UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS
FIRST SESSION

VOLUME 115—PART 18

AUGUST 13, 1969, TO SEPTEMBER 10, 1969
(PAGES 23659 TO 25124)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1969

of the client or his cause, and without external review of its decisions in particular cases.

5. A prompt review of refunding and evaluation procedures to insure their objectivity, to insure that no program can be terminated or denied refunding without full consideration and an opportunity to be heard, and to insure that no program will be without operating funds in the process.

6. A prompt review and revision of policy-making organs and procedures for the legal services program to provide for the participation of attorneys at the project staff level.

We request your answer to the foregoing in writing by Tuesday noon, and we look forward to discussing your response with you in person next Thursday.

Very truly yours,

CAROL RUTH SILVER.

Mr. MONDALE. Mr. President, a resolution adopted at the annual meeting of the American Bar Association in Dallas, Tex., in late August, voices the same concern over the interference by Government officials with the activities of organizations providing legal services. I ask unanimous consent that the ABA resolution be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, attacks against Legal Aid and Legal Services lawyers and other lawyers threaten the rights of clients to have independent advocates;

Now, therefore, be it resolved, That the American Bar Asscoiation supports and continues to encourage every lawyer in the exercise of his professional responsibility to represent any client or group of clients in regard to any cause no matter how unpopular; and

Further resolved, That the American Bar Association deplores any action or statement by any government official who attempts to discourage or interfere with the operation or activities of any properly constituted organization which provides legal services to the community because the lawyers associated therewith, or any lawyer acting in good faith and within the confines of ethical conduct, zealously represent clients in matters involving claims against a government entity or individuals employed thereby.

Mr. MONDALE. Mr. President, my second amendment to S. 1809 is intended to ease the restrictions on criminal representation by OEO legal services attorneys. The present Economic Opportunity Act provides for no criminal representation except "in extraordinary circumstances where, after consultation with the court having jurisdiction, the Director has determined that adequate legal assistance will not be available for an indigent defendant unless such services are made available." The amendment I propose would remove the words "in extraordinary circumstances" with the intent that the Director would allow criminal representation in a variety of legitimate circumstances if the local legal services attorneys request it and obtain court approval.

The various circumstances for criminal representation by the civil-oriented legal services programs might include cases arising in rural areas where public defenders are not readily accessible, cases connected with civil suits filed by legal services such as arrests for trespass after a welfare rights sit-in or civil suits for damages from brutal treatment or false arrest against the police, or preliminary hearings on criminal charges when obtaining the services of an attorney rapidly is of crucial importance.

Of course, I do not intend for this amendment in any way to force criminal cases on legal services programs which are already overburdened. However, in many instances legal services programs find their effectiveness and credibility in a community undermined because they cannot provide legal assistance when a member of the community most needs it, when he has been arrested.

The third amendment increases the Federal support for all of the legal services programs from 80 to 90 percent. The remaining percentage or the "local share" must be raised by each director from local sources. The Federal Government supplied 90 percent of the funding for all programs until June 30, 1967; my amendment proposes a return to the original formula for Federal-local sharing.

Many legal services programs obtain their share through "in kind" contributions of time from local attorneys. In some areas of the country it is difficult to find volunteers to assist the programs; in other areas, such as the Deep South, it is nearly impossible.

Other legal services programs are assisted by local United Funds. United Fund support may lead, however, to conflict of interest problems. In Oklahoma City the local share raised through the United Fund was withdrawn promptly when the legal services program filed a suit against the local housing authority in Federal court. In Los Angeles local contributors advised the University of Southern California that they would withdraw their financial support if the university-sponsored legal services pursued litigation it had filed against the local police department.

The fourth proposal allows the Director of the Legal Services programs the discretion to increase the maximum salary limitations for staff attorneys. The present top salary for the community action program, of which legal services has been an administrative part, is $15,000. The CAP Director may approve higher salaries for specialized or professional skills in exceptional cases, particularly in metropolitan areas with higher local salary levels. In practice, it has often been difficult for local legal services programs to obtain salary waivers from the CAP.'s

Salaries for attorneys have been steadily increasing. Beginning salaries for law school graduates in New York and Washington are at the maximum level for legal services programs. If legal services intends to recruit in the national market for "poverty law" specialists or experienced trial and appellate attorneys, the Director needs the clear-cut authority to pay higher salaries.

At this time I do not believe there is a need for an across-the-board salary increase for legal services attorneys. I do believe the authority to increase the maximum salaries will attract experienced, capable attorneys to the program and will keep attorneys who have gained expertise in "poverty law" with the programs.

The fifth amendment prevents delegation of the Office of Economic Opportunity's legal services to any other existing Federal agency. I can foresee a time in the future when legal services may be an autonomous Federal agency. For the time being, however, I believe that legal services should be continued as a part of the Office of Economic Opportunity where conflict of interest problems are at the minimum.

Delegation of legal services to the Department of Health, Education, and Welfare or to the Justice Department, suggestions I have heard, present many possible conflicts of interest. One of the major areas where local legal services have pressed reform is in welfare; if legal services became part of HEW, suits such as those which questioned the constitutionality of the "man-in-the-house" rule would be impossible.

The Justice Department represents the Federal Government in any suit against the United States. Legal services programs throughout the country have represented indigents in suits against the Federal Government. The bar association canons of ethics would prevent Justice Department attorneys from representing both parties in a lawsuit. The effect of delegating legal services to the Justice Department means that legal services programs will not be able to represent indigents in suits against the United States.

The American Bar Association resolution I discussed earlier supports legal services attorneys who "acting in good faith and within the confines of ethical conduct, zealously represent clients in matters involving claims against a government entity or individuals employed thereby." My amendment is intended to prevent the delegation of legal services to another existing Government agency because I fear such a delegation will end legal representation for poor people who have claims against the Federal Government.

CONTINUATION OF PROGRAMS AUTHORIZED UNDER THE ECONOMIC OPPORTUNITY ACT OF 1964—AMENDMENT

AMENDMENT NO. 152

Mr. MONDALE. Mr. President, I submit an amendment to S. 1809, which I intend to propose during the upcoming executive sessions of the Employment, Manpower, and Poverty Subcommittee devoted to the consideration of bills to extend the Economic Opportunity Act. My amendment would raise the authorization of Project Headstart, included in Senator NELSON'S bill, to $578 million—an increase of $240 million.

I ask unanimous consent that this amendment be printed in the RECORD at the close of my remarks.

The VICE PRESIDENT. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment will be printed in the RECORD, as requested by the Senator from Minnesota.

(See exhibit 1.)

Mr. MONDALE. Mr. President, the need for this immediate yet modest increase in the authorization became evident during the recent hearings which

the Employment, Manpower, and Poverty Subcommittee held on S. 2060, the Headstart Child Development Act of 1969. It is reinforced by an understanding of the administration's proposals to substitute full-year Headstart programs for many of the summer Headstart programs which are currently being funded.

The overwhelming thrust of the testimony on S. 2060 was that we now know more than enough about ways to prevent proverty from crippling children's intellects to begin acting on this knowledge. The testimony pointed to the critical effects of the first years of life, the way poverty and deprivation can prevent a child from reaching his full potential, and the effectiveness of early childhood programs which provide health care, nutritional aid, and educational stimulation to impoverished children. The hearings revealed, very simply, that by adequately funding many of the very promising early childhood efforts that can now be mounted, we can prevent the cycle of poverty from being passed down from generation to generation.

While few would contend that we have found all the solutions to early childhood problems, these hearings clearly indicated that we know how to prevent a great deal of nutritional, health, and intellectual damage from occurring. They revealed that we know that by providing health care and nutritious diets to infants and young children, we can prevent and correct conditions that otherwise could damage, and that by providing proper educational stimulation we can help disadvantaged children get a more equal start in school. They showed, in short, that we know a great deal about how to help poor children gain a better chance to reach their full potential.

The Headstart Child Development Act of 1969—the subject of these hearings—was designed to greatly increase our commitment to early childhood and our ability to fund adequate efforts in this area. It provides authorizations of $1.2 billion in 1970, increasing to $5 billion by 1974, so that, in combination with other programs, substantive early childhood programs from birth to age 6 could be made available to all needy children. It provides funds for the rental, purchase, alteration, renovation, and construction of necessary facilities for early childhood efforts. It provides training opportunities for professionals and nonprofessionals in early childhood development.

It is my hope that the bill will be the suoject of further hearings this fall as the subcommittee continues its thorough review of the needs and potentials in early childhood. I continue to support it as a realistic and necessary effort that will be required to give substance to the "new national commitment to the crucial early years of life" that President Nixon has proclaimed. I remain pledged to the goal of early enactment and adequate funding of S. 2060.

In the interim, and as an important stopgap measure, I introduce this amendment calling for a moderate increase in the authorization levels for Project Headstart that are included in Senator NELSON's bill to extend the Economic Opportunity Act. The specific figures requested in this bill are based on an understanding of the value in the administration's proposed movement from summer programs to full-year Headstart programs, and also on a very firm belief that this shift must not lead to a substantial reduction in the number of children receiving Headstart services. Very simply, I do not believe that knowledge which suggests full year programs are more effective than summer programs permits us to decrease the number of children we are serving by Headstart. On the contrary, I think we have a responsibility to make early childhood development services available to considerably more impoverished children, and S. 2060 would do just that. But at a very minimum, I believe we have a responsibility to at least maintain the current level of Headstart opportunities while we seek to make these Headstart opportunities more promising and hopefully more effective.

It is my understanding, however, that the administration's proposal to shift the Headstart focus from summer programs to full-year programs involves a substantial limitation of the Headstart program as we know it. Indeed, while the administration proposes to increase year-round Headstart opportunities from 214,000 to 249,800—an increase of some 36,000—to accomplish this increase they would cut in half the summer Headstart opportunities from the current 450,000 to only 225,000. In sum, the administration's proposals for fiscal year 1970 mean that there will be Headstart opportunities for approximately 190,000 fewer children than there were this past year.

I do not believe that such a cutback can be justified. Just as we are learning more about effective ways to help disadvantaged young children, it seems unfair and unwise to propose serving fewer children.

My amendment is designed to permit this shift from summer programs to full-year programs to occur without requiring a cutback in the scope of the program. In other words, my amendment seeks to provide programs of more substance to at least the same number of children receiving services today, rather than to provide programs of more substance to substantially fewer children than are receiving services today.

The mathematics of the cost of converting summer programs to full-year programs are quite clear. It costs approximately $800 more to provide a full-year Headstart experience than it does to provide a summer Headstart experience. Based on the rather conservative estimate that 300,000 of the current 450,000 summer Headstart slots could be converted to full-year programs by the end of 2 or 3 years, this conversion would cost approximately $240 million. My amendment would permit this amount of conversion to take place without requiring any cutback in the number of Headstart opportunities that are available to disadvantaged children.

I am hopeful that by authorizing this additional amount for the Headstart program we can keep open the possibility that a cutback in Headstart will not be required, and that by appropriating sufficient funds each year, we can guarantee that such a step backward will not occur.

The amendment (No. 152) submitted by Mr. MONDALE, was referred to the Committee on Labor and Public Welfare, as follows:

EXHIBIT 1

AMENDMENT No. 152

On page 2, line 14, strike out "$2,180,000,000" and insert in lieu thereof "$2,420,000,000"

On page 2, line 23, strike out "$1,032,700,000" and insert in lieu thereof "$1,272,700,000".

On page 2, line 24, strike out $338,000,000" and insert in lieu thereof "$578,000,000".

AMENDMENT OF SOLID WASTE DISPOSAL ACT—AMENDMENT

AMENDMENT NO. 153

Mr. BOGGS. Mr. President, for some time many of us have been concerned about this country's lack of a national materials policy—one that would allow the United States to use more effectively its resources and technology, to anticipate future needs and to improve environmental quality and conserve materials.

I have been interested in this subject primarily as it affects our environment. One of the most reasonable methods of preventing the clutter that threatens our streams and roadsides, I am convinced, lies in the development of materials and technology which would allow for the recycling of solid wastes.

During the last 2 years I have had the good fortune to be the recipient of two very knowledgeable reports on this subject. The first, published by the Committee on Public Works in January of 1968, was a survey of the "Availability, Utilization and Salvage of Industrial Materials."

The second, published this year by the committee, is titled "Toward a National Materials Policy." This report was written by a group of some of the most outstanding men in our materials community, representing government, private industry, and private research groups.

After a detailed description of our lack of any coherent policy regarding materials, the report recommends the establishment of a national commission on materials policy. Such a commission would be charged with a full study of a possible national materials policy which would include:

Projected national and international materials requirements;

The relationship of materials policy to national population and the enhancement of environmental quality;

Recommended means of development of materials susceptible to reuse;

Opportunities and incentives for the free enterprise system to complement and further national materials policy;

Means to effect coordination and cooperation among Federal departments and agencies in materials usage; and

The desirability of establishing computer inventories of national and international materials requirements, supplies, and alternatives.