

substantive changes to the Education Consolidation and Improvement Act that are unacceptable, as well as amendments to the legislative veto provision of the General Education Provisions Act that I believe to be an unwarranted intrusion on the Executive branch's constitutional authority.

Among the unacceptable provisions is section 17(a)(1), which would declare the Federal government's assistance to disadvantaged Indian students under ECIA Chapter 1 to be a part of its trust responsibility toward Indian tribes. This provision is the same as one included in S. 2623, the Tribally Controlled Community College Assistance Act Amendments, from which I recently withheld my approval. The provision of Federal education assistance to Indian students is not characterized in law or treaty as a trust responsibility, and has not been held by the courts to be so. As I noted in my Memorandum of Disapproval on S. 2623, to declare the provision of education to Indian students a trust responsibility would potentially create legal obligations and entitlements that are not clearly intended or understood. This provision of H.R. 7336 is unnecessary to the administration of the Chapter 1 program.

Also unacceptable is section 16(b) of H.R. 7336, which would make certain amendments to a two-House legislative veto device presently contained in section 431 of the General Education Provisions Act. The Attorney General has advised me, and I agree, that two Houses of Congress cannot bind the Executive branch by passing a concurrent resolution that is not presented to me for approval or veto.

Another objectionable provision of H.R. 7336, section 1, would require continuation under Chapter 1 of the definition of a currently migratory child that was in use under the antecedent Title I program. This requirement would prevent the Administration from focusing the limited resources available for migrant services under Chapter 1 on those children whose education is actually interrupted as a result of their migrant status.

Other amendments in the bill relating to the Education Consolidation and Improvement Act could be construed to reinstate requirements and procedures contrary to the intent of the Act to provide greater authority and flexibility for State and local educational agencies.

My disapproval of H.R. 7336 in no way reflects upon the efforts of the author of this bill, Representative William Goodling, of Pennsylvania. Mr. Goodling worked closely with the Department of Education to clarify specific weaknesses in the Education Consolidation and Improvement Act and to reflect that effort in the House report language. Despite his efforts, there are substantive provisions in

H.R. 7336 that do not eliminate the ambiguities in the language of the existing ECIA and seem to restore undesirable complexity to the administration of ECIA programs.

Although the bill would make several desirable changes to the Education Consolidation and Improvement Act, the objectionable provisions far outweigh any of its benefits.

For these reasons, I cannot approve the bill.

RONALD REAGAN.

THE WHITE HOUSE, January 12, 1983.

H.R. 9 MEMORANDUM OF DISAPPROVAL

After careful consideration, I have determined, for the reasons stated below, to withhold my approval of H.R. 9. I regret that this action is necessary, because I support the designation of additions to the National Wilderness Preservation System in the State of Florida, as recommended by the Administration and set forth in this bill. My Administration has proposed almost two million acres of land for designation as wilderness and the unique natural habitat designated in H.R. 9 would be particularly valuable additions to the national wilderness system.

Although H.R. 9 is intended to resolve an issue that has been in contention during three prior Administrations, it does so in a way that is unnecessarily costly to the Federal taxpayer. Because of administrative actions taken earlier this week by the Secretary of the Interior, my disapproval of this legislation will not have the effect of permitting phosphate mining to proceed in the Osceola National Forest. I do not object to legislative efforts to preclude phosphate mining in the Osceola National Forest. I do object, however, to the provisions of this bill that would vest previously contingent property rights in certain mining companies. This could require the Federal government to pay those mining companies as much as \$200 million for those property rights—rights that, absent this legislation, might not otherwise have existed.

Specifically, this bill attempts to convey to several mining companies the rights to, and value from, 41 preference right lease applications for deposits of phosphates underlying the Osceola National Forest. Under present law, these mining companies are entitled to these mining leases only if the Secretary of the Interior determines that the phosphate deposits underlying this land are valuable deposits. H.R. 9 would establish property rights to the lease in specific companies by requiring the Secretary of the Interior, and ultimately the courts, to judge the lease applications without reference to the cost of compliance with current applicable statutory and regulatory requirements for environmental protection. Such re-

quirements include those established under the National Environmental Policy Act, the Clean Water Act, and the Clean Air Act. Hence, under this legislation, the determination of whether these phosphate deposits are "valuable" would not take into consideration the cost of returning the Osceola National Forest lands to their natural state as required by current law.

This Administration is opposed to a policy of conveying interests in public resources by waiving applicable statutory requirements that are designed to protect the environment.

Moreover, having required the mineral rights to be conveyed to the companies by the Secretary of the Interior, this bill would then prohibit mining on the leases and require the Federal government to purchase the conveyed lease rights back from the companies. Thus, the bill would, in effect, force Federal purchase of rights that under current law would remain in Federal ownership in the first place.

Analyses available to the Department of the Interior indicate that no current technology is capable of returning the mined lands to the reclamation standards required by current Federal laws and regulations. The Department of the Interior is faced with an administrative record regarding restoration that demonstrates that the applicant mining companies cannot meet the valuable deposit test required by current law for lease issuance. Consequently, the Secretary of the Interior has advised me that, based on that administrative record, mining should not now take place in the Osceola National Forest, and that he has rejected the preference right lease applications.

However, because H.R. 9 specifies a less strenuous standard than current law, the lease applicants would most likely be found to have met the valuable deposit test were this measure to become law. The Department of the Interior would then have to determine the fair market value of the interests and extend monetary credits to the lease applicants. Further, though the bill provides that the fair market value is to be determined by taking into account all environmental laws, any Secretarial action valuing these leases in a way adverse to the applicants' expectations would likely result in costly litigation, and the possible recovery in the United States Claims Court of payments to these companies for loss of their "rights" in public resources to which they would not be entitled absent this legislation.

The administrative decision process, necessary under current law to resolve this issue, is being brought to conclusion under my Administration. To the extent that further litigation is entered into on this issue, it should be

decided under current law applicable to all similar cases.

RONALD REAGAN.

THE WHITE HOUSE, *January 14, 1983.*

H.R. 3963—MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 3963, a bill concerning criminal law matters, because its disadvantages far outweigh any intended benefits.

In late September 1982, the Senate overwhelmingly approved a major crime bill by a vote of 95 to 1. That measure, the Violent Crime and Drug Enforcement Improvements Act of 1982 (S. 2572), would have resulted in urgently needed reforms in Federal bail laws to put an end to our "revolving door" system of justice, comprehensive reforms in Federal forfeiture laws to strip away the enormous assets and profits of narcotics traffickers and organized crime syndicates, and sweeping sentencing reforms to insure more uniform, determinate prison sentences for those convicted of Federal crimes. That major crime bill also contained other criminal law reforms. I strongly supported the principal elements of the Violent Crime and Drug Enforcement Improvements Act, especially the bail, sentencing, and forfeiture provisions.

The House of Representatives failed to approve this measure. It adopted a miscellaneous assortment of criminal justice proposals, H.R. 3963, which was approved in the waning hours of the 97th Congress. Although some elements of the House-initiated bill are good, other provisions are misguided or seriously flawed, possibly even unconstitutional. While its provisions on forfeiture of criminal assets and profits fall short of what the Administration proposed, they are clearly desirable. Had they been presented to me as a separate measure, I would have been pleased to give my approval. But H.R. 3963 does not deal with bail reform, nor does it address sentencing reform. Both are subjects long overdue for congressional action.

In addition to its failure to address some of the most serious problems facing Federal law enforcement, this "mini-crime bill" would in several respects hamper existing enforcement activity. I am particularly concerned about its adverse impact on our efforts to combat drug abuse.

The Act would create a drug director and a new bureaucracy within the Executive Branch with the power to co-

ordinate and direct all domestic and international Federal drug efforts, including law enforcement operations. The creation of another layer of bureaucracy within the Executive Branch would produce friction, disrupt effective law enforcement, and could threaten the integrity of criminal investigations and prosecutions—the very opposite of what its proponents apparently intend.

The seriousness of this threat is underscored by the overwhelming opposition to this provision by the Federal law enforcement community as well as by such groups as the International Association of Chiefs of Police and the National Association of Attorney's General. The so-called "drug Czar" provision was enacted hastily without thoughtful debate and without benefit of any hearings. Although its aim—with which I am in full agreement—is to promote coordination, this can be and is being achieved through existing administrative structures.

Upon taking office, I directed the Attorney General and other senior officials of the Administration to improve the coordination and efficiency of Federal law enforcement efforts, with particular emphasis on drug-related crime. This has been accomplished through the establishment of the Cabinet Council on Legal Policy, which is chaired by the Attorney General and whose membership includes all Cabinet officers with responsibility for narcotics law enforcement. Working through the Cabinet Council, the White House Office on Drug Policy is an integral part of the process by which a comprehensive and coordinated narcotics enforcement policy is carried out.

I am pleased with the results of this process, which last Fall led to the creation of a nationwide task force effort to combat organized crime and narcotics trafficking. The war on crime and drugs does not need more bureaucracy in Washington. It does need more action in the field, and that is where my Administration will focus its efforts.

H.R. 3963 would also authorize the Federal prosecution of an armed robber or burglar who has twice been convicted in State court. This provision includes an unworkable and possibly unconstitutional restraint upon Federal prosecutions in this area, by

allowing a State or local prosecutor to veto any Federal prosecution under his or her authority, even if the Attorney General had approved the prosecution. Such a restraint on Federal prosecutorial discretion and the delegation of Executive responsibility it entails raise grave constitutional and practical concerns. It would, for example, surely increase friction among Federal, State, and local prosecutors at a time when we are doing so much to decrease it.

Other provisions of H.R. 3963 are also defective. For example, the provision that expands Federal jurisdiction whenever food, drugs, or other products are tampered with, an expansion that I strongly support, was drafted to include tampering that occurs in an injured consumer's own home. It also fails to distinguish between tampering that results in injury and tampering that results in death. These are, however, essentially technical matters which might have been overcome but for the press of time in the closing days of Congress. I share the widespread public desire for new legislation on tampering and will work with the new Congress to produce an acceptable bill on that subject.

My Administration has proposed significant legislation to strengthen law enforcement and restore the balance between the forces of law and the forces of crime. Changes in sentencing, bail laws, the exclusionary rule, the insanity defense, and other substantive reforms in criminal law were not passed by the 97th Congress. Such reforms, if enacted, could make a real difference in the quality of justice in this country.

It would have given me great pleasure to be able to approve substantive criminal justice legislation. I completely support some of the features of H.R. 3963, such as the Federal Intelligence Personnel Protection Act. Others I agree with in principle. But the disadvantages of this bill greatly outweigh its benefits. I look forward to approving legislation that does not contain the serious detriments of the present bill, and my Administration will work closely with Chairman THURMOND and Chairman RODINO to secure passage of substantive criminal justice reforms.

RONALD REAGAN.

THE WHITE HOUSE, *January 14, 1983.*