just put the period at the end  
18 of students, if that is acceptable to the Commission.

19 CHAIRMAN BRANSTAD: Would you read it  
20 again Todd, as it is?

21 MR. JONES: As I have it, the sentence  
22 would now read "money for effective programs for  
23

1 students with disabilities at the local level is  
2 often complicated by a lack of coordination among  
3 agencies with separate funding targeted to meet the  
4 needs of these students.

5 MR. PASTERNAK: Well done, Mr. Jones.

6 CHAIRMAN BRANSTAD: Is there further  
7 discussion?

8 (No response.)

9 CHAIRMAN BRANSTAD: All in favor of the  
10 motion to approve the language that's just been read,  
11 signify by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN BRANSTAD: Opposed?

14 (No response.)

15 CHAIRMAN BRANSTAD: It is approved.

16 MR. JONES: The next one is on page 11 of  
17 32, page 24, lines 5 through 8. The technical  
18 amendment was suggesting that the Commission finds  
19 that the widespread complaints about required  
20 paperwork underlie an overly simplistic response by  
21 local schools and agencies to the need for qualified  
22 personnel to implement an overly complex law. This is

23

1 in the paragraph on the impact of paperwork. And  
2 Commissioner Pasternack in the technical amendment  
3 suggested that this be stricken.

4 CHAIRMAN BRANSTAD: Commissioner  
5 Pasternack, do you want to give us the background?

6 MR. PASTERNAK: Just very briefly, Mr.  
7 Chairman, not to belabor this point, with all due  
8 respect, I just think that sentence is poorly written  
9 and I couldn't fix it. We've heard a lot of  
10 testimony about paperwork and we have nice language  
11 in there about the need to do something about  
12 paperwork. I just don't think this sentence helped  
13 us. If somebody can wordsmith it I'm happy. If not,  
14 I think it would be better to remove it. If somebody  
15 understands it the way it's written.

16 CHAIRMAN BRANSTAD: Does somebody want to  
17 move this?

18 MR. HUNTT: So moved.

19 CHAIRMAN BRANSTAD: Is there a second?

20 MR. HASSLE: Second.

21 CHAIRMAN BRANSTAD: Seconded by  
22 Commissioner Hassle. Discussion?

23

1 (No response.)

2 CHAIRMAN BRANSTAD: All in favor of the  
3 motion to remove this language signify by saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN BRANSTAD: Opposed?

6 (No response.)

7 CHAIRMAN BRANSTAD: It is approved.

8 MR. JONES: The next item is on page 13 of  
9 32 of the suggested technical amendments. It is to  
10 amend on page 26, lines 9 through 10, monitoring by  
11 OSEP of these programs has only recently been  
12 implemented with often disappointing results related  
13 to compliance. The suggestion is to strike the  
14 phrase "with often disappointing results relating to  
15 compliance."

16 CHAIRMAN BRANSTAD: Commissioner  
17 Pasternack, do you want to share the rationale for  
18 deleting that language?

19 MR. PASTERNAK: It's a subjective  
20 evaluation of an objective process, if we could  
21 somehow recognize that. Clearly, we've just recently  
22 implemented the monitoring and I believe that again

23

1 going back to Commissioner Sontag getting us to  
2 investigate how poorly we've been doing, I think  
3 there's ample evidence about how poorly states are  
4 doing. I didn't think that particular language there  
5 was helpful.

6 CHAIRMAN BRANSTAD: Is there a motion to  
7 approve that?

8 MR. BARTLETT: Mr. Chairman, before a  
9 motion, it seems to me to be sort of true on its face  
10 that monitoring by OSEP of these programs has only  
11 recently been implemented.

12 MR. PASTERNAK: That's true.

13 MR. BARTLETT: And it's been characterized  
14 by disappointing results. I've been disappointed,  
15 you've been disappointed, everybody else has been  
16 disappointed. Maybe if we don't say we're  
17 disappointed, we won't be disappointed but I think we  
18 probably still would be.

19 MR. PASTERNAK: In that case, I'll  
20 withdraw it. I was hoping to find some more  
21 objective language to put in there but I agree. I  
22 clearly am disappointed and I know a lot of families

23

1 are.

2 MR. BARTLETT: You've expressed your  
3 disappointment. That's why you're in the job to fix  
4 it.

5 CHAIRMAN BRANSTAD: The amendment is  
6 withdrawn.

7 MR. PASTERNAK: In that case, I can  
8 leave.

9 (Laughter.)

10 MR. JONES: The next item is on page 20 of  
11 32, at the top of the page it amends page 45 of the  
12 report, lines 12 and 13 to replace the first  
13 sentence. Systems cannot ensure mastery of essential  
14 content or skills partly because of concrete demands.  
15 Replace these with "state licensure systems" and  
16 replace the words "concrete demands" or with their,  
17 so it will now read "state licensure systems cannot  
18 ensure mastery of essential content or skills because  
19 there are means of assessing mastery are unclear.

20 CHAIRMAN BRANSTAD: Is there a motion?

21 MR. BARTLETT: So moved.

22 MS. GRASMICK: Second.

23



1                   CHAIRMAN BRANSTAD:  Moved by Commissioner  
2   Bartlett, seconded by Commissioner Grasmick to  
3   approve that change.  Discussion?

4                   (No response.)

5                   CHAIRMAN BRANSTAD:  All in favor signify  
6   by saying aye.

7                   (Chorus of ayes.)

8                   CHAIRMAN BRANSTAD:  Opposed?

9                   (No response.)

10                  CHAIRMAN BRANSTAD:  It is approved.

11                  MR. JONES:  Three to go.  This one is on  
12   page 22 of 32, and in light of -- we did this  
13   analysis before finishing last night.  This was  
14   ultimately a Commissioner Bryan amendment,  
15   substantively striking some things.  That's now  
16   gone.

17                  Move on to page 26 of 32.  At the bottom,  
18   amending page 64, which is what we'll be considering  
19   this morning, it suggests on page 64, line 5 that the  
20   sentence RRCs, regional resource centers, should be  
21   integrated more closely with RELs or possibly  
22   merchant RELs.  The suggestion was to change that

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1 sentence to "this should be accomplished through  
2 increased partnering with the RRCs. Clearly the  
3 implication is to not allow them to be merged, so  
4 that struck us as substantive.

5 CHAIRMAN BRANSTAD: Commissioner Grasmick?

6 MS. GRASMICK: I'd like to hear what  
7 Commissioner Pasternack has to say.

8 CHAIRMAN BRANSTAD: Commissioner  
9 Pasternack, what's the rationale?

10 MR. PASTERNAK: We had no testimony from  
11 anybody from the labs or anybody from the RRCs. We  
12 don't run the labs, we run the RRCs. There are two  
13 separate systems to merge those systems would be  
14 impossible for me to do in my role and impossible for  
15 us to do at the department. There's separate  
16 legislation that funds those centers and it seems  
17 like -- I don't like to propose things in reports  
18 that can't get done or will be incredibly difficult  
19 to get done, at least on my watch -- so my  
20 recommendation to the Commission that you just  
21 encourage these systems to work more effectively  
22 together which they currently don't do, at least to  
23

1 get it started. I think it accomplishes the intent  
2 of the Commissioner.

3 MS. GRASMICK: I'm fine with that.

4 MR. HUNTT: So moved.

5 CHAIRMAN BRANSTAD: Moved by Commissioner  
6 Hunt.

7 MR. CHAMBERS: Second.

8 CHAIRMAN BRANSTAD: Seconded by  
9 Commissioner Chambers. Discussion? Commissioner  
10 Takemoto?

11 MS. TAKEMOTO: I think part of the  
12 disconnect that this Commission as attempted to  
13 address is the fact that the agencies are not  
14 necessarily coordinating it. I'm not saying merged,  
15 but I'm a little bit disappointed that the centers  
16 that are disseminating information to all our  
17 educators, including special educators, are not  
18 considering it part of their duty to be educating the  
19 teachers who are teaching their ability diverse  
20 students.

21 CHAIRMAN BRANSTAD: Commissioner Sontag?

22 MR. SONTAG: I think merger is probably  
23

1 not a good way to describe the potential, but I would  
2 disagree with Secretary Pasternack. I think there's  
3 a variety of vehicles available and the federal  
4 government to accomplish better coordination and  
5 stronger than just encourage. One suggestion would  
6 be why not have them compete on the same day,  
7 encourage people to have joint applications. We say  
8 that there's a priority through the competition  
9 process that could be done within the federal  
10 government and I think we can draft language to that  
11 effect.

12 MR. PASTERNAK: I think the intent is to  
13 get better cooperation and I think Mr. Sontag has  
14 said that merger is not a good word, so that's what I  
15 was trying to address in my amendment.

16 CHAIRMAN BRANSTAD: Commissioner  
17 Grasmick?

18 MS. GRASMICK: I also think it's not just  
19 better cooperation. I think it's fulfilling certain  
20 objectives and I think there is an unevenness to the  
21 performance so I embrace what you're saying but I  
22 hope we understand that embedded in this discussion

23

1 is the idea that we have an unevenness of quality and  
2 delivery.

3 MR. PASTERNAK: I can't agree with you  
4 more, Commissioner Grasmick. The other thing is I  
5 don't know what the labs do in terms of addressing  
6 the issues of kids with disabilities. My sense is  
7 they don't do very much and I say that with all due  
8 respect. I had involvement with one lab as a state  
9 director. They did nothing for kids with  
10 disabilities. So I know that Executive Director  
11 Jones has a great deal of working knowledge about the  
12 labs. I know there is concern expressed about their  
13 performance. I'm concerned about improving the  
14 system that I'm responsible for. As Commissioner  
15 Bartlett noted a few minutes ago, plus the functions  
16 are very different. The labs are research-oriented  
17 and the RRCs provide technical assistance to the  
18 states.

19 CHAIRMAN BRANSTAD: Commissioner Grasmick?

20 MS. GRASMICK: I just want everyone on the  
21 Commission to understand that there is this concern.  
22 I embrace your language but I think we need to be

23

1 working more in tandem with each other so there's a  
2 clear expectation that someone is going to set up  
3 performance targets.

4 CHAIRMAN BRANSTAD: Commissioner Bartlett?

5 MR. BARTLETT: Mr. Chairman, I had the  
6 often unpleasant duty of being the ranking member of  
7 the Authorizing Subcommittee for both of these.  
8 Merger was the right answer then and the right answer  
9 now. We couldn't get it done then but that doesn't  
10 mean we shouldn't say it. The fact is special ed  
11 and regular ed ought to be talking to each other day  
12 in every classroom and every lab and every center and  
13 every school district in every board and research and  
14 technicians ought to be talking to each other in  
15 every day in every way and the best way to get them  
16 to talk is to put them in the same agency.

17 I understand, Mr. Secretary, that you  
18 can't do it but we can recommend it as a part of the  
19 statute. My sense is I think that we had the wording  
20 right the first time. They ought to be obligated to  
21 work closely. The difficulty with merging them is  
22 you have the bureaucratic constituencies who call

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1 their congressman, and then they go and see some poor  
2 fellow like me and say well they can't take away my  
3 lab. We say now, we're going to make it part of  
4 something bigger. They say, yeah, don't take away my  
5 lab. I understand it's politically difficult but the  
6 kids are the ones that are suffering. They may be  
7 better off if research and technical assistance were  
8 merged and special ed and regular ed were put in the  
9 same place, so I think we had it right the first  
10 time.

11 MR. PASTERNAK: You heard me yesterday in  
12 terms of merging those functions. I agree totally.  
13 How about this, Mr. Bartlett. Would you allow the  
14 RRCs to take control of the labs as opposed of the  
15 labs taking control of the RRCs?

16 MR. BARTLETT: No, because that what will  
17 buy you trouble. We ought just to say they ought to  
18 be in the same agency co-housed in the same place and  
19 let the legislation work that out. If you start  
20 talking about who's going to end up on top, the one  
21 on the bottom goes to his congressman.

22 MR. PASTERNAK: Allow them to fight that

1 out later?

2 MR. BARTLETT: I think the wording that's  
3 in the report is currently the right wording, and if  
4 Congress were to do better than I did in the eighties  
5 in trying to achieve a merger, then you'd be better  
6 off and so would the kids in the classroom.

7 CHAIRMAN BRANSTAD: Commissioner Grasmick?

8 MS. GRASMICK: I know I'm being, I don't  
9 care if it's merger or partner. Nothing and nothing  
10 makes nothing. It's got to be quality, and I wish we  
11 had some language that speaks to expectations because  
12 I don't care if they are merged or if they're  
13 partnered. If they're not doing the job, just coming  
14 together is not going to make it happen.

15 CHAIRMAN BRANSTAD: Commissioner Takemoto?

16 MS. TAKEMOTO: I would like our Reporter  
17 to make note of Dr. Grasmick's sage advice and  
18 possibly put in an edited version of that text in the  
19 report. It's a powerful statement about programs  
20 that are not having powerful results.

21 MR. BARTLETT: Mr. Chairman, I could add a  
22 proposed sentence.

23



1                   CHAIRMAN BRANSTAD:  Okay.  It may solve a  
2  problem for us here.  Let's hear it.

3                   MR. BARTLETT:  Add in after the sentence,  
4  leave the sentence as it is now in line 6, RRCs or  
5  anyone else should be held to a higher quality  
6  standard.

7                   CHAIRMAN BRANSTAD:  And you're keeping in  
8  the merger language.  Commissioner Bryan?

9                   MS. BRYAN:  The only thing I would be  
10  careful about is the term "higher quality."  If we  
11  can talk more about it, can Mr. Pasternack help me  
12  out on this.  I don't think higher qualitative  
13  standards as much as higher quality standards  
14  research --

15                  MR. PASTERNAK:  Rigorous data, rigorous  
16  performance standards, or something like that.

17                  CHAIRMAN BRANSTAD:  I think we've got a  
18  consensus around rigorous performance standards.  
19  Would you read it as it's presently proposing it.  
20  Commissioner Bartlett?

21                  MR. BARTLETT:  Leave the text as is and  
22  add the words "RRCs and RELs" should be held to  
23

1 higher and better rigorous standards.

2 MR. PASTERNAK: More rigorous standards.

3 MR. BARTLETT: More rigorous standards and  
4 better research quality.

5 CHAIRMAN BRANSTAD: That is a substitute  
6 amendment. Is that a motion?

7 MR. BARTLETT: That's a motion.

8 CHAIRMAN BRANSTAD: Is there a second?

9 MR. FLEMING: Second.

10 MR. BARTLETT: Accepted as a friendly  
11 amendment.

12 CHAIRMAN BRANSTAD: Would you read it  
13 again with the Grasmick addition? We have a  
14 substitute amendment with a friendly amendment.

15 MR. JONES: RRCs and RELs should be held  
16 to more rigorous standards and better performance  
17 standards.

18 MS. GRASMICK: More rigorous performance  
19 standards.

20 MR. PASTERNAK: In technical assistance  
21 and research.

22 MR. JONES: Okay, wait. We have three  
23

1 voices at once. More rigorous performance standards.

2 MR. PASTERNAK: In technical assistance  
3 and research.

4 CHAIRMAN BRANSTAD: Read it back one more  
5 time so that we're sure everybody understands exactly  
6 what we're about to vote on.

7 MR. JONES: RRCs and RELs should be held  
8 to more rigorous performance standards in technical  
9 assistance and research activities.

10 CHAIRMAN BRANSTAD: Okay. That is the  
11 amended Bartlett substitute motion.

12 All in favor, signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN BRANSTAD: Opposed?

15 (No response.)

16 CHAIRMAN BRANSTAD: It is approved.

17 I assume Commissioner Pasternack withdraws  
18 the previous amendment that this is the substitute  
19 for.

20 MR. PASTERNAK: That is correct.

21 MR. BARTLETT: Point of personal  
22 privilege. We should probably warn that chair and  
23

1 ranking member of that poor little subcommittee in  
2 the House that they're about to be directed by the  
3 directors of the RRCs and RELs and be told that the  
4 world is about to come to an end and they're about to  
5 lose their independence and be abolished or something  
6 like that.

7 CHAIRMAN BRANSTAD: We'll ask you to do  
8 that. I think you're probably the best person to  
9 convey that message.

10 MR. JONES: The last item in the technical  
11 amendments I believe we should review is page 28 of  
12 32. There is a reference at page 70, lines 1 through  
13 6, should be stricken. There are two issues here.  
14 One as to whether this constitutes a substantive  
15 change. The second I would point out, within the  
16 structure of this section by striking lines 1 through  
17 6, you actually don't accomplish the effective of  
18 taking out that language because the following two  
19 paragraphs, the following three paragraphs, ending at  
20 page 71, line 9, actually address the issue raised in  
21 lines 1 through 6 on page 70. So to accomplish this,  
22 you would actually have to do more than this. If

23

1 this is a substantive change you desire to make,  
2 assuming you view it as substantive.

3 CHAIRMAN BRANSTAD: Commissioner  
4 Pasternack, can you give us a rationale for this?

5 MR. PASTERNAK: We don't have a conflict.  
6 The conflict exists I guess it's just a matter, I  
7 mean the way it looks here, it looks like it says two  
8 offices within the department are having a conflict  
9 with one another when in fact I think the intent here  
10 is to talk about conflicting statutory language which  
11 prohibits services being provided for kids with  
12 disabilities when they leave school and seek to come  
13 back and continue their education. So I was trying  
14 to wordsmith it. By the time I got there, I just got  
15 tired and figured less just strike it. If we can  
16 perhaps, begging the Commission's indulgence, I could  
17 try to work on that and come back later on this  
18 morning and propose some language which would fix  
19 that.

20 MR. JONES: Just helping you with that,  
21 Commissioner Pasternack, the section ultimately ends  
22 with saying, that the matter is either statutory or

23

1 an issue of conflicting interpretations. That's  
2 because there have been opinions that this is  
3 strictly a statutory conflict, and some that it was  
4 an agency interpretation conflict, and Commissioner  
5 Huntt's section was to say, regardless of which an  
6 Executive Order helping resolve that would be  
7 appropriate. That's just to give the rest of you  
8 kind of fix as to where and what this was.

9 CHAIRMAN BRANSTAD: Commissioner Sontag?

10 MR. SONTAG: I would support that. I was  
11 in the hearing we had. Over and over and over we  
12 heard about the lack of coordination between RSA and  
13 OCEP. We could wordsmith that in some way.

14 CHAIRMAN BRANSTAD: Is it the sense of the  
15 Commission you want to defer action on this and then  
16 come back to this with a substitute?

17 MR. PASTERNAK: I will work on the  
18 language because I think it's important to talk about  
19 the continuing lack of collaboration even within our  
20 own agency. If the Commission would allow me that  
21 opportunity, I'll present that language later on.

22 CHAIRMAN BRANSTAD: So you would like to  
23

1 defer on this and then come back. Commissioner  
2 Takemoto?

3 MR. PASTERNAK: I would like to table  
4 that particular item.

5 CHAIRMAN BRANSTAD: By unanimous consent,  
6 we can do that without taking a vote if there's no  
7 objection. Commissioner Takemoto?

8 MS. TAKEMOTO: I'm really trying to see  
9 this. Why can't we just insert the word either  
10 collaboration or coordination and be done with this.  
11 It's not open conflict between the agencies  
12 obviously. Just choose coordination or  
13 collaboration, and let's just be done with it.

14 MR. PASTERNAK: The on-going lack of  
15 coordination. How's that between ex-coordination?  
16 Lack of coordination.

17 CHAIRMAN BRANSTAD: Do you accept that as  
18 a friendly amendment?

19 MR. PASTERNAK: I do. The other thing I  
20 would just change is the word "limit students with  
21 disability," instead of that could we put adversely  
22 affects improved outcomes for students with

23

1 disabilities.

2 CHAIRMAN BRANSTAD: So Commissioner  
3 Takemoto moves those changes, seconded by  
4 Commissioner Pasternack. Discussion?

5 (No response.)

6 CHAIRMAN BRANSTAD: This is really  
7 essentially a substitute for your original motion.

8 MR. PASTERNAK: Yes, sir.

9 CHAIRMAN BRANSTAD: We now have the  
10 substitute amendment which has been moved by  
11 Commissioner Takemoto, seconded by Commissioner  
12 Pasternack. All in favor, signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN BRANSTAD: Opposed?

15 (No response.)

16 CHAIRMAN BRANSTAD: Do you have that  
17 language?

18 MR. JONES: I believe so. Let me read it  
19 back. An example of the inadequate federal agency  
20 coordination that adversely affects improved outcomes  
21 for students with disabilities is the on-going lack  
22 of coordination between the U.S. Department of

23



1 Education and so on and so forth.

2 CHAIRMAN BRANSTAD: Okay, very good. That  
3 completes that work.

4 MR. JONES: That completes the items.

5 CHAIRMAN BRANSTAD: The Pasternack  
6 technical amendments that were, in the opinion of the  
7 Executive Director, potentially not technical.

8 MR. PASTERNAK: Move adoption of the rest  
9 of them.

10 VOICE: Second.

11 CHAIRMAN BRANSTAD: We move adoption of  
12 the rest of the amendments that are considered to be  
13 purely technical. All in favor of the motion,  
14 signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BRANSTAD: Opposed?

17 (No response.)

18 CHAIRMAN BRANSTAD: It is approved. Now  
19 we're ready to go back. Commissioner Bartlett's back  
20 in the accountability section has been distributed.  
21 I'm pleased to recognize Commissioner Bartlett.

22 MR. BARTLETT: Mr. Chairman, thank you.

23

1 We've distributed what would be the new proposal.  
2 This is text again on page 9. It's not the  
3 recommendation. Mr. Chairman, I'd like to take more  
4 than just a small minute to kind of walk through  
5 where we are and perhaps as a way of increasing both  
6 public understanding as well as an understanding from  
7 all of us, including me on the Commission on the  
8 source of this feud over LRE inclusion.

9 CHAIRMAN BRANSTAD: You are in order. Go  
10 ahead.

11 MR. BARTLETT: What this amendment does is  
12 it deletes, which is generally the approach we've  
13 taken at this Commission here, it deletes that we  
14 don't have an agreement and that's often what we do.  
15 We try to agree on what we agree on, and if there's a  
16 very strong disagreement on the Commission then we  
17 delete the rest of it unless it's required to be  
18 worked out. That sentence that I'm deleting, the  
19 last one is the one that says that the states should  
20 be required to do better.

21 Let me walk through how I got there and  
22 this was in the suggestion of my allies, Commissioner

23

1 Lyon, Commissioner Sontag, and Secretary Pasternack  
2 last night. Let me kind of walk through how I got  
3 there. I think the source of the dispute is that  
4 LRE, the least restrictive environment, is the last.  
5 Least restrictive environment is a law that applies  
6 to every single student in every minute of every  
7 educational setting throughout the day, 365 days a  
8 year without exception.

9           A third grade blind, deaf student that  
10 requires intense instruction on how to communicate  
11 nevertheless that intense instruction is reacquired  
12 by law to be placed in the least restrictive  
13 environment which may well not be a mainstream  
14 classroom, but it has to be to the least restrictive  
15 for that student. By contrast, those words that we  
16 call inclusion or mainstream classroom or regular  
17 classroom setting is a setting that represents, is a  
18 type of setting that is generally not a pullout  
19 section, okay. It's a type of setting, that's not  
20 the law, that is a type of setting. At this point,  
21 it seems to me from reading the big, thick documents  
22 Alan Coulter provided, one of which is over there,  
23

1     there doesn't seem to be a good way currently to  
2     measure success in least restrictive environment in  
3     LRE, because LRE has done one child at a time, and  
4     there's no aggregate measurement.

5             The measurement we currently use is a  
6     percentage of those students in a mainstream  
7     classroom or mainstream setting at least 80 percent  
8     of the day; sometimes it's called mainstreaming and  
9     sometimes it's called regular setting, allowing for  
10    20 percent of the day to be a pullout session. So  
11    the only measurement that we have and the measurement  
12    department has currently been making and has been  
13    making for a long time is the percentage of disabled  
14    students that are in a regular setting for 80 percent  
15    of their day or more. There is a huge debate then  
16    apparently as to whether that measurement means  
17    anything at all or means nothing, or means a lot.

18            I think it means a lot. From the  
19    discussion, it seems to me maybe the source of the  
20    dispute is others think it means nothing at all.  
21    The states range from 19 percent to 80 percent. The  
22    point is that's the only measurement we've got. I do  
23

1 believe it has meaning. The Commission has agreed  
2 that we should consider to measure it. If you accept  
3 this, you will agree that the rate of progress in  
4 meeting LRE, as reflected by what whatever poor  
5 measurements we have is not satisfactory in many  
6 states. We haven't yet solved whether we're going to  
7 agree to increase that measurement or not. We'll  
8 sort of save that debate for another day.

9           So, Mr. Chairman, I think this amendment  
10 reflects consensus of what we've agreed on, leaving  
11 out that we haven't agreed to increase the mainstream  
12 percentage.

13           CHAIRMAN BRANSTAD: That's a motion. Is  
14 there a second?

15           MR. HASSLE: Second.

16           CHAIRMAN BRANSTAD: We have a motion by  
17 Commissioner Bartlett, seconded by Commissioner  
18 Hassle to add this language in page 9 of the  
19 accountability section. Discussion on that motion?  
20 Commissioner Sontag?

21           MR. SONTAG: I take some responsibility  
22 for the elimination of that last sentence and trying  
23

1 to bring some closure last night but having been  
2 properly chastised by my colleague, Congressman  
3 Bartlett, at breakfast, and I have decided to offer a  
4 friendly amendment if you would consider it.

5 In the last paragraph, it would read "the  
6 Commission believes that in many states, the rate of  
7 progress in meeting the LRE requirement is  
8 unsatisfactory. I go on then to propose states  
9 should be monitored by the Department on this  
10 requirement. In addition, the Department should  
11 develop more adequate measures of compliance with  
12 this requirement.

13 CHAIRMAN BRANSTAD: Is that accepted as a  
14 friendly amendment?

15 MR. BARTLETT: I'd accept that for  
16 purposes of debate, assuming it's acceptable to  
17 Secretary Pasternack and other Commissioners.

18 CHAIRMAN BRANSTAD: I will just say  
19 Commissioner Sontag moved and Commissioner Bartlett  
20 accepts that as a friendly amendment if there's no  
21 objection. Commissioner Pasternack?

22 MR. PASTERNAK: Mr. Chairman, I've gone  
23

1 on record saying that it doesn't make sense just to  
2 measure the setting without measuring the results the  
3 kids achieve in those settings, and I believe that as  
4 language, it will get us moving in the direction of  
5 changing how we measure LRE as long as we all  
6 remember that it is an individualized decision that  
7 is the hallmark of the law. Let's move on.

8 CHAIRMAN BRANSTAD: That has been  
9 accepted. As a friendly amendment, I would ask  
10 Commissioner Sontag to re-read the amendment. You've  
11 got the other part of it already in writing. This is  
12 the part that's not in writing that he's going to re-  
13 read here. It's now incorporated with the rest of it  
14 that you have before you.

15 MR. SONTAG: States should be monitored by  
16 the Department on this requirement. In addition, the  
17 Department should develop more adequate measures of  
18 compliance with this requirement.

19 CHAIRMAN BRANSTAD: Commissioner Grasmick?

20 MS. GRASMICK: I want to go back to  
21 something that Commissioner Pasternack said and that  
22 is I accept his sentence, but to me, compliance does

23

1 not indicate results. Compliance means you have x  
2 percentage of students in LRE settings It does not  
3 say "coupled with assessment of the performance of  
4 the students."

5 MR. PASTERNAK: Do you want to add some  
6 language to Commissioner Sontag's last statement.  
7 There are more adequate measures designed to assess  
8 the results achieved by students?

9 MS. GRASMICK: In the LRE setting.

10 MR. PASTERNAK: Would you be all right  
11 with that, Ed?

12 MR. SONTAG: Actually, no. It's been  
13 problematic for me because I believe in what you're  
14 trying to achieve here but I want to go back to the  
15 fundamental concept here. This is a civil rights  
16 concept, this is not an education concept in its  
17 basic origin. Many, many people have traced it back  
18 to Brown. It's embedded in the Parr consent decree.  
19 It's not been linked with student achievement.

20 Detractors of LRE have tried to say if we  
21 put all these kids in the same building together with  
22 all of these services, we're going to deliver better  
23



1 programs for students with disabilities and I just  
2 want to essentially say to the Commission, I think we  
3 ought to be very careful about joining those issues,  
4 even though I believe at some level they should be  
5 joined. I don't want them joined in the statute.

6 CHAIRMAN BRANSTAD: Commissioner Takemoto?

7 MS. TAKEMOTO: Would you maybe look at  
8 measure the civil rights aspects of compliance with  
9 this? I didn't write down the whole thing, but if  
10 you inserted the civil rights aspect, it states what  
11 it is that you're trying to say. I'm sorry, it makes  
12 what you're trying to say clearer in its intent.

13 CHAIRMAN BRANSTAD: Commissioner Sontag,  
14 do you have a response to that?

15 MR. SONTAG: No, I'm not sure exactly what  
16 I should be doing.

17 MS. TAKEMOTO: Adequately measure the  
18 civil rights compliance.

19 CHAIRMAN BRANSTAD: Commissioner Grasmick,  
20 are you asking for recognition?

21 MS. GRASMICK: I'm sensitive to the civil  
22 rights aspect of this, but I'm also sensitive that

23

1 children are entitled to a free and appropriate  
2 education. If results are not achieved for those  
3 children, it doesn't necessarily mean they shouldn't  
4 be in the least restrictive environment setting.  
5 What it does mean is that that least restrictive  
6 environment setting doesn't contain all the  
7 components that are going to facilitate a free,  
8 successful, and appropriate education for children.  
9 So we will have met one dimension of the law by just  
10 putting them there, but we will forever disadvantage  
11 them in terms of any skill achievements to take their  
12 rightful place in society.

13 I think that the assessment that must be  
14 done is certainly least restrictive environment, and  
15 it also has to be what is happening in that least  
16 restrictive environment and what are our obligations  
17 to improve that setting because just saying least  
18 restrictive environment has no quality control  
19 associated with it.

20 CHAIRMAN BRANSTAD: Commissioner Huntt?

21 MR. HUNTT: Mr. Chairman, I think we're on  
22 a slippery slope here. It seems to me that the work

23

1 that the folks did last night with the addition of  
2 Commissioner Sontag really hits what we're after. I  
3 believe that the appropriate education issue is  
4 addressed in the first paragraph already, so I would  
5 suggest that we move forward with the motion in  
6 deference to those who have already worked on the  
7 language.

8 CHAIRMAN BRANSTAD: Commissioner Bryan,  
9 we'll have you read it.

10 MS. BRYAN: I share Commissioner  
11 Grasmick's concern. I think this Commission is  
12 trying very hard to move from compliance to student  
13 achievement outcomes, and I think every time we have  
14 an opportunity to say the most critical part of this  
15 is whether or not students make gains as a result of  
16 whatever it is we're talking about. The question  
17 that I would ask Commissioner Sontag, if you had a  
18 child, for example, with multiple developmental  
19 disorders and you discovered that in fact that child  
20 was doing very poorly in a complete inclusion  
21 setting, and someone chose to move them out for half  
22 a day to get very direct instruction and in fact that  
23

1 child made great gains, would that be a victory or  
2 not in your eyes?

3 MR. SONTAG: While I can't talk about it  
4 from the realm of the parent, I can talk about it as  
5 this has been an integral part of my professional  
6 life for well over 30 years. I want to make sure  
7 that we're not saying that children with those kind  
8 of disabilities need to be educated in segregated  
9 settings. I think the loss speaks clearly to the  
10 ideal, getting the process to make that  
11 determination. The law also, in the '97 amendments,  
12 makes it very clear, if the child is not learning  
13 something in the regular ed environment, and I think  
14 I'm almost quoting exactly, it's the burden of the  
15 school district to try alternative instructional  
16 methods, not alternative settings, and I think that's  
17 the safeguard that you claim you need to do this.

18 I also want to caution again we're  
19 tinkering, this is not an editorial issue, we're  
20 tinkering with the fundamental aspect of this act,  
21 and it could really discourage the impact I think  
22 this good report's going to have.

23

1                   CHAIRMAN BRANSTAD: Commissioner Hassle is  
2 next. Go ahead. Commissioner Hassle passes.  
3 Commissioner Lyon?

4                   MR. LYON: Maybe this is too simplistic  
5 Could we not add, after should develop adequate  
6 measures of compliance, and determine the  
7 relationship between compliance and student outcomes?

8                   CHAIRMAN BRANSTAD: Is that another  
9 friendly amendment, Commissioner Bartlett?

10                  MR. LYON: Wouldn't that be something we  
11 would want to measure?

12                  MR. BARTLETT: I would not accept it.  
13 It's watered down as much as I think I'm willing to  
14 go; probably more. LRE defines every single student,  
15 every single student every minute of every education  
16 day 365 days a year. The student is provided the  
17 civil rights protection of the least restrictive  
18 environment in an appropriate setting that doesn't  
19 mean it's always the mainstream.

20                  If you were the parent of a child with  
21 Downs and your child was sent to a temporary  
22 outbuilding with all the other disabled students in  
23

1 the school, and not allowed to take the class  
2 photograph, you would believe the least restrictive  
3 environment is a civil rights protection because that  
4 gets the environment that allows your child to eat  
5 lunch and have their photograph taken with every  
6 other child in the school. I do agree with outcomes.  
7 Myself I think that our measurement we currently have  
8 that's being measured is a measurement that's  
9 important and it means something. Clearly others  
10 don't believe that so I'm willing to put into this  
11 recommendation that we'll look for other ways to more  
12 precisely measure it. If we mix that measurement too  
13 much or try to specify it too much, I think as  
14 Commissioner Sontag said, we get into a slippery  
15 slope and we would then indicate that we'd be  
16 diluting the law, and I don't wish to do that.

17 MR. LYON: I do think we have extremely  
18 consistent language repeated throughout the report  
19 that addresses accountability in a number of ways. I  
20 don't think, as I listen to you, what is stated here  
21 certainly doesn't detract from our emphasis on  
22 accountability.

23

1                   CHAIRMAN BRANSTAD: I'd like to proceed to  
2 a vote if we could. Commissioner Pasternack?

3                   MR. PASTERNAK: I just want to clarify  
4 something to tell you how important LRE is in current  
5 law. If you don't have a kid a hundred percent of  
6 the time in the general education setting, you have  
7 to document on the IEP why you don't do that. That's  
8 how important LRE is. The problem is, with all due  
9 respect, that we don't have the kinds of results that  
10 we need to have for kids with disabilities and I know  
11 no one here, certainly me, is going to back away from  
12 the fundamental entitlement that these kids in civil  
13 rights. I took an oath to uphold the law. What I'm  
14 telling you is that what we've heard is testimony  
15 about the fact that 40 percent of these kids are not  
16 graduating with a standard diploma and these kids are  
17 not learning. We've got to figure out is it the  
18 setting that's important, then it's important. But I  
19 just want to emphasize how important the LRE  
20 provisions that are currently in the law and nothing  
21 that we're talking about is going to dilute the  
22 importance of that and hopefully that gives you some  
23

1 reassurance, Commissioner Bartlett, about how  
2 committed we are at OSEP to the fundamental  
3 principle.

4 CHAIRMAN BRANSTAD: Commissioner Takemoto,  
5 then we're going to go to a vote.

6 MS. TAKEMOTO: I think that special  
7 education, the field I think is clear that special  
8 education is services, it's not setting. To tie  
9 setting with failed instructional or flawed  
10 instructional practices, the result of flawed  
11 instructional practices is failure for students, not  
12 setting. It's failed instructional practices. I  
13 would hate, I mean what has happened is that we've  
14 put people in trailers and failed to educate them.  
15 This report is all about results and about improving  
16 instructional practices and services, not about  
17 determining having a sequitur of setting equals  
18 results.

19 CHAIRMAN BRANSTAD: I would ask Todd Jones  
20 to read I think the written part of the amendment  
21 that's before you. I won't ask him to read, I want  
22 to ask him to read the Sontag friendly amendment that  
23



1 has been accepted as part of it, then we're going to  
2 vote on the amendment as it as has been amended.

3 MR. JONES: States should be monitored by  
4 the Department of Education on this requirement. In  
5 addition, the Department should develop more adequate  
6 measures of monitoring compliance on this  
7 requirement.

8 CHAIRMAN BRANSTAD: Those in favor of the  
9 Bartlett amendment as distributed with the addition  
10 that was just read, signify by saying aye.

11 (Chorus of ayes.)

12 CHAIRMAN BRANSTAD: Those opposed signify  
13 by saying nay.

14 VOICE: Nay.

15 CHAIRMAN BRANSTAD: The ayes have it. It  
16 is approved. We need to do a final vote on the  
17 accountability section with that change. We've  
18 already approved the accountability section and this  
19 is just an addition that we have approved. So now  
20 we're ready to go on.

21 Incidentally, we're running a little  
22 behind. I understand but I also understand that this

23

1 is a very important subject that we have just  
2 addressed. I do recognize the importance of it but I  
3 also want us to try to stay on our schedule.

4 We have an amendment to close out  
5 professional development. We have two amendments. I  
6 stand corrected. We'll defer on the professional  
7 development. I think one of the amendments is not  
8 printed yet. So we're going to defer on that and  
9 move on. Were back on the agenda to research. We're  
10 on page 54 in the report, the research section.

11 MR. JONES: Fletcher 1 through 18.

12 CHAIRMAN BRANSTAD: Here we go, sports  
13 fans. Fletcher 1 through 18. Can we take these  
14 together or do you want to take them separately?  
15 Who's going to be handling these amendments? These  
16 are Fletcher's amendments. We'll start with 1  
17 through 18 here.

18 Commissioner Grasmick, this is your task  
19 force.

20 MR. HUNTT: Move to accept 1 through 5.

21 CHAIRMAN BRANSTAD: We have a motion from  
22 Commissioner Hunt to accept 1 through 5. Is there a  
23

1 second to that motion?

2 MS. GRASMICK: I'll second.

3 CHAIRMAN BRANSTAD: Commissioner Grasmick  
4 seconds that motion. Is there discussion on that  
5 motion?

6 (No response.)

7 CHAIRMAN BRANSTAD: If there's no  
8 discussion, we'll proceed to a vote. Those in favor  
9 of the motion, signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN BRANSTAD: Those opposed?

12 (No response.)

13 CHAIRMAN BRANSTAD: It is approved.

14 MR. HUNTT: Move to accept 6 through 27.

15 MR. JONES: Actually, it's a matter of  
16 timing through 18 and then we have another 6 through  
17 18 and that does exclude 9 and 10.

18 MR. HUNTT: Okay.

19 CHAIRMAN BRANSTAD: Commissioner Hunt  
20 moves 6 through 18 with the exception of those that  
21 have already been previously stricken. Is there a  
22 second to that motion?

23

1 MS. GRASMICK: Second.

2 CHAIRMAN BRANSTAD: Commissioner Grasmick  
3 seconds it. Discussion?

4 (No response.)

5 CHAIRMAN BRANSTAD: All in favor, signify  
6 by saying aye.

7 (Chorus of ayes.)

8 CHAIRMAN BRANSTAD: Opposed?

9 (No response.)

10 CHAIRMAN BRANSTAD: The motion is  
11 approved.

12 MR. JONES: The next one is a Pasternack  
13 amendment. The next amendment is Pasternack 6.  
14 Commissioner Pasternack has stepped out. Oh, here he  
15 is. We're just taking up your amendment Pasternack  
16 Number 6. This is in the research section.

17 MR. PASTERNAK: I think it's self-  
18 explanatory, Mr. Chairman.

19 CHAIRMAN BRANSTAD: Commissioner  
20 Pasternack moves the amendment. Is there a second?

21 MR. HUNTT: Second.

22 CHAIRMAN BRANSTAD: Seconded by

23

1 Commissioner Hunt. Discussion?

2 (No response.)

3 CHAIRMAN BRANSTAD: Those in favor of the  
4 motion signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN BRANSTAD: Those opposed signify  
7 by saying nay.

8 (No response.)

9 CHAIRMAN BRANSTAD: It is approved. Next  
10 if Fletcher is 20, 23, 24. Do we have a motion to  
11 approve that?

12 MS. GRASMICK: So moved.

13 CHAIRMAN BRANSTAD: Commissioner Grasmick  
14 moves Fletcher amendments 20, 23 to 24.

15 MR. PASTERNAK: Second.

16 CHAIRMAN BRANSTAD: Seconded by  
17 Commissioner Pasternack. Discussion? Commissioner  
18 Bartlett is recognized.

19 MR. BARTLETT: I'd like a clarification on  
20 number 20. I'm trying to catch up, I apologize. I  
21 just saw the word a doctoral level individual.  
22 Explain what we're requiring here on lines 4 and 5.

23

1 Each panel should be chaired by -- this would be  
2 required to be -- and administered by, so the words  
3 now would be requires that each panel be chaired by a  
4 senior researcher and administered by a doctoral  
5 level individual. Is that the requirement?

6 MS. GRASMICK: That's correct.

7 MR. BARTLETT: If it excludes a non-  
8 doctoral individual, it strikes me as odd but perhaps  
9 I could be persuaded to required a PhD to administer  
10 a panel?

11 MS. GRASMICK: I believe that the  
12 discussion really spoke to the fact of wanting to  
13 give some level of prestige to them and having a  
14 person with exemplary credentials in this regard.  
15 That's why this was proposed.

16 MR. BARTLETT: I wonder if we should say  
17 exemplary credentials. There are others without PhDs  
18 who have exemplary credentials.

19 MS. GRASMICK: We recognized this was an  
20 educational research field and the way to get that  
21 said is to say that the PhD really does stand for a  
22 certain standing within the field.

1                   MR. BARTLETT: Dr. Grasmick, you haven't  
2 persuaded me, but you've persuaded me to stop.

3                   (Laughter.)

4                   MR. HUNTT: Would it help to have ex-  
5 congressmen?

6                   (Laughter.)

7                   CHAIRMAN BRANSTAD: Okay. Mr. Jones has  
8 told me there's a technical change.

9                   MR. JONES: After reviewing it, amendment  
10 Number 23 says lines 17 through 20. It probably  
11 should be 19. We would then move lines 20 and 22,  
12 and that's the paragraph to the succeeding paragraph.  
13 That is a technical change.

14                   CHAIRMAN BRANSTAD: Do you accept that as  
15 a friendly amendment, the technical change? We now  
16 have the motion before us. It has been seconded.  
17 Any further discussion?

18                   (No response.)

19                   CHAIRMAN BRANSTAD: Those in favor,  
20 signify by saying aye.

21                   (Chorus of ayes.)

22                   CHAIRMAN BRANSTAD: Opposed?

23

1 MR. BARTLETT: No.

2 CHAIRMAN BRANSTAD: It is approved.

3 We're now ready to move with Pasternack  
4 number 7.

5 MR. JONES: Which could be simultaneous if  
6 we accept Pasternack 7.

7 MR. HUNTT: Mr. Chairman, I would now like  
8 to say, now that I've earned a PhD, I don't think  
9 it's fair Commissioner Bartlett is trying to take the  
10 job away from me. I'm still trying to pay back my  
11 student loans.

12 (Laughter.)

13 CHAIRMAN BRANSTAD: Keep at it. If this  
14 amendment Pasternack 7 is accepted, it would put the  
15 other ones out of order, 22 through 27.

16 MR. PASTERNAK: Moved.

17 MS. GRASMICK: Second.

18 CHAIRMAN BRANSTAD: Commissioner  
19 Pasternack moves, Commissioner Grasmick seconds  
20 Pasternack amendment 7. All in favor of this  
21 amendment signify by saying aye.

22 (Chorus of ayes.)

23



1                   CHAIRMAN BRANSTAD:  Opposed?

2                   (No response.)

3                   CHAIRMAN BRANSTAD:  It is approved.  And  
4   that makes Fletcher amendments 25 through 27 out of  
5   order.  We're not ready to move to Berdine amendment  
6   number 9, page 65, line 11, I believe.

7                   MR. PASTERNAK:  I'm sorry, I had an  
8   amendment number 8 on page 64.

9                   MR. JONES:  We jumped.

10                  CHAIRMAN BRANSTAD:  We stand corrected.  
11   We'll go to your amendment then, Commissioner  
12   Pasternack.

13                  MR. PASTERNAK:  Move adoption of the  
14   amendment, Mr. Chairman.

15                  MR. HUNTT:  Second.

16                  CHAIRMAN BRANSTAD:  We have a motion and a  
17   second to approve this is Pasternack number 8.

18                  MR. PASTERNAK:  Yes, sir.

19                  CHAIRMAN BRANSTAD:  Discussion?  Do you  
20   want to briefly explain the rationale for this  
21   amendment?

22                  MR. PASTERNAK:  The rationale is that the  
23

1 Secretary should have the discretion to be able to  
2 devote a percentage for research activities and as  
3 you can see there on an annual basis, the Department  
4 should be able to determine how much each program's  
5 total appropriation should be kept at federal level  
6 of research and how much should be awarded to the  
7 states. This would give us a little bit more  
8 flexibility in the language than was originally  
9 proposed.

10 CHAIRMAN BRANSTAD: Further discussion?

11 (No response.)

12 CHAIRMAN BRANSTAD: All in favor of the  
13 motion, signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTAD: Opposed?

16 (No response.)

17 CHAIRMAN BRANSTAD: It is approved.

18 MR. PASTERNAK: Thank you, Mr. Chairman.

19 MR. JONES: We're now back one page for  
20 Fletcher 29 and 30.

21 CHAIRMAN BRANSTAD: We'll now go back to  
22 Fletcher amendments numbers 29 and 30 and 31. Do you

23

1 want to take those together? Is somebody going to  
2 handle that? Commissioner Grasmick?

3 MS. GRASMICK: I think 29 is to address  
4 the issue of dissemination which surfaced in  
5 Nashville repeatedly and in a lot of other testimony  
6 we've heard that we do not have good methodology for  
7 dissemination and that the research remains very  
8 limited. I think this is an attempt to put in some  
9 stronger language regarding dissemination.

10 CHAIRMAN BRANSTAD: Is there a second?

11 MR. PASTERNAK: Second.

12 CHAIRMAN BRANSTAD: Seconded by  
13 Commissioner Pasternack. Discussion?

14 (No response.)

15 CHAIRMAN BRANSTAD: All in favor, signify  
16 by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTAD: It is approved.

21 MR. JONES: Then 30 and 31.

22 CHAIRMAN BRANSTAD: Fletcher Amendments 30

23

1 and 31, Commissioner Grasmick?

2 MS. GRASMICK: Again, I think this one is  
3 addressing the idea that we also have fragmented  
4 research where there is no synthesis of it to create  
5 any kind of critical mass for change. It's an  
6 attempt to not only talk about dissemination but also  
7 talk about synthesis, so we have a coherent protocol  
8 for research that will then be disseminated.

9 CHAIRMAN BRANSTAD: Is there a second?

10 MR. PASTERNAK: Second.

11 CHAIRMAN BRANSTAD: Seconded by  
12 Commissioner Pasternack, moved by Commissioner  
13 Grasmick. Seconded by Commissioner Pasternack.  
14 Discussion?

15 (No response.)

16 CHAIRMAN BRANSTAD: All in favor, signify  
17 by saying aye?

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTAD: Opposed?

20 (No response.)

21 CHAIRMAN BRANSTAD: It is approved.

22 MR. JONES: Now we go simultaneously to  
23

1 Berdine 10 and Fletcher amendment number 32. We have  
2 to choose which one of those we're going to move.

3 MR. JONES: It's Berdine 9 and 10.

4 MR. HUNTT: Move to defeat those  
5 amendments based on I don't think it adds anything.

6 CHAIRMAN BRANSTAD: If nobody moves those  
7 amendments, we don't have to do anything.

8 MR. HUNTT: I believe they're superfluous  
9 and not necessary.

10 CHAIRMAN BRANSTAD: Is there anybody who  
11 wants to move those amendments?

12 (No response.)

13 CHAIRMAN BRANSTAD: Then those amendments  
14 are withdrawn for lack of a motion. Fletcher number  
15 32 then would be in order.

16 Commissioner Grasmick, do you want to  
17 handle this one? We're on Fletcher 32, is that  
18 right?

19 MS. GRASMICK: We're on Fletcher 32, page  
20 65. I think that Commissioner Fletcher put this in  
21 because he thought it was a redundancy with the  
22 personnel section but I personally don't want to

23

1 remove this because I think it is so germane to the  
2 relationship of higher education to the whole  
3 research process and I think that it could be lost.  
4 People won't reference that to the personnel issue,  
5 so I would not suggest deleting this.

6 CHAIRMAN BRANSTAD: Does anybody want to  
7 move this amendment?

8 (No response.)

9 CHAIRMAN BRANSTAD: If there is no motion,  
10 I would just indicate that there is no motion to  
11 approve this amendment and the author is not present,  
12 so we'll move on.

13 The next amendment is Fletcher 33 and the  
14 chart.

15 MR. JONES: The chart, which is referenced  
16 in the new conclusion that would be added by Fletcher  
17 33 is this chart which was distributed yesterday. It  
18 should be in your stack.

19 MR. PASTERNAK: Point of clarification.  
20 I think we're talking about Fletcher 34, aren't we?

21 MR. JONES: Thirty-three. There is no 34.

22 CHAIRMAN BRANSTAD: We're on 33, Fletcher  
23

1 33, line 8, add conclusions.

2 MR. PASTERNAK: I'm sorry, I may have the  
3 wrong document.

4 CHAIRMAN BRANSTAD: It's 33 on line. This  
5 is a humbling experience for everybody.

6 MS. GRASMICK: I guess I would ask Todd  
7 Jones if the intention was the text as well as the  
8 chart?

9 MR. JONES: That is correct. When  
10 Commissioner Fletcher called me about this, he said I  
11 foolishly forgot to add the chart in the email I  
12 sent. Because he is six time zones away, we only  
13 communicated once a day, so it followed a day later,  
14 and that's why you have it now.

15 CHAIRMAN BRANSTAD: This amendment  
16 includes the chart that's been distributed as well as  
17 the additional language on conclusions, so everybody  
18 is clear about that. Do we have a motion to accept  
19 this?

20 MS. GRASMICK: Yes, I would move.

21 CHAIRMAN BRANSTAD: Commissioner Grasmick  
22 moves it.

23

1 MR. PASTERNAK: Second.

2 CHAIRMAN BRANSTAD: Seconded by  
3 Commissioner Pasternack. Discussion? Commissioner  
4 Hassle?

5 MR. HASSLE: I would like to propose an  
6 amendment to the amendment which is to delete the  
7 final sentence. I think given the responsibilities,  
8 the first responsibilities of the OSEP Director  
9 includes monitoring the states, dealing with  
10 Congress, dealing with the likes of Bob Pasternack,  
11 dealing with a large agency is the most important  
12 qualification and the most important qualification of  
13 the person who runs it is management experience and  
14 overseeing special education, not research  
15 experience. The person who runs research for OSEP  
16 should certainly have research experience, but I  
17 don't see any justification for saying that the  
18 Director of OSEP should be a researcher, given the  
19 diverse responsibilities of the job.

20 CHAIRMAN BRANSTAD: Is that accepted as a  
21 friendly amendment?

22 MS. GRASMICK: Yes.

23



1                   CHAIRMAN BRANSTAD:  It's accepted as a  
2   friendly amendment by both the person that moved the  
3   amendment and the seconder.  Commissioner Takemoto?

4                   MS. TAKEMOTO:  This is just technical.  
5   Nichey is N-I-C-H-C-Y and it should be corrected  
6   throughout the report.

7                   CHAIRMAN BRANSTAD:  Okay.  There's an C  
8   between the H and the Y and it should be correct.  
9   What is correct?

10                  MS. TAKEMOTO:  N-I-C-H-C-Y, is that  
11   correct?

12                  MS. GRASMICK:  Yes.

13                  MR. JONES:  We'll make sure, as part of  
14   the proofreading process, that all references and  
15   cross references are correct.

16                  MR. PASTERNAK:  We corrected in the  
17   technical amendments that you all adopted.

18                  CHAIRMAN BRANSTAD:  We've already taken  
19   care of that in the technical amendments.  Thank you  
20   very much.  Are we now ready to vote on this?  
21   Commissioner Lyon?

22                  MR. LYON:  Is discussion open on  
23

1 Commissioner Hassle's amendment?

2 CHAIRMAN BRANSTAD: Yes. Actually it was  
3 accepted as a friendly amendment so it's not  
4 incorporated. It has been accepted by the sponsor  
5 and the cosponsor, so it's basically part of the  
6 amendment. Do you want to address it? Go ahead.  
7 You can address it as part of the full amendment at  
8 this point.

9 MR. LYON: Well, I think the  
10 recommendation to have a researcher as the head of  
11 OSEP has a great deal of importance to it, I think.  
12 I don't know of any other federal agency where  
13 research is so integral to its mission that there  
14 isn't someone talented enough to move across not only  
15 research domains but administrative and legislative  
16 domains as well. Most of the people at these  
17 positions, at these appointee positions in research  
18 organizations are clearly robust with respect to  
19 their knowledge of research methodologies, quality  
20 and so forth. I don't think it would hurt at all.  
21 In contrast, I think the last several OSEP directors,  
22 having not had this background, have not fared well  
23

1 in moving that particular office into any range of  
2 quality.

3 CHAIRMAN BRANSTAD: Commissioner Takemoto?

4 MS. TAKEMOTO: We should not be telling  
5 the President who he should appoint. That's what  
6 we're saying here. I believe the President has made  
7 a great selection in the current OSEP director who  
8 does not have that expertise. I would hate to insult  
9 her and the President by inserting this language in  
10 there. I don't think it's responsible.

11 CHAIRMAN BRANSTAD: Commissioner Hassle?

12 MR. HASSLE: I agree with Dr. Lyon. If I  
13 was hiring for this job, I would certainly want  
14 someone who had some expertise in research but I  
15 would not want my hands tied on that point if the  
16 best candidate who was someone who was not trained  
17 that way, but I thought could handle that part of the  
18 job, I would want to hire that person.

19 CHAIRMAN BRANSTAD: We're now ready to  
20 proceed to a vote on the amendment as amended with  
21 the language that Commissioner Hassle has added as a  
22 friendly amendment. Commissioner Grasmick has been

23

1 moved, it's been seconded by Commissioner Pasternack.  
2 All in favor of the amendment, signifying by saying  
3 I.

4 (Chorus of ayes.)

5 CHAIRMAN BRANSTAD: Opposed?

6 (No response.)

7 CHAIRMAN BRANSTAD: The ayes have it.

8 It's approved. One more in this section, the  
9 research section. This is also the Fletcher research  
10 agenda appendix and it's listed as Fletcher 12, is  
11 that right? Okay. I'll introduce Mr. Jones here to  
12 explain.

13 MR. JONES: That's correct. This is the  
14 document which I will be describing here momentarily.  
15 On the day after sending his original set of  
16 amendments, Commissioner Fletcher sent me this as  
17 well. It is his view that because under the  
18 President's Executive Order, there is an obligation  
19 for this Commissioner to recommend a research agenda  
20 that 1) explicitly be described as an appendix to the  
21 report, and then be cross-referenced, if appropriate,  
22 in the report. This is what he has proposed as an

23

1 addition that would be that research agenda.

2 MS. TAKEMOTO: I don't have that.

3 CHAIRMAN BRANSTAD: I can't find it  
4 either.

5 MS. TAKEMOTO: Mr. Chair, to allow time  
6 for us to get copies of that piece of paper, I do  
7 have a few other recommendations for the research  
8 agenda that I'd like to discuss.

9 CHAIRMAN BRANSTAD: While we're waiting  
10 for the additional copies to be distributed, go  
11 ahead.

12 MS. TAKEMOTO: On page 56, line 7, it says  
13 that there were no standing panels with fixed terms.  
14 I think IDEA 97 requires this panel but it's not  
15 necessarily effective, so I would strike that in  
16 order to be concise and consistent with what it is  
17 we're saying. Page 56, line 7, it says there are no  
18 standing panels with fixed terms. I believe that was  
19 required in IDEA 97.

20 MR. HUNTT: Second.

21 CHAIRMAN BRANSTAD: We have a motion by  
22 Commissioner Takemoto and a second by Commissioner

23

1 Huntt to strike that sentence on page 56, line 7;  
2 there are no standing panels with fixed terms. That  
3 language would be stricken. Commissioner Grasmick?

4 MS. GRASMICK: I would like to check with  
5 Commissioner Pasternack to see is that correct.

6 MR. PASTERNAK: Commissioner Grasmick, I  
7 believe we have three standing panels now at OSEP so  
8 it is technically correct.

9 MS. GRASMICK: So I accept that.

10 CHAIRMAN BRANSTAD: Just a second. I  
11 think we should go ahead and vote on it. If there's  
12 no further discussion. Mr. Lyon?

13 MR. LYON: Help clarify this.  
14 Commissioner Fletcher's intent, I think, was to make  
15 sure that standing panels were available for the  
16 review of all research grants. Are those in place?

17 MS. TAKEMOTO: This is my amendment only  
18 to make the report language accurate, not to detract  
19 from the good recommendations that are in here but to  
20 make sure that this an informed and accurate report.

21 CHAIRMAN BRANSTAD: It's a statement of  
22 fact which is being deleted because it's inaccurate.

23

1 It's not correct. If there's no further discussion,  
2 we'll proceed to a vote on this amendment.

3 Those in favor signify by saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN BRANSTAD: Opposed?

6 (No response.)

7 CHAIRMAN BRANSTAD: It is approved. You  
8 had additional amendments, Commissioner Takemoto?

9 MS. TAKEMOTO: Yes. On page 58, line 22,  
10 the other setting priorities for research, I would  
11 add, after "special education research" and before  
12 "families" culturally diverse families so that we can  
13 incorporate Dr. Wright's position on this that we  
14 discussed at the last meeting.

15 CHAIRMAN BRANSTAD: Is there a second?

16 MR. BUTTERFIELD: Second.

17 CHAIRMAN BRANSTAD: A second by  
18 Commissioner Butterfield. Add "culturally diverse"  
19 after research before families. Any discussion?

20 (No response.)

21 CHAIRMAN BRANSTAD: All in favor, signify  
22 by saying aye.

23

1 (Chorus of ayes.)

2 CHAIRMAN BRANSTAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTAD: It is approved.

5 MS. TAKEMOTO: On page 62, line 17, this  
6 is a clarity question.

7 CHAIRMAN BRANSTAD: This section's already  
8 been deleted by a previous Pasternack amendment so we  
9 don't need to deal with it. It's already been  
10 deleted, the whole paragraph.

11 MS. TAKEMOTO: That is my suggestion for  
12 technical amendments.

13 CHAIRMAN BRANSTAD: Deleted and replaced.

14 MR. PASTERNAK: Very briefly, to correct  
15 the record, Mr. Chairman, we have one standing panel,  
16 three-year terms. It is where we select our  
17 reviewers from that standing panel. I think the  
18 question is when we heard testimonies about the  
19 quality of the people who serve on the panel and  
20 adding perhaps better diversity to that panel, I hate  
21 to lose the intent of the language that talked about  
22 we need to improve the process, dramatically improve

23



1 the process of peer review and I hope that the  
2 language still stays in there that we want to go  
3 ahead and dramatically improve the quality of the  
4 peer review process, used not only at OSEP.

5 CHAIRMAN BRANSTAD: I don't think that has  
6 been touched. Commissioner Lyon?

7 MR. LYON: Is it possible for me to ask  
8 for an addition or a brief section that related to  
9 the discussion we had on LRE? Can I do that under  
10 the research section?

11 CHAIRMAN BRANSTAD: If it's in the  
12 research section. Do you have an amendment?

13 MR. LYON: What I propose is adding a  
14 section title "The Importance of Research In the  
15 Implementation of IDEA."

16 It is recommended that OSERS collect and  
17 analyze data which can inform the department and the  
18 public of the relationship between factors relevant  
19 to the implementation of IDEA and student outcomes.  
20 These factors include, for example, compliance with  
21 the LRE requirement and student achievement in  
22 learning.

23

1 MR. HUNTT: Second.

2 CHAIRMAN BRANSTAD: We have a motion by  
3 Commissioner Lyon, seconded by Commissioner Hunt.  
4 Discussion?

5 MR. PASTERNAK: Move adoption.

6 MS. GRASMICK: I think that's outstanding.

7 CHAIRMAN BRANSTAD: Commissioner Grasmick  
8 says it's outstanding. Commissioner Pasternack  
9 endorses it. Commissioner Takemoto?

10 MS. TAKEMOTO: I guess I'm just confused.  
11 Compliance with LRE -- tell me more about what it is  
12 that you're researching? You're researching whether  
13 a civil right is appropriate?

14 MR. LYON: No, the effect of that civil  
15 right on student learning and achievement, whether or  
16 not in fact we can see outcomes as a function of  
17 that.

18 MR. BARTLETT: Mr. Chairman?

19 CHAIRMAN BRANSTAD: Commissioner Bartlett?

20 MR. BARTLETT: Commissioner Lyon, if you  
21 could perhaps take a look at it and address the  
22 setting which is I think what you're trying to get

23

1 to, I'm not sure I agree with that either, but you  
2 ought to at least be trying to research how a  
3 setting, an educational setting, which is inclusion,  
4 mainstream, segregate all those settings, pullouts  
5 and how that affects educational achievement. But I  
6 think Commissioner Takemoto is trying to warn you  
7 away here that you don't want to try to assess  
8 whether a basic civil right, which applies to  
9 everyone, least restrictive environment may well be a  
10 residential school for the deaf, that may well be the  
11 least restrictive environment for that student at  
12 that time, and I think you're mixing apples and  
13 oranges.

14 MR. LYON: I think that's an excellent  
15 suggestion.

16 MR. BARTLETT: You could perhaps either do  
17 it now or withdraw it and then come back.

18 MR. LYON: These factors include, for  
19 example, the effects of different settings on student  
20 learning and achievement.

21 MR. BARTLETT: What we really probably  
22 need is a weekend tutorial on LRE and settings and  
23

1     how they're related, but they are two different  
2     words.  They're two different terminologies.

3                 MR. LYON:  I can remove LRE completely.  
4     The question is how do different settings, if you  
5     will, interact with student?

6                 MR. BARTLETT:  As a non-PhD, I would  
7     volunteer to be on the panel to review that research.

8                 (Laughter.)

9                 CHAIRMAN BRANSTAD:  We need to clarify  
10    where the amendment goes.

11                MR. LYON:  It was just to follow the last  
12    section.

13                CHAIRMAN BRANSTAD:  This is a new section  
14    in this area of research.  It would be a new section,  
15    the last section in that chapter on research.  This  
16    is prior to the conclusion?

17                MS. GRASMICK:  I think the conclusion is  
18    the conclusion.  I think this needs to precede the  
19    conclusion.

20                CHAIRMAN BRANSTAD:  This is the last  
21    paragraph preceding the conclusion.  Commissioner  
22    Takemoto?

23

1                   MS. TAKEMOTO: I think that what we want  
2 to do is inform the Department and the public about  
3 the relationship between factors relevant to the  
4 implementation of the N-student outcomes. These  
5 factors include, for example, instructional  
6 practices, settings, and student achievement learning  
7 and post-school outcomes. Much of the inclusive  
8 practices where they have shown value has not been in  
9 being able to recite the Constitution, but to be a  
10 member of society with relationships in the  
11 community. So if we can have those.

12                   CHAIRMAN BRANSTAD: Is that accepted as a  
13 friendly amendment?

14                   MR. LYON: That's an excellent amendment.

15                   CHAIRMAN BRANSTAD: That's accepted as a  
16 friendly amendment. Did you get that down, Todd?

17                   MR. JONES: Let me repeat back how the  
18 paragraph now reads. It is recommended that the  
19 OSERs collect and analyze data which can inform the  
20 Department and the public about factors relative to  
21 the implementation of IDEA and student outcomes.  
22 These factors include, for example, instructional

23

1 practices, setting, student achievement and learning,  
2 and post-school outcomes.

3 CHAIRMAN BRANSTAD: Are we ready to now  
4 vote on the amendment as amended? Commissioner  
5 Chambers?

6 MR. CHAMBERS: I'd just like to hear the  
7 last sentence again.

8 CHAIRMAN BRANSTAD: Read the last sentence  
9 again, if you would.

10 MR. JONES: These factors, for example,  
11 instructional practices, setting, student achievement  
12 and learning, and post-school outcomes.

13 CHAIRMAN BRANSTAD: Are we ready to vote?  
14 All those in favor of the amendment as it now has  
15 been amended signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN BRANSTAD: Opposed?

18 (No response.)

19 CHAIRMAN BRANSTAD: It is approved.

20 MR. HUNTT: Mr. Chairman, I move that we  
21 accept the Fletcher amendment entitled "Special  
22 Education Research Agenda" as distributed.

23

1 MR. PASTERNAK: Second.

2 CHAIRMAN BRANSTAD: We have a motion by  
3 Commissioner Hunt, seconded by Commissioner  
4 Pasternack to accept this Fletcher amendment as  
5 distributed. Commissioner Hassle?

6 MR. HASSLE: It seems to me that there are  
7 many places in this report where we call for more  
8 research on one thing or the other, and I would  
9 propose that the staff go through the report and make  
10 a list of all the things that we say require more  
11 research such as the item that Commissioner Lyon just  
12 added to the report, and that that be our appendix on  
13 research and that it include the things that Dr.  
14 Fletcher proposes. But it seems like we have a lot  
15 of other things that we've suggested in the report  
16 that should be listed as part of the proposed  
17 research agenda.

18 CHAIRMAN BRANSTAD: Would that be accepted  
19 as a friendly amendment?

20 MS. GRASMICK: Yes.

21 CHAIRMAN BRANSTAD: That's accepted as a  
22 friendly amendment. Commissioner Bartlett?

23

1           MR. BARTLETT: I believe that you'll find  
2     in the report, it struck me during our hearings as  
3     well as in the report that we talked a lot about the  
4     need for research for behavior improvement  
5     methodology and also reading instruction, specific  
6     methodology. I would suggest --

7           CHAIRMAN BRANSTAD: They're not in the  
8     report. If they're not in here I would suggest that  
9     we add them. Reading production and behavior  
10    improvement methodology.

11          MR. BARTLETT: I'm not a PhD, as is well  
12    known now, and those might be the wrong terms, but I  
13    think we spent a lot of time on those and they ought  
14    to be part of our research.

15          CHAIRMAN BRANSTAD: That's accepted as a  
16    friendly amendment as well?

17          MS. GRASMICK: Yes, but it doesn't  
18    preclude what Commissioner Hassle said about going  
19    back to look at the other things we're missing.

20          CHAIRMAN BRANSTAD: That's already been  
21    accepted and this is also accepted, and I guess  
22    they'll be meshed together to see if they'll be

23



1 covered. Then there's no need to add them if they're  
2 not covered in Hassle's amendment. Then they are  
3 included. Commissioner Takemoto?

4 MS. TAKEMOTO: I just want to make sure  
5 that it also includes issues of disproportionality  
6 and cultural competence but that's something we  
7 addressed that's sort of gotten lost in this.

8 CHAIRMAN BRANSTAD: Do you want to accept  
9 that as a friendly amendment as well?  
10 Disproportionality and cultural competence?

11 MS. GRASMICK: I'm very happy to accept  
12 that but I think we could all probably generate one  
13 or two more items, and I think that the better  
14 approach is to go through the report and make sure we  
15 haven't been saying anything, as opposed to doing  
16 this on a fragmented basis.

17 CHAIRMAN BRANSTAD: That's already been  
18 accepted. Commissioner Sontag?

19 MR. SONTAG: In the context that we could  
20 add, there are several agencies within the Department  
21 of Health and Human Services that have a disability  
22 research focus as part of what they do. I'd like to

23

1 be able to add those but I do want to applaud the  
2 reference of NIC with OSEP. I think it's proved to  
3 be a very productive relationship over the last year  
4 and a half and I would urge that continue.

5 CHAIRMAN BRANSTAD: Any further  
6 discussion? Commissioner Chambers?

7 MR. CHAMBERS: Are we going to review the  
8 list itself and discuss it because there are some  
9 items that we include under finance, and I'm  
10 wondering if some of the wording might be worth  
11 discussing in this form.

12 CHAIRMAN BRANSTAD: I think under the  
13 Hassle amendment anything that is called for in terms  
14 of research in the report will be put in the index.  
15 That's the way I understand it. Does that take care  
16 of your concern?

17 MR. CHAMBERS: No. I guess I would like  
18 to make sure that we have some agreement as to what  
19 the topics that we think are important are that are  
20 on that list, and I know to some extent that can  
21 occur by going back through the report. But if there  
22 is some explicit discussion with it all together, I

23

1 think that's a lot more productive discussion and I  
2 would like to add one at some point.

3 CHAIRMAN BRANSTAD: What would you like to  
4 add?

5 MR. CHAMBERS: There's a reference in Dr.  
6 Fletcher's amendment that talks about cost of special  
7 education, and I would like to revise that or amend  
8 it to read "spending on special education as well as  
9 spending on special education students" which  
10 broadens it. We're not just interested in spending  
11 on special education but how much is being spent to  
12 provide educational service, whether that be general  
13 ed or other kinds of special programs on students  
14 with disabilities.

15 CHAIRMAN BRANSTAD: Do you have that  
16 language down?

17 MR. JONES: I think so.

18 CHAIRMAN BRANSTAD: Is there a second?

19 MR. HUNTT: Second.

20 CHAIRMAN BRANSTAD: Second to the Chambers  
21 amendment by Hunt. All those in favor of this  
22 amendment to the Fletcher amendment signify by saying  
23

1 aye.

2 (Chorus of ayes.)

3 CHAIRMAN BRANSTAD: Opposed?

4 (No response.)

5 CHAIRMAN BRANSTAD: It is approved. Are  
6 we now ready to vote on the Fletcher amendment as  
7 amended by this amended and the previous ones that  
8 have already been accepted.

9 MR. HUNTT: So moved.

10 MR. CHAMBERS: Second.

11 CHAIRMAN BRANSTAD: It's already been  
12 actually moved I think by Commissioner Grasmick. We  
13 have now amended the amended so we're now really  
14 basically on the amendment as amended and we have had  
15 several amendments. Commissioner Hassle's amendment  
16 I think, Commissioner Takemoto's amendment,  
17 Commissioner Sontag, and I think we've got several  
18 amendments that have already been incorporated.  
19 We're at the point now where we voting on the full  
20 amendment as amended. Commissioner Chambers?

21 MR. CHAMBERS: I guess for purpose of  
22 clarity here is the implication that the section in

23

1 finance that is headed the Need For More Research is  
2 simply going to be integrated and removed from the  
3 section on Finance and put in a separate part of the  
4 report? What is the implication?

5 CHAIRMAN BRANSTAD: As I understand it,  
6 the implication in that section or any other section  
7 of the report will be put into this index, and any  
8 other references that call for additional research  
9 will be included in the index. That was the Hassle  
10 amendment. Now the exact language I guess basically  
11 that's going to be a staff responsibility to  
12 incorporate that into the index. Was that the  
13 intention of your amendment?

14 MR. HASSLE: Yes, but not to remove the  
15 references.

16 CHAIRMAN BRANSTAD: It doesn't remove it.  
17 It just makes sure that there's a call for it  
18 elsewhere and it gets into this index as well.

19 MR. CHAMBERS: So the section in Finance?

20 CHAIRMAN BRANSTAD: Stays.

21 MR. CHAMBERS: Thank you.

22 CHAIRMAN BRANSTAD: That hopefully

23

1 clarifies it for everyone. We are now voting on the  
2 amendment. This is the Fletcher amendment as has  
3 been significantly amended. We are now ready to vote  
4 on it. Those in favor of the amendment, as amended,  
5 signify by saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN BRANSTAD: Opposed?

8 (No response.)

9 CHAIRMAN BRANSTAD: It is approved. That  
10 completes the Research Section. We now vote on the  
11 Research Section. Commissioner Grasmick moves the  
12 Research Section, seconded by Commissioner Huntt.  
13 Discussion?

14 (No response.)

15 CHAIRMAN BRANSTAD: Those in favor signify  
16 by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTAD: The Research Section  
21 has been approved. We are now ready to go on to  
22 transition. It's quarter to 11:00 and we have two  
23

1 sections to go, one of which is Finance, so we've got  
2 to keep moving here. Transition.

3 MR. JONES: First amendment Pasternack 9,  
4 McDonald 11.

5 MR. HUNTT: I'm sorry, Mr. Chairman.  
6 Where are we?

7 CHAIRMAN BRANSTAD: Berdine 11.

8 MR. PASTERNAK: We just went into the new  
9 section on Transition, Pasternack 9 and Berdine 11  
10 are up.

11 MR. HUNTT: Mr. Chairman, I move to accept  
12 the Berdine recommendation number 11.

13 CHAIRMAN BRANSTAD: There's a motion by  
14 Commissioner Hunt to accept Berdine 11. Is there a  
15 second?

16 MR. BARTLETT: Second.

17 CHAIRMAN BRANSTAD: Seconded by  
18 Commissioner Bartlett. Discussion?

19 (No response.)

20 CHAIRMAN BRANSTAD: Those in favor of the  
21 amendment signify by saying aye.

22 (Chorus of ayes.)

23

1 CHAIRMAN BRANSTAD: Opposed?

2 (No response.)

3 CHAIRMAN BRANSTAD: It is approved. That  
4 was Berdine 11. Does that mean the Pasternack  
5 amendment is out of order then?

6 MR. JONES: It actually doesn't.  
7 Pasternack 9 would strike the words "amend the higher  
8 education act to focus on supporting" those words  
9 remain in the Berdine amendment, and they would be  
10 replaced with the words "just support" with the  
11 Berdine amendment. It would be to strike amend the  
12 Higher Education Act to focus on supporting, and just  
13 change the words "you support."

14 MR. HUNTT: Move to accept the amendment.

15 MR. BARTLETT: Second.

16 CHAIRMAN BRANSTAD: We have a motion by  
17 Commissioner Hunt, seconded by Commissioner Bartlett  
18 to accept the Pasternack amendment. Discussion?

19 (No response.)

20 CHAIRMAN BRANSTAD: Those in favor of the  
21 motion say aye.

22 (Chorus of ayes.)

23



1 CHAIRMAN BRANSTAD: Opposed?

2 (No response.)

3 CHAIRMAN BRANSTAD: It is approved.

4 MR. HASSLE: Does it support and hold  
5 accountable?

6 CHAIRMAN BRANSTAD: Do you want holding  
7 changed to hold, is that right? Commissioner Sontag?

8 MR. SONTAG: Since we reopened it, I just  
9 have a policy question. Is this legislation the best  
10 place for this particular amendment? Should it  
11 possibly be in rehabilitative services? Does it take  
12 special education into an arena where it heretofore  
13 hasn't had a major responsibility?

14 MR. HUNTT: I believe that's part of the  
15 problem. It has taken a major responsibility and  
16 transition services need to be more prevalent of an  
17 issue in IDEA, so I believe it does have standing  
18 here and is appropriate. And I believe the folks who  
19 testified before the Committee would agree.

20 CHAIRMAN BRANSTAD: Commissioner Sontag?

21 MR. SONTAG: I'm trying to think it  
22 through, but I do think it does open the door for a

23

1 significant role for the Department of Education in  
2 an environment where heretofore it has been limited.  
3 There's been the post-secondary program obviously but  
4 this language kind of moves special ed there, and I  
5 just wonder in this era of very tight dollars,  
6 whether we want to take this on when you've got our  
7 say whose responsibility is to do this. It's -- I'm  
8 not going to go to the man on it, but it's a question  
9 at least that needs to be answered.

10 CHAIRMAN BRANSTAD: Commissioner Bryan?

11 MS. BRYAN: I think the question here is  
12 about students in special education who go on to  
13 higher education, and the fact that we do have a  
14 Department of Higher Education within the Department  
15 of Education, particularly those kinds of transitions  
16 for students who may need special services in higher  
17 ed and special services as the move on from higher ed  
18 to the workplace. It probably doesn't apply as much  
19 to students to graduate from high school and move  
20 directly into some type of work force. I think the  
21 assumption here is that we're really trying to get a  
22 lot more special ed students into higher education

23

1 and making sure that they get the appropriate  
2 transition and the appropriate education once they  
3 get there which is under the purview of the  
4 Department.

5 CHAIRMAN BRANSTAD: We're ready to vote.

6 MR. HUNTT: I think we've already voted,  
7 Mr. Chairman.

8 CHAIRMAN BRANSTAD: We passed the Berdine  
9 amendment. We accepted the Hassle amendment.

10 MR. JONES: We accepted Pasternack. We  
11 accepted Berdine, and now we have the technical from  
12 Hassle to make the sentence function.

13 CHAIRMAN BRANSTAD: I don't think we have  
14 actually put that in the form of a motion. Why don't  
15 you put that in the form of a motion?

16 MR. HASSLE: Okay. I propose hold all  
17 post-secondary institutions receiving federal funding  
18 accountable for using evidence-based programs.

19 MR. HUNTT: Second.

20 CHAIRMAN BRANSTAD: We have a motion by  
21 Commissioner Hassle, seconded by Commissioner Hunt  
22 to add that clarifying language. Commissioner  
23

1 Takemoto?

2 MS. TAKEMOTO: Is it programs or  
3 practices? I don't know.

4 MR. HASSLE: Dr. Lyon says both programs  
5 and practices.

6 CHAIRMAN BRANSTAD: And the seconder has  
7 also accepted that amendment. It's now programs and  
8 practices. Commissioner Sontag, did you have a  
9 comment?

10 MR. SONTAG: Actually just a question.  
11 Commissioner Bryan would this then fall under the  
12 aegis of the Higher Ed Act or OSERs, it's monitoring  
13 function?

14 MR. HUNTT: Mr. Chairman, this is a  
15 technical amendment, not a substantive. I believe  
16 we're just changing the language to reflect the  
17 amendment Commissioner Hassle is proposing is one of  
18 technical merit, not substantive. We're just  
19 changing the terminology to affect the tense.

20 MR. SONTAG: I think my question was  
21 technical. I was asking clarification on where this  
22 would be housed.

23

1 MS. BRYAN: And I think we don't know that  
2 yet. Obviously it overlaps with both arenas and I  
3 don't know the answer to this. I think it would have  
4 to be decided what would be the most appropriate.

5 CHAIRMAN BRANSTAD: If there's no further  
6 discussion on this technical amendment from  
7 Commissioner Hassle, we'll proceed to vote. Those in  
8 favor signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN BRANSTAD: Opposed?

11 (No response.)

12 CHAIRMAN BRANSTAD: It is approved.

13 MR. JONES: Now the new Takemoto  
14 amendments.

15 CHAIRMAN BRANSTAD: The new Takemoto  
16 amendments that have just been distributed.

17 MS. TAKEMOTO: It is the page that's  
18 called Cherie Takemoto Transitions Revised 6/14/02.

19 CHAIRMAN BRANSTAD: That's just been  
20 distributed recently. What is it, about three pages?

21 MS. TAKEMOTO: Yes.

22 CHAIRMAN BRANSTAD: Are you ready to go on  
23

1 that?

2 MS. TAKEMOTO: On page 67, there's  
3 something called Federal Transition Rules. What I  
4 proposed is a change in language to reflect the text  
5 that would now be called "connect transition to  
6 improved results." You can take a look at the  
7 language, but basically it's using the old language  
8 and then talking about the major part of the  
9 narrative which has to do with there needs to be a  
10 closer link between transition services and other  
11 services, so it just incorporates more fully the text  
12 that follows.

13 What I have not included in this  
14 recommendation is lines 18 and 19 that I would  
15 recommend be moved to the recommendation related to  
16 policy. Recommendation 1, I'm sorry, Recommendation  
17 2, the Rehab Authorization because that's policy and  
18 not practice.

19 CHAIRMAN BRANSTAD: That's a motion. Are  
20 you moving this amendment?

21 MS. TAKEMOTO: Yes, I am.

22 CHAIRMAN BRANSTAD: Is there a second?

23

1 MR. HASSLE: Second.

2 CHAIRMAN BRANSTAD: Seconded by

3 Commissioner Hassle. Commissioner Hassle?

4 MR. HASSLE: Cherie, there needs to be a  
5 closer link. You're saying that's not repetitive of  
6 the first recommendation on interagency coordination  
7 because one of them, can you explain, it seems to  
8 repeat the interagency collaboration point.

9 MS. TAKEMOTO: This has to do with  
10 practices and not interagency collaboration. My  
11 point being that the feds have to have some work to  
12 do to figure out how to make this all work better  
13 from a federal level, but the field can currently  
14 implement practices that link the adult services that  
15 are now in place without any federal involvement or  
16 further collaboration that we had testimony that  
17 practitioners don't know about these other programs  
18 and nobody had linked students with them in a  
19 meaningful way as flawed as the federal coordination  
20 is, they can't even use these existing programs and  
21 services as they are now for the students.

22 CHAIRMAN BRANSTAD: We have a motion from

23

1 Commissioner Takemoto and it's basically I think 1  
2 and 2 that has been moved and seconded. All those in  
3 favor signify by saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN BRANSTAD: Opposed?

6 (No response.)

7 CHAIRMAN BRANSTAD: It is approved.

8 Commissioner Takemoto?

9 MS. TAKEMOTO: The next is incorporating  
10 part of our discussion from the Transition Task Force  
11 and specifically identifying Child Welfare and  
12 Juvenile Justice that they should work with other  
13 agencies to model and clarify interagency  
14 responsibilities to link funding services and reports  
15 that are available to students in the Child Welfare  
16 and Juvenile Justice System. Delete that. That will  
17 produce more positive results.

18 MR. HUNTT: Mr. Chairman?

19 CHAIRMAN BRANSTAD: Mr. Hunt?

20 MR. HUNTT: We're talking about

21 Recommendation 3, is that correct? I really find  
22 that this is a transition section from school to

23



1 work. I don't find that we really need this new  
2 recommendation in there. It's not something that the  
3 Committee developed and established prior to the  
4 state, and I think that Commissioner Bartlett had  
5 added similar language yesterday to a portion of his  
6 section, so I think it's been taken care of. So I  
7 would disagree with that.

8 CHAIRMAN BRANSTAD: Commissioner Takemoto?

9 MS. TAKEMOTO: In our Transition Task  
10 Force, in both meetings I was asked to provide  
11 language that would be incorporated into our draft  
12 report. I never was able to see that draft report  
13 until it came to us in the mail, and I was  
14 disappointed that these two areas where we have lots  
15 of evidence of failure were not specifically  
16 addressed.

17 MR. HUNTT: Mr. Chairman, I'm not quite  
18 convinced that there's a lot of research based on  
19 this. I haven't seen any of the research based on  
20 this, and it is a segment of the overall population.  
21 I would hate for the perception to go out from this  
22 Committee report that all kids with disabilities are  
23

1 either in the child welfare system or incarcerated.  
2 I've been involved with disability for 25 years now,  
3 and I don't know any of my friends that ever were  
4 incarcerated except for the friends that were in the  
5 Clinton Administration. But I do think that this is  
6 not necessarily the appropriate place to have a  
7 specific recommendation based on this segment of the  
8 population.

9 CHAIRMAN BRANSTAD: Commissioner Grasmick?

10 MS. GRASMICK: I agree with Commissioner  
11 Hunt. I often think from the states' perspective,  
12 this would require a great deal more consideration in  
13 terms of operationalizing this. We're incapable of  
14 doing it at this time.

15 CHAIRMAN BRANSTAD: Actually we don't have  
16 a motion. Do you want to move this as a motion or do  
17 you want to withdraw it?

18 MS. TAKEMOTO: I would very strongly like  
19 to move this as a motion. I think we don't have  
20 research but we have outcome data, we have evidence  
21 data that these two populations are at the highest  
22 risk of poor outcomes. We have testimony that was

23

1 presented to us that states that.

2 CHAIRMAN BRANSTAD: Commissioner Takemoto  
3 moves. Is there a second?

4 MR. FLEMING: There's still conversation.

5 CHAIRMAN BRANSTAD: I thought we ought to  
6 have a motion on the floor.

7 MS. TAKEMOTO: I move it.

8 CHAIRMAN BRANSTAD: We had a lot of  
9 conversation but we now have it in the form of a  
10 motion.

11 MR. RIVAS: Second.

12 CHAIRMAN BRANSTAD: Commissioner Rivas  
13 seconds it? Commissioner Fleming seconds it.  
14 Commissioner Hunttt?

15 MR. HUNTT: Our trial from the beginning  
16 was to make our recommendations based on research in  
17 the field. Commissioner Takemoto has stated there  
18 isn't research out there. By that very fact alone, I  
19 don't think the recommendation should stand.  
20 Secondly again this particular recommendation did not  
21 come from a consensus of the Committee; it's a  
22 segment of the population. I think it would be

23

1 erroneous to move forward with it.

2 CHAIRMAN BRANSTAD: Commissioner Bryan?

3 MS. BRYAN: I'm equally concerned as a  
4 major recommendation from the front page of this  
5 particular section because it has not been discussed  
6 at length. It's possible somewhere in the text to  
7 throw a phrase that mentions this but not within the  
8 recommendations proper.

9 CHAIRMAN BRANSTAD: Commissioner Fleming.

10 MR. FLEMING: Just to disagree a little  
11 bit with Commissioner Hunt, I have 25 years of  
12 working with special ed kids that were incarcerated  
13 and one of the things that we did in trying to write  
14 out an IEP included their disabilities, so possibly  
15 there's not a lot of data but there's been research.  
16 There's certainly a lot IEPs that show that these  
17 children literally are special ed kids.

18 CHAIRMAN BRANSTAD: Commissioner Grasmick?

19 MS. GRASMICK: My objection is not to say  
20 that some subsequent report or work of the Department  
21 shouldn't be undertaken. I just agree with  
22 Commissioner Bryan. I think that this is a front

23

1 page recommendation. I don't think there's substance  
2 behind it to really know how to approach this, and I  
3 have to tell you again from a state perspective this  
4 would make major changes in how you operationalize  
5 this and I don't think there's enough guidance in  
6 this recommendation to help states do that.

7 MR. HUNTT: Mr. Chairman?

8 CHAIRMAN BRANSTAD: Commissioner Hunt?

9 MR. HUNTT: Mr. Jones, do we have a  
10 reading from yesterday's insertion on this topic  
11 before Commissioner Bartlett's section as a point of  
12 information here.

13 (Pause.)

14 MR. JONES: On page 5, the document is now  
15 to read on line 22, we are concerned about children  
16 with disabilities in the Child Welfare System, youth  
17 with disabilities in the Juvenile Justice System. We  
18 encourage state agencies with authority over  
19 direction and expenditure of federal and state funds  
20 under IDEA, the No Child Left Behind Act, juvenile  
21 correction agencies, foster care, and other relevant  
22 authorities, to develop interagency agreements to

23

1 ensure continued alternative educational services  
2 including the full continuum of services as provided  
3 under the IDEA).

4 CHAIRMAN BRANSTAD: That has already been  
5 incorporated in the accountability section, correct?

6 MR. JONES: That is correct.

7 CHAIRMAN BRANSTAD: Thank you. Are we  
8 ready to proceed to a vote on the Takemoto amendment  
9 at this point. Those in favor signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN BRANSTAD: Those opposed, signify  
12 by saying nay.

13 (Chorus of nays.)

14 CHAIRMAN BRANSTAD: The nays appear to  
15 have it. It is defeated.

16 MR. BARTLETT: Mr. Chairman, I'd inquire  
17 of the Task Force Chairman as to whether he'd be  
18 inclined to accept this same language in the text or  
19 in the narrative, not to take it away from the major  
20 recommendation but to acknowledge that this is an  
21 area in transition that ought to be looked at.

22 MR. HUNTT: Again, Commissioner Bartlett,

23

1 I don't think it speaks to transition. I believe it  
2 was addressed in your section yesterday adequately  
3 and profoundly and I think it gets to the point.  
4 Given the fact that we are trying to reduce language,  
5 rather than increase it, I think it would be  
6 superfluous. Commissioner Pasternack, to add it  
7 again today, again I think we dealt with it yesterday  
8 and it doesn't speak necessarily to transition.

9 MR. BARTLETT: I find it superlative  
10 myself.

11 (Laughter.)

12 CHAIRMAN BRANSTAD: Takemoto amendment  
13 number 4.

14 MS. TAKEMOTO: This was going back and  
15 looking at my notes from the last Commission meeting.  
16 Doug Gill told us that post-school success is the  
17 ultimate indicator of school reform, and I think that  
18 language should be in the report.

19 MR. HUNTT: I second that.

20 CHAIRMAN BRANSTAD: We have a motion by  
21 Commissioner Takemoto, seconded by Commissioner Huntt  
22 to add this language from Commissioner Gill.

23

1 Discussion?

2 (No response.)

3 CHAIRMAN BRANSTAD: All in favor, signify  
4 by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN BRANSTAD: Opposed?

7 (No response.)

8 CHAIRMAN BRANSTAD: It is approved. We  
9 now move to Huntt number 3. Commissioner Huntt.

10 MR. HUNTT: The Huntt amendments have the  
11 word "Huntt Amendments" in large letters at the top  
12 of a single page. Mr. Chairman, this speaks to what  
13 we've been talking about for the past ten minutes as  
14 well. Move to strike footnote 58.

15 CHAIRMAN BRANSTAD: Is there a second?

16 MR. HASSLE: Second.

17 CHAIRMAN BRANSTAD: Second by Commissioner  
18 Hassle. Is there discussion?

19 (No response.)

20 CHAIRMAN BRANSTAD: All in favor of the  
21 Huntt amendment to strike footnote 58 signify by  
22 saying aye.

23



1 (Chorus of ayes.)

2 CHAIRMAN BRANSTAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTAD: It is approved.

5 MR. JONES: Now we have Pasternack 20 of  
6 25. There's a typo on this one. You'll note that  
7 page 20 of 25 are the ones with large print. At the  
8 top it apparently says page 67 and should be page 68.  
9 Commissioner Pasternack?

10 MR. PASTERNAK: Mr. Chairman, this is  
11 simply to add some new text that says unemployment  
12 rates for working age adults with disabilities have  
13 hovered at the 70 percent level for at least the past  
14 12 years where rates are significantly lower for  
15 working age adults without disabilities.

16 MR. HUNTT: Second.

17 CHAIRMAN BRANSTAD: Motion by Commissioner  
18 Pasternack seconded by Commissioner Hunt.  
19 Commissioner Bartlett?

20 MR. BARTLETT: I'd just inquire, Mr.  
21 Pasternack, Mr. Secretary to say that while rates are  
22 significantly lower for working age adults with

23

1 disabilities that may be almost make a parody of it.  
2 The wage for working age adults without disabilities  
3 is about five percent and with disabilities it's  
4 about 70 percent. I think that might understate it.  
5 To the extreme, we might want to say something like  
6 the Commission finds this continued extremely high  
7 rate of unemployment to be wholly unacceptable, or  
8 something like that.

9 MR. PASTERNAK: That's fine with me.

10 MR. BARTLETT: To compare 70 percent and 5  
11 percent would be to understand it too much.

12 MR. PASTERNAK: I was trying to tie it to  
13 the President's freedom initiative which you can see  
14 is the source of the text.

15 MR. BARTLETT: My friendly amendment would  
16 be that the Commission finds this to be wholly  
17 unacceptable.

18 CHAIRMAN BRANSTAD: That's accepted as a  
19 friendly amendment.

20 MR. PASTERNAK: That is accepted that it  
21 is wholly unacceptable, yes.

22 CHAIRMAN BRANSTAD: Have you got that  
23

1 language?

2 MR. BARTLETT: After the words "12 years"  
3 insert the words "which the Commission finds to be  
4 wholly unacceptable."

5 CHAIRMAN BRANSTAD: Everybody understands  
6 that? We're ready to vote on the amendment. It has  
7 been accepted as a friendly amendment by both  
8 Commissioner Pasternack and Commissioner Hunt.

9 MR. JONES: Clarification Commissioner  
10 Pasternack. I'm sorry you said to replace the  
11 sentence, excuse me. I'll just write it.

12 CHAIRMAN BRANSTAD: Does everybody else  
13 understand it? Okay. We're ready to vote on the  
14 amendment as it has been amended. Those in favor of  
15 the Pasternack amendment signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN BRANSTAD: Opposed?

18 (No response.)

19 CHAIRMAN BRANSTAD: The ayes have it, it's  
20 approved. Now we go to Pasternack amendments 10 and  
21 11.

22 MR. PASTERNAK: Mr. Chairman, it is the  
23

1 document that starts "Amendments Proposed by Bob  
2 Pasternack." It's not paginated so it's under the  
3 transition section. I believe we are on number 10.  
4 Is that right? Just striking lines 2 to 5 just for  
5 technical reasons that are stated there.

6 MR. HUNTT: Second.

7 CHAIRMAN BRANSTAD: We have a motion by  
8 Commissioner Pasternack, seconded by Commissioner  
9 Hunt. Discussion?

10 (No response.)

11 CHAIRMAN BRANSTAD: Those in favor of the  
12 motion, signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN BRANSTAD: Opposed?

15 (No response.)

16 CHAIRMAN BRANSTAD: It is approved.

17 MR. PASTERNAK: Thank you. The next is  
18 on page 69. It would replace three sentences. In  
19 addition to the IDEA, the Rehabilitation Act Programs  
20 authorized under the Higher Education Act do not  
21 sufficiently provide transition services to meet the  
22 needs of students with disabilities. Upward bound

23

1 counseling programs should place a greater emphasis  
2 on serving students with disabilities. I think the  
3 reason is self-explanatory.

4 In the interest of time, I just move that  
5 we adopt that.

6 CHAIRMAN BRANSTAD: Commissioner  
7 Pasternack moves.

8 MR. HUNTT: Second.

9 CHAIRMAN BRANSTAD: Commissioner Hunt  
10 seconds. We're ready to vote on that. Those in  
11 favor of this amendment signify by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN BRANSTAD: Opposed?

14 (No response.)

15 CHAIRMAN BRANSTAD: It is approved.

16

17

18

19

20

21

1           MR. HASSEL: Just a technical point on the  
2 first one on this page from Bob that we just enacted.  
3 The next sentence: Moreover, these two federal  
4 programs have no links based on results -- needs to  
5 be modified, since we're no longer referring to those  
6 two programs.

7           CHAIRMAN BRANSTEAD: That's just a  
8 technical correction then. That will be done.  
9 What's next?

10          MR. JONES: Fletcher-2.

11          CHAIRMAN BRANSTEAD: We go to Fletcher  
12 Amendment No. 2 in the Transition Section.

13          MR. HUNTT: Move to accept the amendment.

14          MR. PASTERNAK: Second.

15          CHAIRMAN BRANSTEAD: Seconded by  
16 Commissioner Pasternack to accept the amendment.  
17 Discussion?

18           (No response.)

19          CHAIRMAN BRANSTEAD: Those in favor of the  
20 proposal signify by saying aye.

21           (Chorus of ayes.)

22          CHAIRMAN           BRANSTEAD:                   Opposed?

1 (No response.)

2 CHAIRMAN BRANSTEAD: It is approved.

3 MR. JONES: Now we move to Hunt-4 and  
4 Takemoto-5.

5 CHAIRMAN BRANSTEAD: Hunt-4, Takemoto-5,  
6 Commissioner Hunt?

7 MR. HUNTT: Thank you, Mr. Chairman. I  
8 would move that we again, based on previous  
9 discussion, that on page 70, we strike all but the  
10 first two sentences, Footnote 62, and strike Footnote  
11 63, which would make Footnote 62 read: We recognize  
12 that there are subpopulations of children with  
13 disabilities who are under-served, including children  
14 with disabilities who are in foster care and in the  
15 juvenile justice system.

16 CHAIRMAN BRANSTEAD: Is there a second?

17 MR. PASTERNAK: Second.

18 CHAIRMAN BRANSTEAD: Seconded by  
19 Commissioner Pasternack. What impact does this have  
20 on the Takemoto amendment?

21 MS. TAKEMOTO: I'd like to address that.

22 CHAIRMAN BRANSTEAD: Commissioner

23

1 Takemoto.

2 MS. TAKEMOTO: I thought about Dr. Huntt's  
3 concern that we tie child welfare and juvenile  
4 justice, or we negatively look at the public's  
5 perceptions of who these kids are. These kids are  
6 not in the foster care system and in the juvenile  
7 justice system.

8 The text and recommendations really have  
9 more to do with the federal interagency solution  
10 finding. We were supposed to hear from Judge Garrick  
11 Endell, who is the Secretary's special -- who is  
12 Judge Endell?

13 MR. PASTERNAK: Senior advisory to the  
14 Secretary on mental health and juvenile justice.

15 MS. TAKEMOTO: We have heard from  
16 Secretary Paige about the fact that children who are  
17 incarcerated are too often left behind. I am just  
18 wondering if we should be moving that discussion to  
19 the OSEP interagency report that I know has been  
20 closed. But I am also sensitive to Dr. Huntt's  
21 desire that this is not necessarily a transition.

22 We don't want to muck up the important

23



1 work that we're doing in transition. However, I do  
2 not want to ignore the children whom our systems have  
3 failed. We don't know why they failed, because we  
4 don't have research, but we certainly have data to  
5 support that they have failed.

6 And I'm just wondering if my fellow  
7 Commissioners would considering inserting this kind  
8 of language with that task force's agreement, because  
9 Dr. Coulter is not here.

10 CHAIRMAN BRANSTEAD: Commissioner Hunttt?

11 MR. HUNTT: Mr. Chairman, we did make  
12 mention in this amendment that these kids are under-  
13 served. Is there a friendly amendment that  
14 Commissioner Takemoto would add to that language  
15 there?

16 CHAIRMAN BRANSTEAD: Commissioner  
17 Takemoto?

18 MS. TAKEMOTO: Children who are in foster  
19 care and juvenile justice have been -- the footnote -  
20 - in failure of special education, I think, in  
21 deference to Dr. Hunttt's desire not to muck up  
22 transition, I'm happy with this amendment.

23

1                   What I am asking is that we move it to  
2 where it should have been in the first place, which  
3 is with interagency and solutions.

4                   MR. HUNTT: Mr. Chairman, I want to be  
5 clear on this, just so people don't misunderstand my  
6 intention. I think many kids have been left behind  
7 and it has resulted in poor performance, because it's  
8 special education. We have a graduation rate that is  
9 unacceptable. We have an unemployment rate that is  
10 unacceptable -- with all kids with disabilities.

11                   That's my intention, to assure that, yes,  
12 there are categories that are more under-served, but,  
13 overall, you know, our intent is to make sure that  
14 all kids with disabilities receive the services that  
15 they need to have. I think that Commissioner  
16 Takemoto's information or her desire to have this  
17 represented is now, with this footnote, mentioned at  
18 least twice in the document, and is sufficiently  
19 taken care of.

20                   CHAIRMAN BRANSTEAD: Are we ready to vote  
21 on this amendment at this point? Those in favor of  
22 the Huntt amendment, signify by saying aye.

23

1 (Chorus of ayes.)

2 CHAIRMAN BRANSTEAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTEAD: It is approved.

5 MR. JONES: We still have Takemoto-5 that  
6 could revise this language.

7 CHAIRMAN BRANSTEAD: What is your desire.  
8 Do you want to pursue that amendment?

9 MS. TAKEMOTO: I am sensitive -- we have  
10 some page kind of requirement that you are interested  
11 in, and so I would not necessarily recommend that the  
12 quantity of wording that I have suggested here be  
13 included in the report. So I would suggest that if  
14 we could open back up, the OSEP report to allow me to  
15 work with our OSEP chair on language, not to add  
16 another recommendation to that report, but to include  
17 permanent language that would incorporate my desires  
18 to sufficiently address this without impeding on your  
19 desires, and to keep this report short.

20 CHAIRMAN BRANSTEAD: That section has  
21 already been approved by the entire Commission. We  
22 really aren't in a position to reopen that at this

23

1 point.

2 MR. PASTERNAK: Mr. Chairman, I don't  
3 know if we might be able to accommodate her.

4 CHAIRMAN BRANSTEAD: Maybe by unanimous  
5 consent.

6 MR. PASTERNAK: I have another idea.

7 CHAIRMAN BRANSTEAD: Go ahead.

8 MR. PASTERNAK: Since we're talking about  
9 the introductory piece, is there a possibility -- the  
10 data are clear; there are a disproportionate number  
11 of kids with disabilities in both the juvenile  
12 justice system and in the foster care system. Those  
13 kids do not get the services that they need.

14 I believe that's Commissioner Takemoto's  
15 concern, and I think that there may be a way for us  
16 to insert a couple of sentences in the introduction  
17 to the report.

18 CHAIRMAN BRANSTEAD: That would be  
19 satisfactory. Okay?

20 MS. TAKEMOTO: Yes.

21 CHAIRMAN BRANSTEAD: That might be a way  
22 to do it, and we won't have to reopen that section.

23

1                   MR. HUNTT: I'm not sure where we end with  
2                   that list, because there's a disproportionate number  
3                   of kids in the mental health system, as well, and on  
4                   and on and on it goes. I think we've addressed the  
5                   issue, Mr. Chairman, twice. I don't think we need to  
6                   reopen anything to begin a laundry list of those kids  
7                   who are disproportionately cared for.

8                   CHAIRMAN BRANSTEAD: So it's my  
9                   understanding that Commissioner Takemoto is not going  
10                  to offer that amendment; is that right -- No. 5?

11                  MS. TAKEMOTO: I would like to offer it  
12                  for the purpose of a vote.

13                  CHAIRMAN BRANSTEAD: Is there a second?

14                  MR. FLEMING: I'll second it.

15                  CHAIRMAN BRANSTEAD: There is a motion and  
16                  a second to approve Takemoto Amendment No. 5. Is  
17                  there any discussion?

18                  (No response.)

19                  CHAIRMAN BRANSTEAD: All those in favor,  
20                  signify by saying aye.

21                  (Chorus of ayes.)

22                  CHAIRMAN BRANSTEAD: Those opposed, no.

23

1 (Chorus of nays.)

2 CHAIRMAN BRANSTEAD: The Chair would rule  
3 that the nays would have it; the amendment is  
4 defeated in what appears to be a close vote. I'm  
5 saying that the nays appear to have it, so if anybody  
6 wants to ask for a standing vote or something like  
7 that, we can do that. We've had just a few of those  
8 kinds of votes, but I'm just trying to be as fair as  
9 a I can be.

10 If not, that's why I'm doing it the way I  
11 am. I just want to make sure that each Commissioner  
12 knows that if you disagree with the Chair when I say  
13 the nays appear to have it or the ayes appear to have  
14 it, and you want to question the Chair's hearing or  
15 whatever, you have the right to do that before I  
16 announce the final vote. Commissioner Takemoto?

17 MS. TAKEMOTO: I would like to ask for a  
18 vote, please.

19 CHAIRMAN BRANSTEAD: That one has already  
20 been basically voted on. That's why I said the nays  
21 appear to have it. Do you want to have a standing  
22 vote on that? Okay, I'll go to a standing vote,  
23

1 because I want to be totally fair.

2 Those in favor of the amendment please  
3 stand.

4 (Commissioners stand.)

5 CHAIRMAN BRANSTEAD: Those opposed to the  
6 amendment, please stand.

7 (Commissioners stand.)

8 CHAIRMAN BRANSTEAD: The nays do have it;  
9 the nays have it.

10 MR. JONES: The next is Hassel-12.

11 CHAIRMAN BRANSTEAD: Hassel Amendment No.  
12 12.

13 MR. HASSEL: This amendment simply cross-  
14 references the fact that we call for measurement of  
15 post-school results in the accountability section,  
16 and also calls on Congress to include measurement  
17 reporting and accountability for post-school success  
18 and other federal programs related to this issue.

19 MR. HUNTT: Second.

20 CHAIRMAN BRANSTEAD: A motion by  
21 Commissioner Hassel, seconded by Commissioner Hunt.  
22 Discussion?

23

1 (No response.)

2 CHAIRMAN BRANSTEAD: All in favor, signify  
3 by saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN BRANSTEAD: Opposed?

6 (No response.)

7 CHAIRMAN BRANSTEAD: It is approved.

8 Pasternack Amendment 21 of 25.

9 MR. PASTERNAK: The amendment, Mr.  
10 Chairman, is essentially to just simply add: Others,  
11 when the Commission finds that it is always  
12 appropriate for students with disabilities to be  
13 present at these meetings. I believe that  
14 Commissioner Takemoto was trying to talk to me about  
15 her amendment, which basically is trying to do the  
16 same thing.

17 I think we're trying to work that out to  
18 see which language we can both agree to.

19 CHAIRMAN BRANSTEAD: Do you have agreement  
20 on that?

21 MS. TAKEMOTO: Yes.

22 CHAIRMAN BRANSTEAD: You're in agreement

23



1 with Pasternack's amendment, then? Do you want to  
2 incorporate any changes?

3 MS. TAKEMOTO: It depends. Since I'm not  
4 sure of the process as you are, I just wondered -- my  
5 amendment is correcting the same language. What my  
6 amendment does is, it's just saying that it's always  
7 appropriate for students to be invited to meetings in  
8 which their education and future are being discussed,  
9 and recommends that at the age of ten, students will  
10 be invited to the IEP meeting. It's to incorporate  
11 our discussion from the last meeting that we  
12 recommend that they are invited.

13 CHAIRMAN BRANSTEAD: Just as a technical  
14 response, if we adopt the Pasternack amendment, I  
15 think yours was going to be out of order, because  
16 they address the same area, the same language, so we  
17 choose one or the other, or we combine them in some  
18 way. Commissioner Pasternack, have you moved your  
19 amendment, then?

20 MR. PASTERNAK: I have, Mr. Chairman.

21 CHAIRMAN BRANSTEAD: Is there a second?

22 MS. GRASMICK: Second.

23

1                   CHAIRMAN BRANSTEAD: Commissioner Grasmick  
2 seconds the amendment. If we do approve this  
3 amendment, then, yours will be out of order. Is  
4 there further discussion? Commissioner Takemoto?

5                   MS. TAKEMOTO: I just want to make sure  
6 that it's clear that we are recommending that this  
7 occur. The existing language, to me, did not have  
8 that strong a position, and so I'm wondering if  
9 Commissioner Pasternack agrees that it does not say  
10 that we would recommend, whereas the language that I  
11 have proposed does.

12                   MR. PASTERNAK: Here we go. It's already  
13 in the statute that kids be invited to their IEP,  
14 where appropriate. What I'm trying to do is to take  
15 out those two words, so that we always have every kid  
16 at every IEP meeting.

17                   CHAIRMAN BRANSTEAD: It takes out the  
18 word, appropriate.

19                   MR. PASTERNAK: I think that's what we're  
20 going to try to do in the law, and I thought that we  
21 found, as a Commission, that it's always appropriate  
22 for students with disabilities to be present at these

23

1 meetings. That's what I wrote.

2 CHAIRMAN BRANSTEAD: Your intent and  
3 Commissioner Takemoto's intent are the same; the  
4 language is different, but the intent is the same,  
5 and that is to delete the "where appropriate"  
6 language, meaning that the student is always invited.  
7 The student always has the opportunity to  
8 participate.

9 If there are no further questions or  
10 discussion --

11 MR. PASTERNAK: I beg the indulgence of  
12 the Chair, just for one second to see if we can work  
13 this out.

14 (Pause.)

15 MS. TAKEMOTO: Bob's language is clear and  
16 fine, if that's what the other Commissioners want.

17 CHAIRMAN BRANSTEAD: We'll proceed to a  
18 vote on the Pasternack amendment. Those in favor of  
19 the amendment, signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTEAD: Those opposed,  
22 signify by saying nay.

23

1 (No response.)

2 CHAIRMAN BRANSTEAD: The ayes have it;  
3 the amendment is approved.

4 MR. JONES: Takemoto-7 is editorial, and  
5 would be addressed by our style person.

6 CHAIRMAN BRANSTEAD: Takemoto No. 7.

7 MS. TAKEMOTO: It's a technical edit; it's  
8 not a commonly-understood term, so I just ask to make  
9 it a little bit more clear.

10 MR. JONES: We're going to address that.

11 CHAIRMAN BRANSTEAD: It's already being  
12 done as a technical amendment. The staff is handling  
13 it.

14 MR. JONES: It may be an abbreviation that  
15 voc rehab is put as a parenthetical after  
16 rehabilitation, but common usage in many parts of the  
17 country is that they are known as VR agencies.

18 CHAIRMAN BRANSTEAD: What's the next  
19 amendment, then?

20 MR. JONES: Takemoto-8.

21 CHAIRMAN BRANSTEAD: Takemoto Amendment  
22 No. 8, page 75, lines 1 through 10.

1                   MS. TAKEMOTO:  Since we have an  
2   interagency recommendation, I'm just suggesting that  
3   we move the discussion about interagency to the place  
4   where it's discussed in the report.

5                   MR. HUNTT:  Second.

6                   CHAIRMAN BRANSTEAD:  There is a motion and  
7   a second.  Discussion?

8                   (No response.)

9                   CHAIRMAN BRANSTEAD:  All in favor of the  
10  amendment, signify by saying aye.

11                   (Chorus of ayes.)

12                   CHAIRMAN BRANSTEAD:  Opposed?

13                   (No response.)

14                   CHAIRMAN BRANSTEAD:  It is approved.  Is  
15  the next one Takemoto-9?

16                   MS. TAKEMOTO:  Yes.  What I did was, I  
17  went back to my notes from the last meeting.  Jay  
18  Chambers brought up that in our quest for academic  
19  excellence, there was a concern that we forget about  
20  some of the other factors that have a positive  
21  relationship for success.

22                   So, I said, while the Commission

23

1 wholeheartedly -- I put wholeheartedly in here  
2 because I took out something else -- wholeheartedly  
3 supports strong academic achievement for all  
4 students. It recognizes that academic achievement  
5 alone will not lead to successful results for  
6 students with disabilities. Students with  
7 disabilities need educational supports and services  
8 to promote these skills throughout school life.

9           However, these supports and services many  
10 need to intensify during transition years. Such  
11 skills include self-determination, self-advocacy,  
12 social skills, organizational skills, community and  
13 peer connection, communication, conflict resolution,  
14 skill-building, and career development and computer  
15 technology competencies.

16           MR. HUNTT: Second.

17           CHAIRMAN BRANSTEAD: We have a motion by  
18 Takemoto, seconded by Commissioner Hunt to approve  
19 this amendment. Discussion?

20           (No response.)

21           CHAIRMAN BRANSTEAD: All in favor, signify  
22 by saying aye.

23

1 (Chorus of ayes.)

2 CHAIRMAN BRANSTEAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTEAD: It is approved.

5 Takemoto No. 10.

6 MS. TAKEMOTO: This is not my last  
7 amendment, because I found a word in here that I  
8 didn't understand, from a missing page, but on page  
9 75, this is incorporating Commissioner Grasmick's  
10 recommendation at the last meeting. That is an  
11 editorial comment that we consider changing  
12 throughout, where appropriate, because it sometimes  
13 really means what it really means, career technology  
14 or career development, using those words instead of  
15 vocational rehabilitation, when appropriate.

16 It's just something to incorporate, that  
17 we discussed at the last meeting.

18 MR. BARTLETT: Second.

19 CHAIRMAN BRANSTEAD: Moved by Commissioner  
20 Takemoto, seconded by Commissioner Bartlett.

21 CHAIRMAN BRANSTEAD: Commissioner Huntt?

22 MR. HUNTT: My only concern about this --

23

1 and I don't want VR to be off the hook. If they  
2 don't see their name in writing, I'm not sure we're  
3 going to get the collaboration and the funding we  
4 were going to get from that system. I agree that  
5 vocational rehabilitation is inadequate as a term,  
6 but I just want to make sure that VR is in the hook  
7 for collaboration and coming to the table with money,  
8 and working with them.

9 My only concern about taking VR out is  
10 that they may assume that they are out.

11 MS. TAKEMOTO: This is only meant to be  
12 editorial. When we're talking about something called  
13 -- that people often refer to as that. It's  
14 definitely not getting them off the hook.

15 I'm just suggesting that the editors go  
16 through this, and where they can, talk about careers,  
17 talk about careers instead of vocations.

18 CHAIRMAN BRANSTEAD: That's not referring  
19 to vocational rehabilitation as the entity that  
20 presently exists. Okay, as a clarification.

21 We're ready to vote on the amendment. It  
22 has been moved and seconded. Those in favor, signify

23



1 by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN BRANSTEAD: Opposed?

4 (Chorus of nays.)

5 CHAIRMAN BRANSTEAD: It is approved.

6 MR. HUNTT: Do I get a standing vote on  
7 that, Mr. Chairman?

8 (Laughter.)

9 CHAIRMAN BRANSTEAD: The Chair was not in  
10 doubt, and you didn't ask.

11 (Laughter.)

12 CHAIRMAN BRANSTEAD: We're only going to  
13 do that when the Chair is in doubt. Pasternack-12.

14 MR. PASTERNAK: Moving right along, it  
15 replaces sentences on lines 21 to 25, with the  
16 following: The Commission also finds that the  
17 Department should support research to determine the  
18 factors that help students with disabilities make the  
19 transition into college, as well as programs based on  
20 the scientifically-based research.

21 MR. HUNTT: Second.

22 CHAIRMAN BRANSTEAD: We have a motion by  
23

1 Secretary Pasternack, seconded by Commissioner Hunttt.

2 Discussion?

3 (No response.)

4 CHAIRMAN BRANSTEAD: Those in favor,  
5 signify by saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN BRANSTEAD: Opposed?

8 (No response.)

9 CHAIRMAN BRANSTEAD: The amendment is  
10 approved. Fletcher Amendment No. 4. Commissioner  
11 Hunttt?

12 MR. HUNTT: I have a concern about this  
13 particular one, going back to what Commissioner  
14 Sontag had mentioned earlier. I'm not sure that this  
15 is the best place to put the 504s as an unfunded  
16 mandate. I would rather not see the amendment.

17 CHAIRMAN BRANSTEAD: Does anybody want to  
18 move the amendment? If no one choose to move the  
19 amendment, we will not consider it.

20 (No response.)

21 CHAIRMAN BRANSTEAD: I hear no motions, so  
22 we will not consider it. Hunttt-5 is the last one in

23

1 this section. The Chair recognizes Commissioner  
2 Hunt.

3 MR. HUNTT: Thank you, Mr. Chairman. The  
4 only thing I do here is a little bit of a rewrite. I  
5 would suggest that we say the Commission recognizes  
6 that parents and their children are the most  
7 qualified individuals to provide information about  
8 needs and wants of the child's transition goals in  
9 school.

10 CHAIRMAN BRANSTEAD: Is there a second?

11 MR. RIVAS: Second.

12 CHAIRMAN BRANSTEAD: Moved by Commissioner  
13 Hunt, seconded by Commissioner Rivas. Discussion?

14 (No response.)

15 CHAIRMAN BRANSTEAD: Those in favor,  
16 signify by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTEAD: Those opposed?

19 (No response.)

20 CHAIRMAN BRANSTEAD: It is approved.

21 Commissioner Bartlett?

22 MR. BARTLETT: Not wanting to reopen it,

23

1 but I think I figured out the wording that Sherry and  
2 Bob are trying to get to on page 73 on line 6 at the  
3 end of the section, to add a sentence, and I'm really  
4 just trying to clarify what the two of you were  
5 saying and that would take your language and simply  
6 add a sentence that says the Commission finds that it  
7 always appropriate for students with disabilities to  
8 be present at these meetings, as opposed to making it  
9 all one sentence.

10 CHAIRMAN BRANSTEAD: Are you offering that  
11 as an amendment?

12 MR. BARTLETT: I'm offering that as a  
13 friendly amendment.

14 CHAIRMAN BRANSTEAD: It's moved by  
15 Commissioner, seconded by Commissioner Pasternack.  
16 All those in favor, signify by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTEAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTEAD: It is approved.

21

22

1                   MR. PASTERNAK: Mr. Chairman, I  
2 apologize. In all of these amendments I put  
3 together, I somehow neglected one. It's on page 78.  
4 It would be inserted after line 21. I think it's  
5 important. What I'd like to add, if the Commission  
6 is agreeable, is that parents also need support in  
7 navigating the transition from the entitlement model  
8 under the IDEA to the eligibility model used by other  
9 programs providing post-school services to persons  
10 with disabilities.

11                   CHAIRMAN BRANSTAD: Is there a second to  
12 that?

13                   MS. TAKEMOTO: Second.

14                   CHAIRMAN BRANSTAD: Is that a printed  
15 amendment?

16                   MR. PASTERNAK: No. I'll bring that over  
17 to you.

18                   CHAIRMAN BRANSTAD: Everybody understands  
19 the amendment? It's been moved and seconded. Those  
20 in favor, signify by saying aye.

21                   (Chorus of ayes.)

22                   CHAIRMAN BRANSTAD: Opposed?

23

1 (No response.)

2 CHAIRMAN BRANSTAD: The amendment is  
3 approved. The chair recognizes Commissioner Huntt.

4 MR. HUNTT: Move to adopt the Transition  
5 Services Section as amended.

6 CHAIRMAN BRANSTAD: Is there a second to  
7 that motion?

8 MR. BARTLETT: Second.

9 CHAIRMAN BRANSTAD: It's moved by  
10 Commissioner Huntt, seconded by Commissioner Bartlett  
11 to approve the Transition Services Section. The  
12 chair recognizes Commissioner Takemoto.

13 MS. TAKEMOTO: I just have one other  
14 piece. I had a missing page and I found it. And I  
15 found a word that I think belongs more in the  
16 discussion of finance on page 71, line 19. It says  
17 space must be allowed to commingle and coordinate  
18 federal funds. I would recommend that we take out  
19 the word "commingle and" and let the finance section  
20 decide what that is. Commingle in the middle.

21 CHAIRMAN BRANSTAD: What's the page, 71?  
22 What's the line

23

1 MS. TAKEMOTO: Line 19.

2 CHAIRMAN BRANSTAD: So you want to say  
3 total "commingle and" out. Those two words?

4 MS. TAKEMOTO: That belongs in finance and  
5 not in this report.

6 CHAIRMAN BRANSTAD: Commissioner Huntt?

7 MR. HUNTT: Mr. Chairman, it really does  
8 speak to transition services and the collaborative  
9 nature of what we're trying to get at. The biggest  
10 barrier to collaboration at the local level is funds,  
11 who pays what. So I think there is a need to  
12 commingle and I think it's appropriate where it's at.

13 CHAIRMAN BRANSTAD: Commissioner Hassel?

14 MR. HASSEL: I think striking "commingled"  
15 works because the word "coordinate" is still in  
16 there. Commingling has a somewhat negative  
17 connotation in my mind at least. It's the kind of  
18 thing people get in trouble for, for example, under  
19 different grants, and I think "coordinate" does the  
20 job.

21 CHAIRMAN BRANSTAD: Commissioner Chambers,  
22 did you have a comment?

23

1 (No response.)

2 CHAIRMAN BRANSTAD: I guess at this point,  
3 Commissioner Takemoto, you are moving that as an  
4 amendment?

5 MS. TAKEMOTO: Yes.

6 MR. HUNTT: I'll accept that as a friendly  
7 amendment.

8 CHAIRMAN BRANSTAD: Commissioner Huntt has  
9 agreed to accept that as a friendly amendment. I  
10 think we should vote on it. All those in favor of  
11 eliminating "commingle and" from page 71, line 19,  
12 signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN BRANSTAD: Those opposed?

15 (No response.)

16 CHAIRMAN BRANSTAD: It is approved.  
17 Commissioner Huntt has moved the approval of this  
18 Transition Section.

19 MS. BUTTERFIELD: I second.

20 CHAIRMAN BRANSTAD: Seconded by  
21 Commissioner Butterfield. Discussion?

22 (No response.)

23



1                   CHAIRMAN BRANSTAD: All those in favor of  
2 the motion to approve this section, signify by saying  
3 aye.

4                   (Chorus of ayes.)

5                   CHAIRMAN BRANSTAD: Opposed?

6                   (No response.)

7                   CHAIRMAN BRANSTAD: It is approved. We're  
8 now into finance.

9                   MR. JONES: We have a series of  
10 recommended amendments by Chambers.

11                   CHAIRMAN BRANSTAD: We have a series of  
12 amendments by Commissioner Chambers. It is the  
13 suggestion of Mr. Jones that we take those up as they  
14 come. Do you want to do those first?

15                   MR. JONES: Let's start with the first  
16 recommendation.

17                   CHAIRMAN BRANSTAD: Is that was what we're  
18 talking about? The one that was handed out today?  
19 This one here that was handed out today. It is my  
20 goal to try to move on with this and try to see if we  
21 can complete our work in the next 50 minutes or an  
22 hour if we can. This is our last section.

23

1 I would recognize Commissioner Chambers.

2 MR. CHAMBERS: You might want to take a  
3 look at the Pasternack amendments at the same time on  
4 page 22 of 25, along with looking at the  
5 recommendation, my first recommendation, so we can at  
6 least address the two at the same time. He's  
7 recommending a replacement. So I'll wait for  
8 everybody to get that in front of them.

9 CHAIRMAN BRANSTAD: That's 22 of 25.

10 MR. CHAMBERS: The difference -- I think  
11 it's worth pointing out the difference between the  
12 two. In the original recommendation and the one that  
13 I proposed, it refers to a threshold percentage of  
14 excess cost. Pasternack's amendment has that in the  
15 title but it makes no reference to it, explaining the  
16 notion of threshold cost in the actual discussion of  
17 the recommendation or the text underneath the  
18 recommendation.

19 I have altered the language. You can  
20 read it for yourselves, to try more for  
21 clarification. The last two sentences should read:  
22 "This trend has compensated for historical

23

1 underfunding of special education at the federal  
2 level", period. And delete the rest of that  
3 sentence. And then, "The Commission believes that  
4 the trend of increased federal funding for special  
5 education should continue up to a specified threshold  
6 expressed as a percent of the estimated excess cost  
7 of special education.

8 CHAIRMAN BRANSTAD: You're moving your  
9 amendment then?

10 MR. CHAMBERS: Yes.

11 CHAIRMAN BRANSTAD: Commissioner Chambers  
12 moves that. Is there a second?

13 MR. HASSEL: Second.

14 CHAIRMAN BRANSTAD: Seconded by  
15 Commissioner Hassel. Do Commissioner Pasternack or  
16 others desire to address that? Is it my  
17 understanding it's really a choice of this amendment  
18 or the Pasternack amendment?

19 MR. CHAMBERS: Yes.

20 CHAIRMAN BRANSTAD: It's really one or the  
21 other. Okay. So if we do this one, the Pasternack  
22 amendment would be out of order. Just so that

23

1 everybody knows that. Commissioner Grasmick?

2 MS. GRASMICK: Could we ask Commissioner  
3 Pasternack to explain to us if he feels that  
4 Commissioner Chambers' amendment is inadequate?

5 MR. PASTERNAK: I'm going to just read  
6 it. I'd like to just read just for a second,  
7 Commissioner Grasmick.

8 (Pause.)

9 CHAIRMAN BRANSTAD: So we have before us  
10 Commissioner Chambers' amendment.

11 MR. PASTERNAK: I'm okay with it.

12 CHAIRMAN BRANSTAD: Okay. We're ready to  
13 vote on it. Those in favor of the amendment, signify  
14 by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BRANSTAD: Those opposed?

17 (No response.)

18 CHAIRMAN BRANSTAD: The amendment is  
19 approved. So that would mean the Pasternack  
20 amendment --

21 MR. PASTERNAK: I'll withdraw it.

22 CHAIRMAN BRANSTAD: -- is withdrawn.

23

1 Thank you. Okay. Commissioner Chambers, do you want  
2 to just continue on with your number 2?

3 MR. CHAMBERS: Sure. This one I really  
4 would like to get -- I'm putting it out there for  
5 discussion purposes. I'll just describe my concern.  
6 The original recommendation was suggesting that  
7 future funding increases beyond the threshold  
8 essentially be linked to improvement, that is,  
9 showing results, for students with disabilities. In  
10 concept, I don't disagree with that.

11 My concern was that if the states, the  
12 students, the schools and districts have been  
13 successful in achieving these results, you'd almost  
14 ask yourself, what's the point of providing  
15 additional funding beyond the threshold? I think we  
16 could come up with some, but I think it would create  
17 more problems than it would solve.

18 I guess I was proposing a language that I  
19 thought was trying to, without it adding additional  
20 paperwork, but as part state improvement plans, that  
21 the states put forth plans to develop measurement  
22 tools and approaches to achieving what the Commission

23

1 is suggesting with regard to an emphasis on results  
2 as opposed to an emphasis on compliance, so that the  
3 state can provide to OSEP a plan for actually  
4 achieving what we are suggesting in our report.

5 MR. BARTLETT: Mr. Chairman?

6 CHAIRMAN BRANSTAD: Commissioner Bartlett.

7 MR. BARTLETT: Mr. Chairman, I'd say to  
8 Jay Chambers, I think we'll change his name to the  
9 brilliant Dr. Jay Chambers. Your amendment as you  
10 propose it, the recommendation as you propose it, is  
11 exactly what needs to happen.

12 You require, for additional funding, you  
13 require an improvement plan, and then in future  
14 years, you hold the states accountable to their plan,  
15 but you don't do it backwards. You don't require  
16 that they improve and then get the funding. You  
17 require that they plan to improve and then measure  
18 improvements, and then you offer the funding. So you  
19 hit it exactly on the head.

20 CHAIRMAN BRANSTAD: I take that as a  
21 second.

22 MR. BARTLETT: Absolutely.

23

1                   CHAIRMAN BRANSTAD: Commissioner Hassel?

2                   MR. HASSEL: I disagree with this  
3 amendment. Let me just state the reasons. First,  
4 under the accountability recommendations, we are  
5 already requiring states to put in place plans for  
6 results-based accountability. That's a requirement.  
7 I don't think we should then reward states for doing  
8 something that they are required to do. This is  
9 something we're asking all states to do, period.  
10 We're not offering them a carrot to do it. We're  
11 saying, you must do this.

12                   I don't think it makes sense to say let's  
13 also reward them with extra funds because they do  
14 something they're obligated under the law to do.

15                   Secondly, I don't agree with this idea  
16 that if states have been successful, why should they  
17 need extra funds? I think what we're saying with the  
18 original amendment is that we want to increase  
19 federal funds for special education some, but then we  
20 want to see that there can be some success and some  
21 demonstration of results before we go to even higher  
22 levels. We want to see some evidence of progress.

1           If success were an either/or thing, if you  
2           either had it or you didn't have it, then  
3           Commissioner Chambers' argument would hold some  
4           water. But I think success is a continuum, and what  
5           we want to say here is, here's some extra funds.  
6           Let's see some progress towards results, then we'll  
7           consider further increases if we see results.  
8           Otherwise, why put more funds into a system that's  
9           not making progress?

10           CHAIRMAN BRANSTAD: Commissioner Grasmick.

11           MS. GRASMICK: I just wanted to probe a  
12           few of the common issues so that I fully understand.  
13           If the system improves, they're not eligible for  
14           additional funding? I need an answer to that.

15           MR. CHAMBERS: No. I don't think that's  
16           -- that's not what I'm suggesting. I think the way  
17           that the original language was saying, it was  
18           conditioning additional funding on the basis of  
19           improvement. In other words, if they don't improve  
20           --

21           MS. GRASMICK: In a Title I situation  
22           where if you improve, there's almost a penalty for  
23



1 improvement, because, you know, you don't get the  
2 funds. So I wanted to be clear about that.

3           The second question I have I guess has to  
4 do with, you know, I think it would be very helpful,  
5 and I'm speaking from a state perspective, if there  
6 could be some linkage with the concept of No Child  
7 Left Behind, whether it's setting up proficiency  
8 levels or something like that, that could help us  
9 look at incremental improvements and also sanctions  
10 for lack of improvements. I just wish that we  
11 wouldn't view this as so separate from the measures  
12 of No Child Left Behind.

13           MR. BARTLETT: Would the Commissioner  
14 yield? Perhaps you could add that in the text on  
15 line 3, if the state has submitted a state  
16 improvement plan, consistent with No Child Left  
17 Behind. I think our whole basis here is that all of  
18 our plans should be consistent with No Child Left  
19 Behind.

20           MS. GRASMICK: And we have the requirement  
21 to submit a consolidated plan.

22           CHAIRMAN BRANSTAD: Do you accept that as  
23

1 a friendly amendment?

2 MR. CHAMBERS: Can you tell me where that  
3 goes?

4 MR. BARTLETT: It goes on line 5. The  
5 state has submitted a state improvement plan. Add  
6 the words, comma, "consistent with No Child Left  
7 Behind", comma,

8 MR. CHAMBERS: Yes.

9 CHAIRMAN BRANSTAD: Okay. That's accepted  
10 as a friendly amendment. Commissioner Bryan?

11 MS. BRYAN: This may be a good example to  
12 help you, Commissioner Chambers, understand why we're  
13 so adamant in some cases about paralleling money and  
14 results, money and results, money and results. If  
15 you take a look at the reading achievement that's  
16 occurred over the last ten years and you look at the  
17 money that's gone into -- there's a mountain that has  
18 gone like this, and the achievement has stayed flat.

19

20 That didn't mean anybody's stopped giving  
21 money to help make it better. In fact, there was a  
22 huge increase in funding in the last legislative

23

1 session. But as Commissioner Grasmick said, there is  
2 constant discussion of money/outcomes, money/  
3 outcomes, so that we created a structure in place to  
4 make sure that as a result of that increased funding,  
5 we are achieving results. It doesn't mean anybody's  
6 going to take money away.

7 I am reluctant to dilute any language that  
8 doesn't constantly partner funds, results, funds,  
9 results. I think we need to say it every chance we  
10 get. And if we need to put a caveat in there that  
11 says this does not imply that successful districts  
12 would be penalized in any way or successful schools  
13 would be penalized, that's okay. I just hate to take  
14 the language out.

15 MR. BARTLETT: Mr. Chairman?

16 CHAIRMAN BRANSTAD: Commissioner Bartlett?

17 MR. BARTLETT: What we're trying to do in  
18 both cases is to match results with increased  
19 funding. That's the goal. In the real world,  
20 meaning not in Washington, but at the state level, if  
21 a state sees a pot of money that all they have to do  
22 to get this -- state bureaucracies love pots of

23

1 money. If they see a big pot of money and all they  
2 have to do is to come up with a state improvement  
3 plan that gets the Secretary's approval, they're  
4 going to run to the door to be able to do that, and  
5 they're going to submit it. And if it's not a good  
6 state improvement plan with good accountability  
7 measures, the Secretary will turn them down. And  
8 this will be enacted by this Secretary.

9           So what I'm suggesting is, is what  
10 Commissioner Chambers has suggested is, the way it  
11 actually works most effectively, you say to get your  
12 money, you have to come up with an improvement plan  
13 that the Secretary approves that had accountability  
14 measures. And then we get to hold you accountable  
15 for those results. So the Secretary doesn't tell you  
16 what results you have to have. You just have to get  
17 his approval for those results, and then he holds you  
18 accountable for your results.

19           What I'm suggesting is this is the way it  
20 actually works. If you say, go get the results and  
21 then we're going to send you a reward, they just  
22 won't believe it. If they thought they could get the

23

1 results, they would already be doing it. They just  
2 won't believe it and they won't do it. But anybody  
3 can come up with a plan, and then the Secretary can  
4 hold them accountable.

5 CHAIRMAN BRANSTAD: The chair recognizes  
6 Commissioner Chambers.

7 MR. CHAMBERS: I am empathetic with both  
8 positions here, so I wanted to put this on the table  
9 for discussion, and I'm trying to think, maybe  
10 there's some additional language that we could put in  
11 here that would recognize progress towards results.  
12 In other words, it's not just a matter of developing  
13 a plan. The thing that worried me about my own  
14 language was, oh gee, we could develop this wonderful  
15 plan and then nothing is going to happen. We're not  
16 going to get any results out of it. I'm just  
17 worried.

18 If there's some way perhaps we can add  
19 some language. First we're saying to them, you've  
20 got to develop a plan. You've got to show us in a  
21 systematic way how you're going to get there, and  
22 then maybe demonstrate that you are achieving results

23

1 from that plan. So it kind of combines the best of  
2 both worlds perhaps.

3 MS. GRASMICK: I want to go back to  
4 Commissioner Bartlett's language about adding No  
5 Child Left Behind. I think we could say something  
6 like consistent with the philosophy of No Child Left  
7 Behind. I just don't want to see a parallel system  
8 which is watered down without the highest level  
9 justification of No Child Left Behind. And there's a  
10 schedule of progress that has to be achieved.

11 If we could add that to it. They're  
12 absolutely inextricably related. You cannot get the  
13 money without these performance goals.

14 MR. BARTLETT: I have a friendly  
15 amendment.

16 CHAIRMAN BRANSTAD: Commissioner Bartlett.

17 MR. BARTLETT: Perhaps this would be an  
18 add that accomplishes both those as just an  
19 additional sentence: An appropriate portion of  
20 funding in future years should be contingent upon  
21 achievement of results within this plan, meaning the  
22 state improvement plan is consistent with No Child

23

1 Left Behind.

2 CHAIRMAN BRANSTAD: Mr. Chambers accepts  
3 that as a friendly amendment?

4 MR. CHAMBERS: That's consistent with the  
5 language. I was just going to add something like and  
6 has -- at the end of the sentence -- measurement of  
7 results for students with disabilities -- and  
8 demonstrated success in implementation of those  
9 plans. But I actually like the wording of  
10 Commissioner' Bartlett's better.

11 MR. BARTLETT: I'm weaseling around more  
12 than I'm accustomed to, but I realize you can't just  
13 say all funding. I wish you could. I'd be willing  
14 to if you all are. But, "An appropriate porion of  
15 funding in future years should be contingent upon  
16 achievement of results within that plan." So to be  
17 eligible for the additional funding, you have to have  
18 a plan that has results in it and the Secretary has  
19 approved it. And then future years' funding, some  
20 portion of future years' funding, is contingent upon  
21 your achievement of results in the plan that you've  
22 submitted.

23

1                   CHAIRMAN BRANSTAD: That's accepted as a  
2 friendly amendment by consent of the sponsor?  
3 Commissioner Hunttt?

4                   MR. HUNTT: I'm just not sure why  
5 Commissioner Bartlett stopped at saying "all". I  
6 would certainly advocate for that as well.

7                   CHAIRMAN BRANSTAD: Commissioner Grasmick?

8                   MS. GRASMICK: I just wish we would  
9 reference No Child Left Behind. No Child Left  
10 Behind, every subpopulation.

11                  CHAIRMAN BRANSTAD: That's already been  
12 added. This is another addition.

13                  MS. GRASMICK: Okay.

14                  CHAIRMAN BRANSTAD: That was done already.

15                  MS. GRASMICK: I'm okay then. Thank you.

16                  CHAIRMAN BRANSTAD: This is just another  
17 addition. Commissioner Hunttt?

18                  MR. HUNTT: I would move that we add "all"  
19 to Commissioner Bartlett's amendment.

20                  CHAIRMAN BRANSTAD: Is that acceptable?  
21 Okay. Commissioner Bryan?

22                  MS. BRYAN: Is there any way that we could  
23



1 get somebody to read what we think it's going to be  
2 right this second?

3 CHAIRMAN BRANSTAD: We'll do that before  
4 we vote on it.

5 MS. BRYAN: Before we have more  
6 discussion.

7 CHAIRMAN BRANSTAD: Commissioner Takemoto?

8 MS. TAKEMOTO: In our Monitoring Task  
9 Force we heard that taking all the money is such a  
10 drastic measure, that to have the flexibility of  
11 taking a part of the money sends a message without  
12 dismantling special education services. So I think  
13 saying all or nothing doesn't give you graduated or  
14 -- Dr. Pasternack isn't here to tell me what the  
15 right word is -- graduated ability to use that  
16 hammer.

17 MR. BARTLETT: If you'd yield, I think I  
18 have a superlative word.

19 (Laughter.)

20 MR. BARTLETT: That is, I do agree if you  
21 say "all funding" that it becomes an unusable  
22 discipline. So just say "funding". Just take out

23

1 the weasel words, but then also take out the hammer.  
2 Just say funding. Just have it start with funding in  
3 future years. And then the legislation can decide  
4 which portion of the funding.

5 CHAIRMAN BRANSTAD: Okay. Todd, would you  
6 just restate the amendment as it is now?

7 MR. JONES: To simplify it, I'll just add  
8 the one sentence and tell you where the insertion is.  
9 After the words "state improvement plan", there's a  
10 comma, and then it says "consistent with No Child  
11 Left Behind", comma, that's an insertion. And then  
12 at the end of the text, "Funding in future years  
13 should be contingent on achievement of results in  
14 that plan."

15 CHAIRMAN BRANSTAD: Okay. And that has  
16 been accepted as a friendly amendment. We are now  
17 ready to vote on the amendment as amended. Those in  
18 favor of the amendment as amended, signify by saying  
19 aye.

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTAD: Those opposed, signify  
22 by saying nay.

23

1 (No response.)

2 CHAIRMAN BRANSTAD: The ayes have it. It  
3 is approved. I want to recognize Commissioner  
4 Sontag.

5 MR. SONTAG: Thank you. I'm sorry I have  
6 to leave, and I just wanted to say a few sentences.  
7 I want to applaud the Commission members, the chair,  
8 the staff on this. I really think that when all is  
9 said and done, we're going to have a report here that  
10 will disturb the status quo, and I think that really  
11 needs to be done in the field of special education.

12 I think we very carefully have not dealt  
13 with some issues that probably would have taken this  
14 report down the drain. I think it really will change  
15 the performing community in special education. The  
16 emphasis on quality instruction and accountability in  
17 school districts is just a major step forward, and I  
18 just want to add my overall endorsement to what we've  
19 done here.

20 CHAIRMAN BRANSTAD: Thank you, and thank  
21 you for your participation. Commissioner Chambers?

22 MR. CHAMBERS: I was just going to suggest

23

1 that we need to perhaps come back and address the  
2 issue of Pasternack amendment on page 23 of 25.

3 CHAIRMAN BRANSTAD: Thirteen?

4 MR. CHAMBERS: He had expressed  
5 alternative language, and I guess I just wanted to  
6 make sure -- I suppose we can ignore it. Oh, it's  
7 mooted? Okay.

8 CHAIRMAN BRANSTAD: It's mooted. We'll  
9 continue on with your amendment then.

10 MR. CHAMBERS: We're looking now at the  
11 next recommendation?

12 CHAIRMAN BRANSTAD: Right.

13 MR. CHAMBERS: I really had just provided  
14 some language for clarification. I don't think it  
15 changes substantively what was intended but really  
16 just tries to help clarify and understand.

17 MR. BARTLETT: Second.

18 CHAIRMAN BRANSTAD: It's moved by  
19 Commissioner Chambers and seconded by Commissioner  
20 Bartlett, the clarifying language. Discussion?

21 (No response.)

22 CHAIRMAN BRANSTAD: All in favor, signify

23

1 by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN BRANSTAD: Opposed?

4 (No response.)

5 CHAIRMAN BRANSTAD: It is approved.

6 Commissioner Chambers.

7 MR. CHAMBERS: The next recommendation at  
8 the bottom of the page of my most recent addition is  
9 just trying to recommend that we increase  
10 proportionately the funding for Part C in preschool  
11 programs consistent with our emphasis on early  
12 intervention. That's the only purpose, and I think  
13 those programs have been either level funded or the  
14 funding has not been proportionately increased over  
15 the last few years in relation to Part B.

16 CHAIRMAN BRANSTAD: Commissioner  
17 Pasternack has an amendment that was in conflict with  
18 this is what I understand.

19 MR. JONES: He had one previously which  
20 was directly contrary to this relating to  
21 proportionality, striking it. I'll go back and  
22 check.

23

1                   CHAIRMAN BRANSTAD:  Let's defer on this  
2                   and we can go on.  Is that acceptable with everybody?  
3                   Let's do that so we can continue to move.  What's the  
4                   next one?

5                   MR. JONES:  Increasing state and local  
6                   flexibility.

7                   CHAIRMAN BRANSTAD:  Okay.  Commissioner  
8                   Chambers.

9                   MR. CHAMBERS:  Here, to review my own  
10                  statements here, I guess I was just concerned.  The  
11                  current law does provide for combining funds from  
12                  Title I and IDEA funding for children.  I guess I was  
13                  just wondering.  I'm really raising the question  
14                  whether the word "eligible" -- I've changed the word  
15                  "results" from "achievement".  That's just to be  
16                  consistent with the rest of what we've talked about.  
17                  But I'm just raising a question whether the word  
18                  "eligible" is important here, given our interest in  
19                  allowing IDEA and other funding sources to be  
20                  defined.  It's a question more than anything else.  
21                  Is this adequate to meet the needs?

22                  CHAIRMAN BRANSTAD:  Does anybody have an  
23

1 answer?

2 MR. CHAMBERS: If everybody's comfortable  
3 that the existing law provides enough flexibility in  
4 that regard, then I'm comfortable with what I've got.

5 CHAIRMAN BRANSTAD: You mean without  
6 adding the amendment? Is that what you're saying?

7 MR. CHAMBERS: There is an amendment that  
8 just changes the word "achievement" to "results".

9 MR. HUNTT: Second.

10 CHAIRMAN BRANSTAD: We have a motion to  
11 approve the amendment, moving from "achievement" to  
12 "results" seconded by Commissioner Hunt. t.  
13 Discussion?

14 (No response.)

15 CHAIRMAN BRANSTAD: All in favor of that  
16 amendment, signify by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTAD: That amendment is  
21 approved.

22 MR. CHAMBERS: I guess I'm just raising a  
23

1 question.

2 CHAIRMAN BRANSTAD: Does anybody have a  
3 concern about the question that's been raised?

4 MR. CHAMBERS: Is that an issue? Should  
5 we should be discussing further? I'm just worried.  
6 We would like to be able to have IDEA funds available  
7 to be spent for pre-referral programs for students  
8 who may not be in special education. The idea that  
9 once children get into special ed, they'd never get  
10 out. And if we can identify and help children who  
11 are potential special ed with some of the IDEA  
12 funding, I think that's a good use of funds, and I  
13 think it's consistent with all the things that we've  
14 been talking about throughout this report.

15 So I guess I'm just wondering if the word  
16 "eligible" as stated in this recommendation creates  
17 any problems with the use of funds, special IDEA  
18 funding for other students.

19 CHAIRMAN BRANSTAD: Commissioner Huntt, do  
20 you have a problem with "eligible"?

21 MR. HUNTT: No I don't. But I was going  
22 to say, if Commissioner Chambers does, perhaps we

23



1       could ask staff to clarify it at a further future  
2       date.  Is that possible?

3                   CHAIRMAN BRANSTAD:  Well, it's either in  
4       or out I guess.

5                   MR. HUNTT:  I don't have a problem with  
6       "eligible".  We could ask Bob Pasternack.

7                   CHAIRMAN BRANSTAD:  Do you want it, Bob?  
8       Do you have a comment on that?  Do you think  
9       "eligible" should be in or out?

10                   MR. PASTERNAK:  In.

11                   CHAIRMAN BRANSTAD:  Okay.  Are you  
12       satisfied with that, Jay?  Okay.  What is it?

13                   (Laughter.)

14                   CHAIRMAN BRANSTAD:  It's in the report as  
15       it is right now.

16                   MR. PASTERNAK:  It's in now, and I think  
17       that we're talking about students with disabilities,  
18       and the modifier about eligible is that we know that  
19       we have some students with disabilities who do not  
20       receive special education, nor should they receive  
21       special education, because those are individual  
22       decisions that are made by IEP teams.  So I believe

23

1 that the term would be -- it's okay to have it in  
2 there.

3 MR. CHAMBERS: Let me just ask the  
4 question I guess and this is where I'm headed. Is it  
5 appropriate to be able to use IDEA funds, funds  
6 designated for special education, for pre-referral  
7 programs, which essentially are serving children who  
8 are not in the special education programs?

9 MR. PASTERNAK: Well, I think that's  
10 something that we have to study. Because right now,  
11 it's clearly not done that way and I think that a lot  
12 of us and a lot of the testimony that we've heard,  
13 would like to have stronger pre-referral services  
14 available to kids. That's the whole intent of  
15 Reading First and the teacher quality money that the  
16 President got in No Child Left Behind.

17 So I think that there's a lot of  
18 discussion that needs to happen about whether in fact  
19 that is something that should be permitted. I think  
20 the testimony that we heard supports that, but the  
21 Department hasn't made a decision about that, and  
22 that's something that will -- that's part of the

23

1 nexus between the report that the Commission does and  
2 then what happens during reauthorization.

3 MR. CHAMBERS: Isn't that to some extent  
4 going on in programs where they have combined or  
5 asked to combine Title I and IDEA?

6 MR. PASTERNAK: Yes. You could spend a  
7 portion of your new money on schoolwide improvement  
8 projects. And so I think that is -- and some of the  
9 sliver grant money that's being spent when you look  
10 at how states are using that money, clearly those are  
11 intended to build capacities of systems to better  
12 serve all kids and thereby preventing some kids from  
13 getting into special education. So the short answer  
14 to your question is yes.

15 MR. CHAMBERS: I'm satisfied.

16 CHAIRMAN BRANSTAD: Okay. So that  
17 amendment is withdrawn. Where are we at now?

18 MR. JONES: Pasternack 24 of 25.

19 CHAIRMAN BRANSTAD: pasternack 24 of 25.

20 MR. PASTERNAK: It's simply to add new  
21 text, Mr. Chairman, and members of the Commission,  
22 and that has been after "pool" "to serve high cost

23

1 students (e.g., students with disabilities who are  
2 medically fragile)." I'm just trying to clarify the  
3 language that was in the report.

4 CHAIRMAN BRANSTAD: Do you move the  
5 amendment?

6 MR. PASTERNAK: I move the amendment.

7 MR. HUNTT: Second.

8 CHAIRMAN BRANSTAD: Seconded by  
9 Commissioner Hunt. Is there discussion?

10 (No response.)

11 CHAIRMAN BRANSTAD: All in favor, signify  
12 by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN BRANSTAD: Opposed?

15 (No response.)

16 CHAIRMAN BRANSTAD: It is approved.

17 MR. JONES: Back to page 1 of Chambers.

18 CHAIRMAN BRANSTAD: Now we go back to a  
19 Chambers amendment again, page 1. This is the one  
20 that was tabled I guess. Okay.

21 MR. CHAMBERS: I think the reason we  
22 tabled it -- I'll go back. Maybe I'll review it.

23

1 For the purposes of page 1, I think we're looking at  
2 the linking issue, which some had indicated you some  
3 concerns with. My concern was that we've been level  
4 funding. We were talking about early intervention  
5 throughout I think in the report, and I was just  
6 trying to push the notion that IDEA, it proposes  
7 increases for Part B funding, it ought to be  
8 proposing some, whether it's proportionate, whatever  
9 it might be, but proposing increases with Part C and  
10 preschool programs at the same time to be consistent  
11 with our recommendations for early intervention.

12 So I understand you had some concerns with  
13 that.

14 MR. PASTERNAK: The concerns that I have  
15 are that some people would argue that we need an even  
16 bigger increase in C than the proportional increases  
17 in B because of the size of the C program, and the  
18 fact that 619 has been flat funded for years. But,  
19 you know, this is one of those issues where today  
20 when we're doing the recommendations is probably not  
21 the best time to have this kind of discussion.

22 I think what we ought to say is that we

23

1 need to see increases in funding for all special  
2 education. I don't know about linking the  
3 proportion. I would not be in favor of the language  
4 that says to link it in the same proportion.

5 MR. CHAMBERS: I would be comfortable with  
6 some alternative language. I guess my notion was  
7 just to make sure that there was some indication on  
8 the part of the Commission that we're not just  
9 increasing Part B and ignoring 619 and Part C. So I  
10 would agree.

11 MR. PASTERNAK: Would you accept a  
12 friendly amendment that funding should be increased  
13 for Part C and 619?

14 MR. CHAMBERS: Yes.

15 CHAIRMAN BRANSTAD: Do you want to take  
16 that as a friendly amendment? You accept that as a  
17 friendly amendment and incorporate it into the  
18 amendment?

19 MR. CHAMBERS: Yes.

20 CHAIRMAN BRANSTAD: Okay. Without  
21 objection, that's accepted.

22 MR. PASTERNAK: Thank you, Mr. Chairman.

23

1                   CHAIRMAN BRANSTAD: Are we ready to then  
2 vote on the amendment with the friendly amendment  
3 incorporated in it? All in favor of the Chambers  
4 amendment as amended, signify by saying aye.

5                   (Chorus of ayes.)

6                   CHAIRMAN BRANSTAD: Opposed?

7                   (No response.)

8                   CHAIRMAN BRANSTAD: It is approved.

9                   MR. CHAMBERS: Thank you, Mr. Chairman.

10                  MR. JONES: Next is to move to the focus  
11 on high need children.

12                  CHAIRMAN BRANSTAD: Commissioner Chambers?

13                  MR. CHAMBERS: Page 2, the recommendation  
14 will focus on high need children. Actually, if I  
15 understand what just happened with respect to the  
16 Pasternack amendment, it may have helped provide some  
17 clarification. My concern was that we made mention  
18 of maintain risk management pools without kind of any  
19 reference or background as to what that meant,  
20 whereas I think that the text that Bob Pasternack has  
21 recommended may have helped that. I think the  
22 recommendation probably is irrelevant at this point.

23

1                   CHAIRMAN BRANSTAD: That means you're  
2 withdrawing it? You're not moving it?

3                   MR. JONES: I want to ask you, would that  
4 also apply to the final sentence, the need for the  
5 final sentence saying that taking that funding is in  
6 addition to risk management pools becomes superfluous  
7 because it's now implicit? I've got two three dollar  
8 words in that sentence.

9                   CHAIRMAN BRANSTAD: Are you okay on that?

10                  MR. CHAMBERS: Sure.

11                  CHAIRMAN BRANSTAD: Okay. So this  
12 amendment is basically not being offered now? This  
13 section of it.

14                  MR. CHAMBERS: Yes.

15                  CHAIRMAN BRANSTAD: What's next?

16                  MR. JONES: That needs to be moved.

17                  CHAIRMAN BRANSTAD: We chose not to move  
18 it. He said he's not going to --

19                  MR. HASSEL: What about the deletion of  
20 safety net funding should be in addition to the  
21 development of risk management pools?

22                  MR. HUNTT: Second.

23



1                   CHAIRMAN BRANSTAD:   Okay.   We have a  
2   motion by Commissioner Hassel and seconded by  
3   Commissioner Huntt that -- would you repeat that  
4   motion?

5                   MR. JONES:   Yes.   Repeat it, please.

6                   MR. HASSEL:   In the recommendation on  
7   focus on high needs children, delete the last  
8   sentence, beginning with "Safety net funding".

9                   CHAIRMAN BRANSTAD:   Okay.   It's already  
10   been seconded by Commissioner Huntt.   Discussion?

11                   (No response.)

12                   CHAIRMAN BRANSTAD:   All in favor, signify  
13   by saying aye.

14                   (Chorus of ayes.)

15                   CHAIRMAN BRANSTAD:   Opposed?

16                   (No response.)

17                   CHAIRMAN BRANSTAD:   It's approved.   Now we  
18   have the recommendation at the bottom of page 2,  
19   Commissioner Chambers.

20                   MR. CHAMBERS:   This may not be an  
21   appropriate place to get into details, it may be  
22   beyond the purview of this Commission, but it seemed

23

1 to me that simplifying the current Part B funding  
2 formula might be in order here right now. We have a  
3 formula that basically historically builds in  
4 allocations based on student accounts of up to \$4.9  
5 billion, and anything beyond that is allocated on a  
6 census basis with a poverty adjustment.

7 This amendment is simply saying, let's  
8 just make it a census-based funding formula with five  
9 years to get over whatever impact the fiscal  
10 adjustment may have caused certain states that have  
11 high counts, which is basically why the formula was  
12 designed the way it was. I'm just saying let's  
13 simplify it. Make it entirely a census-based formula  
14 with a poverty adjustment.

15 CHAIRMAN BRANSTAD: Commissioner Bryan?

16 MS. BRYAN: I'm concerned because I think  
17 this is coming up and we aren't going to have a real  
18 opportunity to discuss it and go out and talk to the  
19 folks who know what the consequences might be and get  
20 our own information on it. I'd be a lot more  
21 comfortable if you were willing to simply look at  
22 this as a topic to discuss further down the road, but

23

1 I'm very reluctant to suddenly include it as a  
2 recommendation on the front page without knowing a  
3 lot more about what are the consequences of it.

4 MR. CHAMBERS: If other Commissioners feel  
5 the same way, I'd be happy to withdraw it. Doug Gill  
6 in my discussions with him suggested that this may be  
7 a topic for further research rather than let's jump  
8 into the frying pan. So I'm happy to withdraw it.

9 CHAIRMAN BRANSTAD: Are you okay with  
10 that, Commissioner Hassel?

11 MR. HASSEL: I was going to suggest not  
12 accepting the recommendation but moving the sense of  
13 it to the text, calling for the exploration of this  
14 proposal, so at least we can put it on put it on the  
15 agenda as something to talk about.

16 MR. HUNTT: How about the research agenda  
17 then we talked about earlier, having it there?

18 CHAIRMAN BRANSTAD: Adding it to the  
19 research agenda? Is that okay? Can you do that as a  
20 motion then?

21 MR. HASSEL: Yes.

22 MS. GRASMICK: Second.

23

1                   CHAIRMAN BRANSTAD:  Commissioner Hassel  
2   moving and Commissioner Grasmick seconds the motion  
3   to put that in the research agenda appendix.  All in  
4   favor, signify by saying aye.

5                   (Chorus of ayes.)

6                   CHAIRMAN BRANSTAD:  Just a second.  
7   Commissioner Chambers?

8                   MR. CHAMBERS:  In looking at page 9, one  
9   of the items under the need for more research on page  
10  9 of my document, the first bullet under that item is  
11  use of a census-based formula for distribution.

12                   CHAIRMAN BRANSTAD:  We've already got it.  
13  So it's already done.  We don't need to do it.  Okay.  
14  So it's already there.

15                   So the amendment is withdrawn.

16                   MR. HASSEL:  With a back-up provision.

17                   CHAIRMAN BRANSTAD:  Okay.  Very good.  And  
18  you're withdrawing your amendment.  Okay.  Where are  
19  we at now?

20                   MR. JONES:  We are now on page 3 of the  
21  Chambers amendment with modifications to page 81,  
22  lines 10 through 30.

23

1                   CHAIRMAN BRANSTAD: Commissioner Chambers.

2                   MR. CHAMBERS: Again, I was trying to add  
3 clarity. I hope I haven't confused the matter, but I  
4 was frankly confused with the original discussion in  
5 which it says excess caution, expenditures of  
6 revenues. I'm looking for improved estimates of  
7 expenditures necessary to provide appropriate results  
8 for students with and without disabilities. My view  
9 is we need to understand both to understand the  
10 consequences of those costs and estimates of per  
11 pupil available to the typical general education  
12 student with no special needs.

13                   MR. HUNTT: Second.

14                   CHAIRMAN BRANSTAD: There's a motion and a  
15 second. A motion by Commissioner Chambers seconded  
16 by Commission Hunt. Discussion?

17                   (No response.)

18                   CHAIRMAN BRANSTAD:

19                   MS. TAKEMOTO:

20                   (Chorus of ayes.)

21                   CHAIRMAN BRANSTAD: Opposed?

22                   (No response.)

23

1                   CHAIRMAN BRANSTAD: It is approved. Okay.

2                   MS. TAKEMOTO: Mr. Chairman, I have a  
3 point of order question. I'm not sure I understand  
4 what happened before. It appears to me that Dr.  
5 Pasternack's recommendation or additional  
6 recommendation was not about Part C, it was about  
7 Part B. Recommendation 13. Yes, that is Berdine.  
8 Nevermind.

9                   MR. JONES: Berdine 13 was mooted by the  
10 rejection of the Chambers amendment earlier.

11                  MS. TAKEMOTO: It's a separate idea.

12                  MR. JONES: Excuse me. I'm sorry. That's  
13 correct.

14                  CHAIRMAN BRANSTAD: So we need to go back  
15 to the Berdine amendment. Berdine 13, is that  
16 correct? Thank you for bringing that point of order.  
17 We'll go back to Berdine 13 at this point.

18                  MS. TAKEMOTO: In the interest of time,  
19 let me just go there. Ensure that funding for Part D  
20 of IDEA (the national support programs) is increased  
21 by indexing it to B and C, funding at a rate of 10  
22 percent. This would ensure that whenever spending

23

1 was increased for the state grant programs, the  
2 support programs would receive an increase in order  
3 to keep pace with the support required.

4 CHAIRMAN BRANSTAD: Does anybody care to  
5 move that? Consistent with the decision we made on  
6 Part C, I assume it's not our intention to do that in  
7 locked percentage. So that amendment, without any --  
8 that amendment is not being presented. So that  
9 amendment is, for lack of motion, is withdrawn. And  
10 we're back on?

11 MR. JONES: No, we're not done. On the  
12 Chambers amendment, the one on page 4 is technical  
13 and will be added. The next one is on page 5, which  
14 corresponds to page 83.

15 MR. CHAMBERS: We're okay with page 3?  
16 The whole page 3? Okay. I'm sorry. Thank you.

17 CHAIRMAN BRANSTAD: So now page 4.

18 MR. CHAMBERS: I should just keep my mouth  
19 shut and move on.

20 CHAIRMAN BRANSTAD: Yes. As long as it's  
21 going away, just keep quiet.

22 (Laughter.)

23

1                   MR. CHAMBERS: I'm sorry. Where are we  
2 now?

3                   CHAIRMAN BRANSTAD: Page 5.

4                   MR. CHAMBERS: My purpose was just to -- I  
5 know I've got a footnote that was relatively --  
6 actually there was no footnote. I think I tried to  
7 add a footnote that defined what APP is -- APPE is,  
8 sorry -- because everybody just thinks of it as the  
9 total expenditures divided by the number of children  
10 served, and it isn't. It actually is more complex  
11 than that. This is directly from the law, whether it  
12 should be that technical. Doug expressed a concern  
13 that my footnote was much too technical.

14                   But I think it's important that people  
15 recognize when they read this report that APPE is not  
16 just some simple number and in fact the number that's  
17 been used by OSEP. Because my understanding is, it  
18 isn't even in compliance with the law, if I'm reading  
19 it correctly. I've had discussions with folks at  
20 OSEP who do the allocations, and there is no effort  
21 or data to support removing state funds supporting  
22 similar programs as I understand it in that

23



1 calculation.

2 CHAIRMAN BRANSTAD: So this is just as a  
3 footnote, is that correct?

4 MR. CHAMBERS: It's just as a footnote so  
5 people understand what APPE is.

6 MR. HUNTT: Second.

7 CHAIRMAN BRANSTAD: We have a motion and a  
8 second to approve this as a footnote. Discussion?

9 (No response.)

10 CHAIRMAN BRANSTAD: All in favor, signify  
11 by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN BRANSTAD: Opposed?

14 (No response.)

15 CHAIRMAN BRANSTAD: It is approved. We're  
16 on page 6 now of the Chambers amendment.

17 MR. JONES: And it takes us to the top of  
18 page 85.

19 CHAIRMAN BRANSTAD: Page 6 of the Chambers  
20 amendment takes us through the top of page 85 in this  
21 finance section. Okay. Is there a motion on this?

22 MR. CHAMBERS: To just focus on page 6, I

23

1 see most of this as pretty much language that does  
2 one of two things, at least I hope it adds clarity.  
3 That was the intent. That would be true of the first  
4 three paragraphs on that page.

5 The fourth paragraph was just intended to  
6 make the text consistent with the recommendation that  
7 we approved earlier.

8 CHAIRMAN BRANSTAD: Commissioner Hassel,  
9 do you second?

10 MR. HASSEL: Second. One comment. On the  
11 fourth paragraph, where you add "designing and  
12 implementing the program", I think to make it  
13 consistent with the amended amendment, we need to  
14 change the end of it to say, "as part of their state  
15 improvement plans and demonstrate definable and  
16 measurable student results."

17 CHAIRMAN BRANSTAD: So you would change  
18 that to "and demonstrate" instead of "capable of  
19 demonstrating"? "and demonstrate the final and  
20 measurable student results". Do you accept that as a  
21 friendly amendment?

22 MR. CHAMBERS: Yes I do.

23

1                   CHAIRMAN BRANSTAD: That's accepted as a  
2 friendly amendment to the amendment. Beth Ann Bryan?

3                   MS. BRYAN: The second paragraph that  
4 begins, "Since 1975". You changed "excess", you've  
5 gotten rid of "excess cost" and said "full funding"?

6                   MR. CHAMBERS: Because it is an excess  
7 cost. That wasn't the issue. The folks refer to the  
8 40 percent number as the whole funding for special  
9 ed.

10                  CHAIRMAN BRANSTAD: It's just referring to  
11 that.

12                  MR. CHAMBERS: That's all.

13                  CHAIRMAN BRANSTAD: Okay.

14                  MR. PASTERNAK: I have a point of order.  
15 I'm sorry, Mr. Chairman.

16                  CHAIRMAN BRANSTAD: Go ahead with the  
17 point of order.

18                  MR. PASTERNAK: I had an amendment on  
19 page 84 to replace lines 26 through 29, and since  
20 we've now moved on to page 85 back to our original  
21 document, I wonder if it should still be considered.

22                  MR. JONES: It's not in order yet.

23

1                   CHAIRMAN BRANSTAD: We'll go back to it as  
2 soon as we get done with this. Now based on the  
3 Chambers amendment as amended, this is page 6 of the  
4 Chambers amendment. Those in favor of this, signify  
5 by saying aye.

6                   (Chorus of ayes.)

7                   CHAIRMAN BRANSTAD: Opposed?

8                   (No response.)

9                   CHAIRMAN BRANSTAD: It is approved. We  
10 now go back to Pasternack Number 13. That's the one  
11 on 84?

12                  MR. PASTERNAK: I'd like to move to  
13 replace lines 26 through 29 back on page 84 with the  
14 following. You all have this in front of you. It's  
15 the ones that say amendments proposed by Bob  
16 Pasternack. That's the only one that's left. We've  
17 done the other two sets. The huge documents are  
18 done. We've approved all those.

19                  MR. HUNTT: Second.

20                  CHAIRMAN BRANSTAD: Moved by Commissioner  
21 Pasternack, seconded by Commissioner Hunt. Is there  
22 discussion on that? Commissioner Hassel?

23

1           MR. HASSEL: This amendment conflicts with  
2 the recommendation that we approved from Commissioner  
3 Chambers, does it not?

4           CHAIRMAN BRANSTAD: It does not.

5           MR. CHAMBERS: I think what Commissioner  
6 Hassel is referring to is, is it entirely consistent  
7 with the recommendation on the first page.

8           CHAIRMAN BRANSTAD: We haven't amended  
9 this section. But the question is whether it's  
10 inconsistent with the previous amendment that's been  
11 approved?

12          MR. CHAMBERS: Right. And I would beg the  
13 assistance with my fellow Commissioners to help  
14 determine whether that -- I'm wondering if it is  
15 entirely consistent.

16          CHAIRMAN BRANSTAD: Commissioner Bartlett,  
17 do you have a comment?

18          MR. BARTLETT: I have a point of  
19 clarification. What does it mean by the threshold  
20 percentage of definable excess costs be allocated to  
21 states? Does that mean we send them -- "allocated",  
22 does that mean funding?

23

1 MR. CHAMBERS: Yes.

2 MR. BARTLETT: It seems to make a pretty  
3 hard statement that IDEA, the federal government  
4 should provide all funding to states and LEAs beyond  
5 a certain threshold.

6 MR. PASTERNAK: To get back to the  
7 discussion we were having earlier about it,  
8 incentivizing the accomplishment of improved results  
9 by allocating money above the threshold amount to  
10 states based on their documenting improved results,  
11 improved academic and post-school results. It's a  
12 way of incentivizing. It's similar to what we're  
13 trying to do with the VR systems, basically provide  
14 funding based on documented improvement.

15 MR. BARTLETT: I'm not sure it's  
16 consistent with our recommendation. If you tell a  
17 state that you're going to provide all funding above  
18 a certain amount, that all can be a fairly large  
19 amount. There's no ceiling.

20 MR. PASTERNAK: We're not -- it's beyond  
21 the set threshold percentage of the --

22 MR. BARTLETT: That would be the floor.

23

1 What's the ceiling?

2 MR. PASTERNAK: Well, we'd go up to the  
3 -- we would have to define what that would be.  
4 We're not there yet. That's an issue that we've got  
5 to talk about in the reauthorization. This is just  
6 based on the discussions that we had and the  
7 testimony that we heard.

8 MR. BARTLETT: Mr. Chairman, I don't think  
9 this amendment is quite ready to be inserted in this  
10 form.

11 CHAIRMAN BRANSTAD: Commissioner Hassel?

12 MR. HASSEL: I think the following change  
13 would make it consistent with the recommendation if  
14 we said be allocated to states and LEAs based on  
15 their -- well, we said allocated to states based on  
16 their state improvement plans and improved academic  
17 and post-school results.

18 CHAIRMAN BRANSTAD: Do you accept that as  
19 a friendly amendment?

20 MR. PASTERNAK: I would accept that. I  
21 think Commissioner Bartlett --

22 CHAIRMAN BRANSTAD: Would that satisfy

23

1 your concern?

2 MR. BARTLETT: Not entirely. It would  
3 still say all funding. Any agency, if you tell them  
4 you're going to do all funding, they can make all  
5 funding a large number over time.

6 MR. CHAMBERS: It's all funding beyond a  
7 set threshold percentage of definable excess costs.

8 MR. BARTLETT: That's the floor. There's  
9 no ceiling.

10 MR. CHAMBERS: Yes. What got left out was  
11 the reference to 40 percent, which I think is in the  
12 original phrasing. I think perhaps we could revise  
13 Dr. Pasternack's suggestion or amendment something  
14 like the following: "IDEA should provide that all  
15 funds up to 40 percent of definable excess costs and  
16 beyond the threshold percentage of definable excess  
17 costs".

18 MR. PASTERNAK: The law remains silent on  
19 what percentage of excess costs the IDEA contribution  
20 should be capped, and that's my intent.

21 CHAIRMAN BRANSTAD: I don't know if  
22 anybody is confused, but I am. Commissioner Hunt?

23



1           MR. HUNTT: I always like to take the  
2           opportunity to confuse you more, Mr. Chairman. My  
3           understanding from the Finance Committee is that they  
4           weren't sure that 40 percent is accurate at this  
5           point in time. So I think that leaving that  
6           particular percentage off would be beneficial and  
7           appropriate.

8           CHAIRMAN BRANSTAD: Commissioner Bryan?

9           MS. BRYAN: Commissioner Pasternack's  
10          amendment with the substitution Commissioner Hassel  
11          made makes sense in parallel to what we've done  
12          before. The other issues are issues that would be  
13          dealt with on down the road by the Commission, I mean  
14          by the reauthorization. The Commission has simply  
15          given some direction without getting into the gory  
16          details.

17          MR. CHAMBERS: I think I have a solution,  
18          because I understand what Commissioner Bartlett is  
19          talking about. If we substitute the word "any" for  
20          "all" where it says "IDEA should provide that all  
21          funding", "any funding beyond".

22          MR. PASTERNAK: That would address your  
23

1 concern?

2 MR. BARTLETT: Yes.

3 CHAIRMAN BRANSTAD: That's accepted as a  
4 friendly amendment. Now we've got the "any"  
5 amendment accepted as a friendly amendment. We've  
6 got Hassel's amendment accepted as a friendly  
7 amendment. Are we now ready to vote?

8 MR. CHAMBERS: Can we read it back?

9 CHAIRMAN BRANSTAD: Pasternack's amendment  
10 as it has been amended.

11 MR. JONES: "After determining a more  
12 reliable value for excess costs such as the one  
13 described above, IDEA should provide that any funding  
14 beyond a set threshold percentage of definable excess  
15 costs should be allocated to states based on their  
16 state improvement plans and improved academic and  
17 post-school results."

18 CHAIRMAN BRANSTAD: Ready to vote on that?

19 MR. CHAMBERS: One more change if I might.  
20 It says "beyond a set threshold". Maybe we might  
21 want to refer "beyond the set threshold", that is  
22 referring back to the recommendation that there be a

23

1 threshold established. I think it's just a matter of  
2 clarification.

3 CHAIRMAN BRANSTAD: Do you accept that as  
4 a friendly clarifying amendment?

5 MR. PASTERNAK: Yes.

6 CHAIRMAN BRANSTAD: Yes, Commissioner  
7 Grasmick?

8 MS. GRASMICK: Did you deliberately leave  
9 out LEAs?

10 MR. JONES: Yes I did. That was under the  
11 direction of the Hassel amendment.

12 CHAIRMAN BRANSTAD: We're now ready to  
13 vote on the Pasternack amendment as amended. Those  
14 in favor, signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BRANSTAD: Opposed?

17 (No response.)

18 CHAIRMAN BRANSTAD: It's approved.

19 MR. CHAMBERS: I'd like to say, I really  
20 applaud Dr. Pasternack for this, because I think this  
21 is something I had wanted to achieve in the finance  
22 section is getting away from the 40 percent as some

23

1 kind of magic number. So, thank you.

2 MR. PASTERNAK: You're welcome.

3 CHAIRMAN BRANSTAD: We're now ready --

4 MR. PASTERNAK: My next amendment is --

5 CHAIRMAN BRANSTAD: We have a Hassel  
6 amendment on page 85 first.

7 MR. PASTERNAK: Somehow you've done the  
8 Vulcan mind meld here, because I've got the same  
9 exact amendment that you have. So that is wonderful.

10 CHAIRMAN BRANSTAD: You both have the same  
11 amendment? Okay. The Hassel amendment.

12 MR. PASTERNAK: You'll find the exact  
13 language on number 14.

14 MR. JONES: No, no. You have a different  
15 version.

16 CHAIRMAN BRANSTAD: I've been told the  
17 Hassel amendment is in order. I'm going to recognize  
18 Commissioner Hassel.

19 MR. HASSEL: This amendment, though  
20 reaffirming the Commission's commitment to increase  
21 funding for IDEA at the federal level, calls for the  
22 retention of the annual appropriations process for

23

1 IDEA funds, not to make an entitlement. Just like  
2 almost all other federal programs, Congress would  
3 still appropriate funds for IDEA each year, go  
4 through that process.

5 MR. HUNTT: Second.

6 CHAIRMAN BRANSTAD: There's a motion and a  
7 second to approve. Discussion?

8 (No response.)

9 CHAIRMAN BRANSTAD: All in favor, signify  
10 by saying aye.

11 (Chorus of ayes.)

12 CHAIRMAN BRANSTAD: Opposed?

13 (No response.)

14 CHAIRMAN BRANSTAD: It is approved.

15 Fletcher Number 1. We're on Fletcher amendment  
16 Number 1. Is someone going to handle this? It's the  
17 only finance amendment he's got, right? Page 85,  
18 lines 28 and 29. Delete the rest of the sentence  
19 after "students" and sub "is not related to  
20 identification and funding incentives".

21 MR. HUNTT: So moved.

22 MR. PASTERNAK: Second.

23

1           MR. JONES:  It's actually not a sentence  
2   at that point.  We'd like a verb.

3           CHAIRMAN BRANSTAD:  Okay.  Doug Huntt  
4   moves it, and it's been seconded by Pasternack.  Do  
5   we need to clarify?  Commissioner Hassel?

6           MR. HASSEL:  Propose saying "would not  
7   create any adverse identification and funding  
8   incentives".

9           CHAIRMAN BRANSTAD:  That's accepted as a  
10  friendly amendment by Commissioner Huntt and the  
11  seconder.  Restate that again so that we've got it  
12  correct.

13          MR. JONES:  "recognition of some  
14  responsibility for funding for such students".  And  
15  the new part is, "would not create any adverse  
16  identification and funding incentives".

17          CHAIRMAN BRANSTAD:  Okay.  That's been  
18  accepted as a friendly amendment.  We're going to  
19  vote on Fletcher Number 1 amendment with the friendly  
20  amendment that's been accepted.

21          MR. JONES:  All I would put out is that  
22  this then footnotes to the testimony of Dr. Julie

23

1 Cullen. Her testimony actually didn't go  
2 identification. It went to characterization. So if  
3 categorization is kept, you keep the footnote. If  
4 you switch to identification, you lose the footnote.

5 MR. HASSEL: Categorization is fine.

6 CHAIRMAN BRANSTAD: Okay. We are now  
7 ready to vote on the amendment as amended. All in  
8 favor, signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN BRANSTAD: Opposed?

11 (No response.)

12 CHAIRMAN BRANSTAD: The amendment is  
13 approved. Pasternack 15. We've got 15, 16, 17 and  
14 18.

15 MR. JONES: Page 88, line 23, replace the  
16 first full sentence with the following: First IDEA  
17 should permit states to use federal funds to develop  
18 and maintain safety net programs to help pay the  
19 costs of high needs children.

20 CHAIRMAN BRANSTAD: Is there a second?

21 MR. HUNTT: Second.

22 CHAIRMAN BRANSTAD: Seconded by

23

1 Commissioner Hunt. Discussion?

2 (No response.)

3 CHAIRMAN BRANSTAD: All in favor of the  
4 motion, signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN BRANSTAD: Opposed?

7 (No response.)

8 CHAIRMAN BRANSTAD: It is approved.

9 MR. JONES: Actually we have to back up.  
10 We have a request to drop this box by Chambers.

11 CHAIRMAN BRANSTAD: Commissioner Chambers  
12 has a request to knock out, what section is it?

13 MR. CHAMBERS: On page 7 of my printout of  
14 the finance recommendations, at the bottom there is a  
15 box that has a summary statement. I'm quoting now,  
16 as a summary statement: "The federal government  
17 should assume responsibility for funding of the most  
18 expensive students."

19 I think that implies more than I think  
20 we're willing to take on. If you want another quote,  
21 I kind of stuck my own name in there if you'd like.  
22 But it's "The federal government should assume a

23



1 significant role in supporting funding for the  
2 highest need students with disabilities." I'm not  
3 advocating you put it in there. But I think that's  
4 more consistent with what we have been talking about.

5 MR. JONES: He just said it.

6 CHAIRMAN BRANSTAD: You just said it, so  
7 we can entertain it.

8 (Laughter.)

9 MR. BARTLETT: So moved.

10 CHAIRMAN BRANSTAD: So it's moved by --  
11 Congressman Bartlett has moved it. Second from  
12 Commissioner Hunt. Discussion?

13 (No response.)

14 CHAIRMAN BRANSTAD: All in favor, signify  
15 by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN BRANSTAD: Opposed?

18 (No response.)

19 CHAIRMAN BRANSTAD: It is approved.  
20 Commissioner Chambers, you're in the box here.  
21 You're still at bat.

22 MR. CHAMBERS: I don't swing at many bad  
23

1 pitches. Are we on page 8, Todd?

2 MR. JONES: It is. But it's now mooted by  
3 the Pasternack amendment 14.

4 CHAIRMAN BRANSTAD: Do you want to  
5 withdraw that?

6 MR. CHAMBERS: Yes.

7 CHAIRMAN BRANSTAD: Okay.

8 MR. JONES: We have Pasternack 15 now.

9 CHAIRMAN BRANSTAD: Pasternack amendment  
10 Number 15.

11 MR. PASTERNAK: We already did that. We  
12 already moved and adopted 15.

13 MR. JONES: Bob, I believe yours is  
14 misnumbered or yours is differently numbered than the  
15 rest of ours.

16 MR. PASTERNAK: Oh, okay.

17 MR. JONES: What is your 16 is everyone  
18 else's 15.

19 MR. PASTERNAK: Thank you, sir. First  
20 page 88, lines 6 through 8 and second. Well, I guess  
21 we should do these separately if you want. It's all  
22 part of the same amendment. What's your preference,  
23

1 Mr. Chair?

2 CHAIRMAN BRANSTAD: If we can do them all  
3 together, let's do them.

4 MR. PASTERNAK: Okay. Then on page 90  
5 after line 23, insert the following: "Further, the  
6 IDEA should allow states and local districts to pool  
7 existing Part C funds with Part B 619 funds to create  
8 seamless systems of early intervention services.  
9 States and local districts should also be allowed to  
10 use Part B funds to provide pre-referral services."

11 CHAIRMAN BRANSTAD: Commissioner  
12 Pasternack moves, Commission Huntt second  
13 Discussion?

14 (No response.)

15 CHAIRMAN BRANSTAD: All in favor, signify  
16 by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTAD: It is approved.

21 Pasternack Number 16.

22 MR. PASTERNAK: Strike on page 89, line

23

1 19 through line 14 of page 90 regarding the IDEA's  
2 maintenance of effort requirement.

3 MR. HUNTT: Second.

4 CHAIRMAN BRANSTAD: Okay. Seconded by  
5 Commissioner Hunt. Discussion?

6 MR. PASTERNAK: Almost every federal  
7 grant program across our government has a maintenance  
8 of effort requirement.

9 CHAIRMAN BRANSTAD: You want to get rid of  
10 it?

11 MR. PASTERNAK: No, I don't want us to  
12 get rid of it. That's why --

13 CHAIRMAN BRANSTAD: Okay. So by striking  
14 this, it keeps it.

15 MR. PASTERNAK: Yes. Absolutely.

16 CHAIRMAN BRANSTAD: Commissioner Grasmick?

17 MS. GRASMICK: I really strongly support  
18 that. I think it would be disastrous to do  
19 otherwise.

20 MR. PASTERNAK: Absolutely.

21 CHAIRMAN BRANSTAD: Okay.

22 MR. HUNTT: I'll allow her to second it.

23

1 (Laughter.)

2 CHAIRMAN BRANSTAD: Okay. Commissioner  
3 Pasternack moves, Commissioner Grasmick seconds.  
4 This is Pasternack Number 16 I believe that we're on  
5 right now. All those in favor, signify by saying  
6 aye.

7 (Chorus of ayes.)

8 CHAIRMAN BRANSTAD: Those opposed?

9 (No response.)

10 CHAIRMAN BRANSTAD: It is approved.  
11 Pasternack 17.

12 MR. PASTERNAK: On page 90, strike lines  
13 16 through 22 regarding the 90 percent passthrough.

14 CHAIRMAN BRANSTAD: Is there a second?

15 MR. HUNTT: Second.

16 CHAIRMAN BRANSTAD: Seconded by  
17 Commissioner Hunt. Is there discussion?

18 MR. HASSEL: Can we hear the rationale for  
19 that?

20 MR. PASTERNAK: As written, the  
21 recommendation implies that it would increase the  
22 share of Part B dollars that get allocated to LEAs.

23

1 While this may be true in the short run since states  
2 hold 10 to 12 percent in Part B at the state level,  
3 if appropriations continue to rise in the long-run,  
4 the recommendation would increase the share of Part B  
5 dollars that remain at the state level. Current law  
6 which caps the increase of state level funds to  
7 inflation is sufficient to ensure that a significant  
8 percentage of Part B dollars are allocated to LEAs.

9 MR. BARTLETT: I have a question, Mr.  
10 Chairman.

11 CHAIRMAN BRANSTAD: Yes, Commissioner  
12 Bartlett.

13 MR. BARTLETT: For those of us who would  
14 want to see more pass through to the LEAs, we should  
15 vote against this amendment or should we vote for the  
16 amendment?

17 MR. PASTERNAK: Well, if you want to see  
18 more money go to the LEAs, you should probably vote  
19 against this amendment.

20 MR. BARTLETT: Mr. Chairman, I suggest  
21 that we just keep this language in the report.  
22 Ninety percent passthroughs. It's the LEAs that do

23

1 provide the teaching and the services in the  
2 classroom. I would ask the Secretary to withdraw the  
3 amendment.

4 CHAIRMAN BRANSTAD: Commissioner Grasmick?

5 MS. GRASMICK: I'm supporting the  
6 amendment if I'm understanding it correctly, because  
7 we have LEAs that are not performing and not doing  
8 what they should do. And it's our only, in a sense,  
9 in some ways, our only leverage point.

10 MR. BARTLETT: Okay. To briefly respond,  
11 a state can pass it through to another LEA. They  
12 don't have to send it to the LEA that's not  
13 performing. The question here is whether the state  
14 would keep the money at the state level. A 90  
15 percent passthrough is in the aggregate, not for each  
16 of them.

17 MR. PASTERNAK: Right. But the reality  
18 is that you've got to build capacity. You know, one  
19 of the things that we've been talking about is the  
20 fact that states are not monitoring the compliance of  
21 the IDEA. You're asking for more dispute resolution  
22 to be done. Some of the things that you are asking

23

1 states to do, where is the money going to come from  
2 in order to implement those things at the SEA level?  
3 You've got to have -- you know, I understand that the  
4 LEAs provide services, but so do the SEAs. And so  
5 this is an opportunity to allow SEAs to do some of  
6 the things that are embedded within the report.

7 MS. GRASMICK: And I would like to just  
8 piggyback on those comments by saying it also allows  
9 us to restructure the delivery systems in LEAs  
10 without, excuse the expression, dumping the money.  
11 So that we can do things like mediation, et cetera  
12 with specific jurisdictions to build a better system,  
13 but we can do it incrementally and build that  
14 capacity.

15 CHAIRMAN BRANSTAD: Commissioner Chambers?

16 MR. CHAMBERS: As a matter of information,  
17 our best estimates suggest that the average state  
18 retains about 17 percent of the funds. That means  
19 those states are well in excess of that, some well  
20 below that. I really just put that forward as a  
21 matter of information. We were thinking that we  
22 wanted additional funds to flow through to the LEAs.

23



1 Maybe 90 percent is the wrong number. I guess I  
2 would like to see us have some language that suggests  
3 or pushes for an increased percentage of the funding  
4 going to the LEAs as opposed to being retained by the  
5 state.

6 But with respect to my colleague, would  
7 defer to what that percentage might be, my colleague,  
8 Commissioner Grasmick to be specific, and Dr.  
9 Pasternack.

10 CHAIRMAN BRANSTAD: Is there further  
11 discussion? Are we ready to vote on this? This is  
12 the Pasternack amendment. Those in favor of the  
13 amendment, signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTAD: Those opposed signify  
16 by saying nay.

17 (Chorus of noes.)

18 CHAIRMAN BRANSTAD: The ayes appear to  
19 have it.

20 MR. BARTLETT: Request a roll by show of  
21 hands.

22 CHAIRMAN BRANSTAD: Show of hands. Those  
23

1 in favor, raise your right hand.

2 (Show of hands.)

3 CHAIRMAN BRANSTAD: Those opposed, raise  
4 your right hand.

5 (Show of hands.)

6 CHAIRMAN BRANSTAD: The chair would rule  
7 that the ayes have it. We have several people that  
8 have abstained, and based on the hands that were  
9 raised, I --

10 MR. PASTERNAK: Thank you, Mr. Chairman.

11 MR. JONES: The last one we have is Hassel  
12 13.

13 CHAIRMAN BRANSTAD: The last amendment is  
14 Hassel 13. Yes?

15 MR. HASSEL: Just one point on that last  
16 one. That last recommendation is one of the bold  
17 recommendations in the Finance Section, so we'll also  
18 be striking it from the bold recommendations?

19 CHAIRMAN BRANSTAD: Yes. Would that be  
20 stricken from the bold recommendations as well? The  
21 amendment we passed, you said it is also in the bold  
22 recommendations. Is that the understanding?

23

1                   MR. PASTERNAK:  Let's take a look at  
2     that, Bryan, to make sure.

3                   MR. HASSEL:  On the original draft, page  
4     80, lines 19 through --

5                   MR. PASTERNAK:  It wouldn't strike it.  
6     It's the same thing.  You're okay.

7                   CHAIRMAN BRANSTAD:  So that's okay.

8                   MR. PASTERNAK:  Yes, it's okay.

9                   CHAIRMAN BRANSTAD:  Okay.  I'm going to  
10    have to leave.  I'm going to turn the chair over to  
11    Commissioner Bartlett and also the proxies that were  
12    given me I would also present to Commissioner  
13    Bartlett to complete work.  We're just about done.  
14    And in order not to miss my plane, I'm going to have  
15    to leave.

16                   But I want to personally thank all of you  
17    and I'm very sorry that I have to leave before we're  
18    just so close to done, but I've been very impressed  
19    with the caliber of people on this Commission and the  
20    commitment that you all have made and the outstanding  
21    work, and I feel real good about it, and I want to  
22    express my very great appreciation to all of you for

23

1 your good work and thank you very much.

2 With that, I'll turn it over to  
3 Commissioner Bartlett to continue. Commissioner  
4 Grasmick?

5 MS. GRASMICK: I just want to thank you  
6 for your leadership and for persevering with all of  
7 us. And I think we feel good about the product.

8 CHAIRMAN BRANSTAD: Well, thank you.

9 (Applause.)

10 CHAIRMAN BRANSTAD: I understand, I've  
11 been told that I've been invited to make  
12 presentations to the committees in the House and the  
13 Senate in July, so I guess I will try to do my very  
14 best to represent all of you and to represent the  
15 good work of the Commission when that comes forward,  
16 and if any of you have suggestions or advice in  
17 preparation for that, I stand ready and willing to  
18 listen to any assistance or suggestions that you  
19 might have. And again, thank you very much, and I'll  
20 turn it over to Commissioner Bartlett.

21 MR. HUNTT: My suggestion is you call in  
22 sick.

23

1 (Laughter.)

2 CHAIRMAN BRANSTAD: I have never done that  
3 in my life, and I am not going to do it now. Thank  
4 you.

5 MR. HUNTT: We wish you best of luck.

6 CHAIRMAN BRANSTAD: Thank you.

7 MR. BARTLETT: (Presiding) Thank you,  
8 Governor. Governor, we wish you well. We look  
9 forward to hearing what you say at the hearings in  
10 response to the various questions.

11 CHAIRMAN BRANSTAD: I hope nobody is  
12 surprised.

13 MR. BARTLETT: Now that the Governor has  
14 turned his proxies over to me, we'd like to re-vote  
15 that last one.

16 (Laughter.)

17 MR. BARTLETT: The Hassel amendment Number  
18 13 is in order. Commissioner Hassel?

19 MR. HASSEL: We heard a lot of testimony  
20 calling for increases in federal funding which we are  
21 actually calling for. One of the reasons we heard  
22 for increasing federal funding was that local

23

1 education agencies have a great fiscal impact from  
2 special education, and they want to relief from that.  
3 What this amendment would do is say that some of the  
4 increase in federal funding could go to reduce the  
5 fiscal impact of special education on LEAs. Now I  
6 know that is a controversial notion, because that  
7 goes against the maintenance of effort concept, but I  
8 think we should put it on the table.

9           If we're thinking about increasing federal  
10 funds, are we talking about only increasing the total  
11 size of the pie, or are we also talking about  
12 changing the allocation of funding between state,  
13 federal and local? And I think when people say we  
14 want full funding, some of them are saying we want a  
15 different share taken on by the federal government.  
16 Some people are just saying we want more money, and  
17 we should decide what we think about that.

18           This amendment says at least some of the  
19 increase would go to decrease local burden.

20           MR. HUNTT: Second for purposes of  
21 discussion.

22           MR. BARTLETT: The amendment is in order.

23

1 Any further discussion? Amendment to page 90 after  
2 line 14?

3 DR. PASTERNAK: I'm not sure what you're  
4 talking about in terms of reducing. I need a little  
5 clarification on what Bryan means by reducing the  
6 fiscal impact of special ed on LEAs.

7 MR. HASSEL: Perhaps the wording could be  
8 improved. My intent is to say, for example, that  
9 there was a billion new dollars put in by the federal  
10 government to special education. Some of that,  
11 Congress could say some of that is going to go to  
12 decrease what LEAs spend on special education from  
13 their own funds. It's going to replace -- supplant,  
14 would be the bad word that you would use.

15 DR. PASTERNAK: So your amendment would  
16 permit supplanting?

17 MR. HASSEL: Permit some supplanting.

18 DR. PASTERNAK: Okay. Then I would have  
19 to speak in opposition to that, given the current law  
20 that I'm charged with upholding.

21 MR. BARTLETT: Commissioner Butterfield?

22 MS. BUTTERFIELD: My concern, and I'm kind  
23

1 of reflecting back for a state like one -- a poorer  
2 state where it's been difficult to keep up with the  
3 costs for the LEA. And I don't see it as a matter of  
4 supplanting, but as we move forward, that the local  
5 effort doesn't necessarily have to be equal.

6 I'm looking at some of the smaller school  
7 districts have a difficult time, the poorer  
8 districts, and have been taking the costs on in order  
9 to get the federal funding when federal funding  
10 wasn't increasing it -- I'm not saying this  
11 correctly. But my concern isn't supplanting, it's as  
12 we move forward that there be some relief to the  
13 local district. I guess that's the term I want.

14 MR. BARTLETT: Commissioner Takemoto?

15 MS. TAKEMOTO: The reason I abstained,  
16 didn't join you, Commissioner Bartlett, on the last  
17 one was not because I don't support more money going  
18 to localities. It was because I don't support the  
19 percentage that I don't know what that's based on.  
20 So I'm wondering if we replace the words "to reduce  
21 the fiscal impact", it would be "to recognize the  
22 fiscal impact". You know, we recognize it costs

23



1 money to do this and we also support that money going  
2 to localities.

3 So I'm wondering if Commissioner Hassel  
4 would allow a friendly amendment to change "reduce"  
5 to "recognize".

6 MR. BARTLETT: Commissioner Hassel?

7 MR. HASSEL: My original wording might not  
8 be the best, but I don't know what it would mean to  
9 use money to recognize an impact. Is that what  
10 you're saying?

11 DR. PASTERNAK: Commissioner Bartlett,  
12 can I just offer a point of clarification? I believe  
13 that Commissioner Hassel is aware, but I want to make  
14 the rest of the Commissioners aware that under the  
15 current law, states are permitted, the LEAs are  
16 permitted to use 20 percent of their new money as  
17 local money. So there already is that opportunity.  
18 So I don't know if that is something that then you  
19 want to take into account in developing this  
20 recommendation, whether you're trying to get an  
21 increase in that particular provision of the IDEA or  
22 not. I just wanted to make you aware of that current

23

1 provision.

2 MR. BARTLETT: Commissioner Hassel?

3 MR. HASSEL: Commissioner Butterfield, do  
4 you have any thoughts on the 20 percent? Is that an  
5 adequate portion or is that too low?

6 MS. TAKEMOTO: I apologize for not knowing  
7 that fact and I think that's going to help.

8 DR. PASTERNAK: That's why I bring it up.  
9 You know, with all due respect, it's late. I think,  
10 you know, we've got -- if you're all right.

11 MR. HASSEL: Let's take it out.

12 DR. PASTERNAK: Outstanding.

13 MR. BARTLETT: Commissioner Hassel  
14 withdraws his amendment, and the seconder withdraws  
15 the second?

16 DR. PASTERNAK: That's you.

17 MR. HUNTT: Yes sir.

18 (Laughter.)

19 MR. BARTLETT: The next amendment is  
20 Commissioner Chambers on the one paragraph piece of  
21 paper. It's not labeled.

22 MR. CHAMBERS: Sorry about that.

23

1                   MR. BARTLETT: Commissioner Chambers,  
2     introduce your amendment and tell us what page it  
3     goes on.

4                   MR. CHAMBERS: Yes. Actually, let me find  
5     it in the original document. On page 88, there  
6     should be inserted just before -- page 88 -- just  
7     before line 22. What I'm trying to do is, in the  
8     past we've had studies of special education spending  
9     about once a decade. Actually the latest one was a  
10    little bit late, but approximately once every decade.

11                  Our experience at the Centers for Special  
12    Education Finance is that information on special  
13    education spending and spending on students with  
14    disabilities has been in high demand for the last few  
15    years, and I'm merely suggesting that OSEP and our  
16    illustrious Commissioner Pasternack consider doing  
17    studies of this nature a little bit more often than  
18    every ten years or every decade because of the  
19    importance of this information. I had also suggested  
20    collaborating with NCES to improve ways of collecting  
21    this kind of information on a more ongoing basis.

22                  MR. BARTLETT: Is there a second?

23

1 MS. GRASMICK: Second.

2 MR. BARTLETT: The motion is made and  
3 seconded. Is there further discussion? Secretary  
4 Pasternack?

5 DR. PASTERNAK: Mr. Chairman, based on  
6 the decision that we made earlier in terms of combing  
7 the report and pulling out research issues and making  
8 those part of the research agenda, I believe there  
9 already is several finance studies which have been  
10 requested of us to do. So I'm not sure if this is  
11 redundant to those recommendations, and I would  
12 respectfully ask Commissioner Chambers what he thinks  
13 about that.

14 MR. BARTLETT: Commissioner Chambers?

15 MR. CHAMBERS: I guess I just wanted to  
16 make sure that the language, I tried to clarify the  
17 language. If I'd be redundant, I'm perfectly  
18 comfortable as long as -- that the issue of ongoing  
19 studies, number one, and number two, the issue of  
20 having these studies done probably more than once a  
21 decade. You know, I don't know what the right number  
22 is. But I'd like that to at least be considered

23

1 here.

2 So there are really two issues going on.  
3 I think the other issue in terms of language, and I'm  
4 sorry for reiterating it, but I think it's so  
5 important, given the work that AIR has just completed  
6 on this or is in the process of completing, that we  
7 not just focus on special education spending but  
8 spending on students with disabilities. And I think  
9 that's something that was in the original RFP. I  
10 don't think it was discussed in that way.

11 MR. BARTLETT: Any further discussion?

12 (No response.)

13 MR. BARTLETT: Hearing none, proceed to a  
14 vote. All in favor of the amendment say aye.

15 (Chorus of ayes.)

16 MR. BARTLETT: Opposed, no.

17 (No response.)

18 MR. BARTLETT: Carried. That concludes  
19 the --

20 MR. HUNTT: Mr. Chairman?

21 MR. BARTLETT: Commissioner Hunttt?

22 MR. HUNTT: I have one technical amendment

23

1 that I'd like to add.

2 MR. BARTLETT: State your amendment.

3 MR. HUNTT: I would like to remove  
4 medically fragile, complex and high need children and  
5 replace it with children with significant  
6 disabilities throughout this section.

7 MR. BARTLETT: Is there a second?

8 VOICES: Second.

9 MR. JONES: Say that again.

10 MR. HUNTT: It essentially relates to  
11 person first language, more appropriate language.

12 MR. BARTLETT: Please repeat the  
13 amendment.

14 MR. HUNTT: To replace medically fragile,  
15 complex and high needs children with children with  
16 significant disabilities.

17 MR. BARTLETT: Any discussion?

18 (No response.)

19 MR. BARTLETT: Hearing none, proceed to a  
20 vote. All in favor say aye.

21 (Chorus of ayes.)

22 MR. BARTLETT: Opposed, no.

23

1 (No response.)

2 MR. BARTLETT: Carries. Any further  
3 amendments on the section to revitalizing special  
4 education finance for children?

5 (No response.)

6 MR. BARTLETT: If not, is there a motion  
7 to adopt the special education finance and close that  
8 section?

9 MS. GRASMICK: So moved.

10 MS. BUTTERFIELD: Second.

11 MR. BARTLETT: The motion is made and  
12 seconded. Any further discussion?

13 (No response.)

14 MR. BARTLETT: The chair hearing none, all  
15 in favor say aye.

16 (Chorus of ayes.)

17 MR. BARTLETT: Opposed, no.

18 (No response.)

19 MR. BARTLETT: It carries. We'll now  
20 return to the section on professional development  
21 with one amendment to that was still in order by  
22 Commissioner Bryan. Commissioner Bryan?

23

1                   MS. BRYAN: Thank you very much. You have  
2 a separate sheet. It has three paragraphs on it.  
3 There's no heading on it. The sentence begins,  
4 "Although there is currently not enough". It's a  
5 single sheet, three paragraphs. Begins "Although  
6 there is currently not enough", and it was handed to  
7 you an hour or so ago.

8                   Okay. Page 43 of the document where it  
9 says "teacher preparation" on line 7, lines 7 through  
10 16, I would propose deleting all of those and  
11 replacing them with the language in the sheet, which  
12 reads:

13                   "Although there is currently not enough  
14 strong research about the teacher characteristics  
15 which affect student achievement, we do know that  
16 certain factors have a strong effect in producing  
17 student achievement. A synthesis of research shows  
18 that teachers with higher levels of general verbal  
19 ability tend to be more effective, teachers who have  
20 developed knowledge of the subjects they teach by  
21 majoring in it in college are more effective,  
22 particularly for math and science in middle and high

23



1 school, and teachers who have had intensive  
2 professional development in the curriculum they are  
3 expected to transmit, are more effective. Teacher  
4 preparation institutes must move from folk wisdom,  
5 weak research and opinion on what are important  
6 characteristics for effective teachers and begin to  
7 focus on helping to strengthen the characteristics  
8 that have clear data as producing student gains." In  
9 place of --

10 MS. BUTTERFIELD: I move the amendment.

11 MR. BARTLETT: The motion has been made  
12 and seconded. Any further discussion? Commissioner  
13 Takemoto.

14 MS. TAKEMOTO: Would you entertain instead  
15 of "teacher characteristics", "teacher competencies"?

16 MS. BRYAN: Absolutely.

17 MR. BARTLETT: Accepted as a friendly  
18 amendment. The seconder accepts. Any further  
19 discussion?

20 (No response.)

21 MR. BARTLETT: The chair hearing none, all  
22 in favor say aye.

23

1 (Chorus of ayes.)

2 MR. BARTLETT: Opposed, no.

3 (No response.)

4 MR. BARTLETT: Carried. That concludes  
5 the section on -- there's another amendment to the  
6 section on professional development. Commissioner  
7 Takemoto?

8 MS. TAKEMOTO: I'm sorry. I thought that  
9 was done. It's somewhere in this pile.

10 MR. BARTLETT: Mr. Jones?

11 MR. JONES: I have the amendment.

12 MR. BARTLETT: Read the amendment.

13 MR. JONES: On page 44, line 25:

14 Students in today's classrooms are more  
15 diverse in ability, culture, language and learning  
16 needs. All too often we ask students to move from  
17 place to place to accommodate teacher qualifications  
18 rather than ask that teachers possess the ability to  
19 adapt to the individualized needs of diverse  
20 students. This has lead to, quote, "pull-outs",  
21 quote, and/or placements of students in special  
22 programs. It has also meant that students who do not  
23

1 meet eligibility requirements have no access to  
2 individualized instruction practiced by many special  
3 educators. Instead, they struggle in a one-size-  
4 fits-all educational setting that may not fit their  
5 learning needs. It is time for educational systems  
6 to recruit, train and support teachers who can apply  
7 research based and culturally competent practices to  
8 educating diverse students in their classrooms.

9 MR. BARTLETT: Is there a second?

10 MR. RIVAS: Second.

11 MR. BARTLETT: The motion is made and  
12 seconded. Commissioner Takemoto for discussion.

13 MS. TAKEMOTO: This is to incorporate much  
14 of what I think Commissioner Wright has been telling  
15 us throughout her tenure on the Commission, that we  
16 need to recognize students and adapt for culture  
17 competence.

18 MR. BARTLETT: Any further discussion?  
19 Commissioner Bryan?

20 MS. BRYAN: The very beginning sentences  
21 of the amendment I was comfortable with. I'm not  
22 comfortable when we get into essentially chastising

23

1 the schools for having pull-out programs that may in  
2 fact be strong instructional programs that may occur  
3 for, you know, an hour or two a day, that are very  
4 strong instructional programs.

5           So I'm comfortable with the beginning  
6 language, but I think it's getting far into detail  
7 about what instructional practice ought to look like,  
8 and I'd rather see it stop at a certain point. If  
9 the major point you want to make is -- and I can't  
10 put my hands on it either, so I'd have to take a look  
11 at it. But would you be willing to shorten it  
12 significantly to get to the main point?

13           MS. TAKEMOTO: I would be willing to take  
14 out the sentence that says "this has led to `pull-  
15 outs' and/or placements of students in special  
16 programs". I would still like to continue language  
17 that says it has meant that students who do not meet  
18 eligibility requirements have no access to  
19 individualized instruction practiced by many special  
20 educators. That we have a left a lot of students in  
21 regular education behind because regular education  
22 has not necessarily benefited from the skills that  
23

1 many special educators have, but --

2 MR. BARTLETT: Accepted as a friendly  
3 amendment? The seconder accepts the amendment? That  
4 elimination of that sentence and has been accepted as  
5 a friendly amendment. Any further discussion?

6 (No response.)

7 MR. BARTLETT: The chair hearing none,  
8 proceed to vote. All in favor say aye.

9 (Chorus of ayes.)

10 MR. BARTLETT: Opposed, no.

11 (No response.)

12 MR. BARTLETT: Carried. That concludes  
13 all amendments that were open with all sections I  
14 believe. So all sections have now been closed and  
15 adopted. Is there a motion for approval of the final  
16 report.

17 MR. HUNTT: So moved.

18 VOICES: Second.

19 MR. BARTLETT: The motion has been made by  
20 Doug Hunt and seconded by Cherie Takemoto. No?  
21 Second by Commissioner Grasmick. Discussion?  
22 Commissioner Takemoto?

23

1                   MS. TAKEMOTO:  Yes.  After yesterday's  
2   discussion about the executive summary, if we're  
3   closing task force reports, I'm happy to do that, but  
4   I have another item that has to do with the overall  
5   report.

6                   MR. BARTLETT:  This motion would adopt the  
7   report.  So there is now discussion in order for the  
8   adoption of the report.

9                   MS. TAKEMOTO:  Okay.  Then I would like to  
10  include -- I would like to request a little bit more  
11  time for the Commission to think through the  
12  underlying principles upon which I think we've  
13  operated that I've tried to keep notes on throughout  
14  the way, and I've given to the Executive Director  
15  some information that I think reflects what I heard  
16  as a Commissioner on this.

17                  MR. BARTLETT:  Proceed.

18                  MS. TAKEMOTO:  This list is not to -- this  
19  isn't to adopt the language, per se, but it is to  
20  adopt in principle some of the concepts that I think  
21  that we have practiced here on this Commission.

22                  Some overlying principles that I've heard

23

1 include parental empowerment, civil rights and high  
2 expectations for students with disabilities; culture  
3 of results over culture of process; endorsing No  
4 Child Left Behind, which specifically requires  
5 accountability for all students, especially students  
6 with disabilities; no IDEA funds without not  
7 accessibility but accountability; students with  
8 disabilities are regular education students first and  
9 special education students second; early  
10 identification and intervention for academic and  
11 behavioral problems in young children; and  
12 utilization of research-based instructional practice  
13 that lead to positive results for students with  
14 disabilities.

15 I just wanted to just check. Is this what  
16 we heard and in general what our recommendations  
17 support? Not to adopt the language, but to adopt the  
18 concept.

19 MR. BARTLETT: For discussion.  
20 Commissioner Hunt?

21 MR. HUNTT: Mr. Chairman, I think this  
22 speaks to the introduction and the utilization of

23

1 guiding principles. And I thought per our discussion  
2 yesterday that all of us would have input at a future  
3 date. So if I could amend the motion to adopt the  
4 report with the exception of the introduction, for  
5 which input would be provided at a later date.

6 MR. BARTLETT: The maker of the motion  
7 accepts and the seconder accepts. There's a friendly  
8 amendment to adopt the report with the provision that  
9 every Commissioner would have input into the  
10 introductory section.

11 MR. HUNTT: Yes. Thank you, Mr. Chair.

12 MR. BARTLETT: And the transmittal I  
13 suppose also?

14 MR. HUNTT: No.

15 MR. BARTLETT: Just the introductory  
16 section. So the motion as it now stands would be to  
17 adopt the report with the stipulation that each  
18 Commissioner would have input for the introductory  
19 section. Any further discussion?

20 (No response.)

21 MR. BARTLETT: The chair hearing none,  
22 proceed to a vote. All in favor say aye.

23



1 (Chorus of ayes.)

2 MR. BARTLETT: Opposed, no.

3 (No response.)

4 MR. BARTLETT: The report has been adopted  
5 unanimously. Congratulations. Commissioner Hunt?

6 MR. HUNTT: Mr. Chairman, before we  
7 adjourn, I just want to also, since we thanked the  
8 chair, I think we would be remiss not to thank the  
9 staff for their indulgence and all of their efforts  
10 on behalf of this Commission.

11 (Applause.)

12 MR. BARTLETT: Commissioner Grasmick?

13 MS. GRASMICK: I want to say one thing. I  
14 do want to thank Bob Pasternack, because I think  
15 without his wise guidance and preparation at every  
16 turn in the road, we wouldn't have done the job we've  
17 done. Thank you, Bob.

18 MR. BARTLETT: Any further accolades in  
19 order? If not, we stand adjourned.

20 (Whereupon, at 1:10 p.m. on Friday, June  
21 14, 2002, the meeting of the President's Commission  
22 on Excellence in Special Education adjourned.)