only be obtained by a majority of each body, and despite my misgivings in some respects, I believe that the conference report envisages that the conference report, taken as a whole, as we must take major legislation of this kind, contains features of a wholesome nature which outweigh the features which, I consider to be of an undesired nature.

For these reasons, despite the fact that I do not approve of all the provisions in the legislation which the conference report will bring into being, I feel that it is my duty, under the circumstances, to support the result of it. I believe fervently that this is not a children's issue, and, therefore, I expect to vote in favor of its adoption when that question comes before the Senate.

Mr. PELL. I thank the distinguished Senator from North Carolina for his interpellation and I am delighted at his support.

Mr. TALMADGE. Mr. President, once again the children of Georgia and the children of the South are being asked to accept the short end of the stick. Once again, the Senate of the United States has turned into second-class citizens in the world of education. It is ironic to me that this should occur in a time when so much is said about equality of opportunity.

The inherent unfairness of the conference report can be clearly shown by comparing the provisions contained in section 802a to those contained in section 804.

The latter section is what is left of an amendment I introduced when the Senate first considered this bill. Had it not been for my amendment, no provision at all would have been made for children who were locked in under final busing orders. Apparently, their plight had escaped the attention of the committee which reported this bill. Section 804 allows existing busing orders to be challenged.

The time or distance of travel is so great as to risk the health of the student or significantly infringe on his or her educational process.

The same language appears in section 802a. This section is the one which provides protection for children throughout the rest of the country who are not yet subject to final busing orders. Keeping this in mind, it is indeed significant to note that they are afforded one additional protection; namely—

Where the educational opportunities available at the school at which any such student is enrolled is substantial, then the student shall be transported to a school or schools that are substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned.

Now, then, Mr. President, what do these language mean? It seems to me that these children cannot be bused if the school to which they are being bused is worse than the school which they are leaving. This is commendable, Mr. President, and it makes good sense.

Busing should not be employed when the net result of it is to expose a child to a poorer education than the one he left behind him. Certainly, it is abysmal and even criminal to spend the taxpayers' money to secure for a child an education inferior to the one he was getting before the money was spent.

Mr. PELL. I suggest that this is the fact that the conference report envisages, and the reason I say even angers me is the fact that the conference report envisages this protection to the children of my State who are locked in under final busing orders.

Apparently, it is perfectly all right to bus a Southern child to a school which is worse than the one he left. It is equally clear that such a practice is to be prohibited for children outside of the South. This would seem to me to be a perfect textbook example of calculated discrimination resulting directly from State action. For this reason I feel that the conference report as a whole, as we must take major legislation of this kind, contains features which I consider to be of an undesired nature.

When such discrimination as this is handed to me and I am asked to swallow it on behalf of my constituents in the name of quality education, it is more than I can do. I cannot go home and face the people of my State and tell them that I succumbed without a fight to legislation which allowed their children to be bused to inferior schools, and protected children all across the Nation from the same fate.

I devotedly share the desire for educational excellence which has been expressed on other quarters of the floor today. Like any other Senator in this Chamber, I want the best that I can get for my constituents. I doubt that any Member of this Senate would stand passively aside and allow the children of his constituency to be treated in such a shabby, unfair, and discriminatory fashion. I know that I am unable to swallow this bitter dose silently in the name of lofty ideals expressed by the representatives of those who were not asked to take the same medicine.

Mr. President, would the Chair notify me when I have used 8 minutes of my time?

The PRESIDING OFFICER (Mr. COTTON). Without objection, it is so ordered.

Mr. PELL. Mr. President, I thank the Senator from Rhode Island very much.

Mr. President, would the Chair notify me when I have used 8 minutes of my time?

The PRESIDING OFFICER. The Chair will be glad to do so.

Mr. STERNIS. Mr. President, I thank the Senator from Rhode Island very much.

Mr. President, the measure before us, S. 659, covers the entire spectrum of Federal financial assistance for our public education programs at all levels. This legislation includes amendments to, extension and additional authorizations for the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, the Elementary and Secondary Education Act of 1965, the Elementary and Secondary Education Act of 1968, the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and other purposes.

Mr. PELL. Mr. President, I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 10 minutes.

Mr. STERNIS. Mr. President, I thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 10 minutes.

Mr. PELL. Mr. President, I thank the Senator from Rhode Island very much.

Mr. President, would the Chair notify me when I have used 8 minutes of my time?

The PRESIDING OFFICER. The Chair will be glad to do so.

Mr. STERNIS. Mr. President, I thank the Chair very much.

I commend the Senator from Rhode Island for the long, hard hours he has put in on this conference report. As always, he is a skillful legislator. I do not agree with him on many major points. However, I admire greatly his work and the skill he shows in fulfilling his responsibilities and obligations to the Senate.

Mr. PELL. Mr. President, I thank the Senator very much.

Mr. STERNIS. Mr. President, the measure before us, S. 659, covers the entire spectrum of Federal financial assistance for our public education programs at all levels. This legislation includes amendments to, extension and additional authorizations for the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, the Elementary and Secondary Education Act of 1965, the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and other purposes.

Mr. PELL. Mr. President, I thank the Senator very much.

Mr. STERNIS. Mr. President, the measure before us, S. 659, covers the entire spectrum of Federal financial assistance for our public education programs at all levels. This legislation includes amendments to, extension and additional authorizations for the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, the Elementary and Secondary Education Act of 1965, the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, the Elementary and Secondary Education Act of 1965, Public Law 874, and many other programs, including some new education programs. This bill provides the authority and establishes the level of Federal
support for such programs for the next several fiscal years. If the bill is not enacted, some of the programs will not exist and others will have insufficient financial support.

The conference report before the Senate for consideration here is far from perfect. There are many features of the conference report, and the massive bill itself, which I do not approve, and if these particular matters were standing alone in separate bills, I could not support them. For instance, I had hoped for stronger antibusing restrictions. Some of the antibusing of our schoolchildren and I would much prefer approval of the House amendments relating to busing than the amendments approved by the conference. This is a measure, an example, of one of the many flaws to which I refer.

Yesterday, I supported the motion by the Senator from Michigan (Mr. Grass) seeking to recommit the conference report to the conference with certain instructions relating to acceptance of the House amendments against busing. Unfortunately, it was a matter for the motion to recommit the conference report and themotion to table carried by a vote of 44 to 26. I voted against the motion to table, because I wanted the bill to be sent back to the conference in the hope that stronger antibusing measures would prevail in the reconvened conference.

That matter is not before us now and the only question before the Senate now is whether the Senate will approve the conference report, making it possible to have an education bill this year, or whether the Senate will reject the conference report, leaving the entire matter open to question. There is the chance, of course, that if the Senate approves the conference report, the House may not do so or might recommit the conference report for further consideration by the conference.

Mr. President, if the House does take action, I believe a better bill could possibly come out of the reconvened conference. And if it does on this subject that I have mentioned, I would be glad to support it.

On balance, considering all the factors and the issue now before the Senate, I think the needs for additional Federal financial assistance for education at all levels are so great that I should support the conference report and I will so vote. I have stated, the bill is far from perfect and I am not in keeping with the conference report, but there are two basic principles included in the bill and in the conference report, to a marked degree, for which principles I have waged a continuous fight for several years. For the first time, these basic principles will have been finally included in a final legislative act if this bill is approved by the Congress.

First, I refer, of course, to the basic principles of the Stennis amendment, which I introduced 2 years ago calling for a legislative act that would apply uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of local education agencies of any State without regard to the origin or cause of such segregation.

Second, I refer to a measure of congressional control and restrictions on unnecessary and unreasonable forced busing of our schoolchildren, in all too many instances apparently solely to satisfy the whims of some social statistician that there must be some kind of racial balance established in every school of every school district in the South. For the first time, this is enacted into law, Congress will have recognized that this is a national problem which must be solved and that have taken affirmative steps toward correcting the situation. I am disappointed that strongly antibusing measures will not be put on the floor of the Senate and Conference and that the conferees are not able to put such stronger action and especially recommend the amendments approved by the House on these subjects. But at least the first step has been taken, which I predict will lead to some important restrictions and actions which will offer some relief and lead to additional action later. For the first time, Congress has recognized that forced school busing without parental consent is frequently injurious and hazardous to the health and well-being of children and is subject to regulation and control by the Congress. This also takes into account the severe and often irreparable damage done to the educational processes and the education system by long miles of busing to strange areas and classrooms, severely hampering and interfering with the proper academic atmosphere for our children to learn and attain the education they must have. This action by the Congress, although it does not go as far as I would have liked, is an effective beginning and opens the door and paves the way for the conferees and for Congress to strengthen this measure and to support it.

With reference to the Stennis amendment, I originally introduced this amendment in 1970 as an amendment to the pending Elementary and Secondary Education Act. My amendment, in its pure form, read as follows:

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Act of 1965 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

As the Senate will recall, the debate on my amendment was extensive, complete and called the attention of the Nation for the first time to the extent of segregation in the North and West and the unreasonable double standard that had been followed by the courts, the Department of Health, Education, and Welfare and the Justice Department in enforcing desegregation in the South and totally ignoring similar and frequently worse conditions of segregation in the North and West.

During the Senate debate, the courageous Senator from Connecticut (Mr. Ribicoff) joined with me in sponsoring the amendment referring to the situation in the North as "monumental hypocrisy." During the debate the Senate amended my original amendment to include the words "whether de jure or de facto" immediately preceding the phrase "in the schools of the local education agencies of any State without regard to the origin or cause of such segregation."

The Stennis-Ribicoff amendment was approved by the Senate by the overwhelming vote of 56 to 36. In that year, the House bill had no similar language. When the House-Senate conferees met they scuttled the amendment completely, turned it around 180 degrees, adding language which provided that instead of one uniform national policy, as the Senate had approved, there would be two policies, one for de jure segregation and words for segregation in the South, a theory long since outmoded and exploded, and a second policy for de facto situations, code words for segregation in the North.

Senator Ribicoff moved to recommit the conference report for the purpose of reconsidering the Stennis amendment, but that motion to recommit failed and the conference's version of the Stennis amendment was signed into law on April 13, 1970, as Public Law 91-230.

Last year when the Senate had before it the Emergency School Aid and Quality Integrated Education Act of 1971, the Stennis-Ribicoff amendment was offered again in the same words as previously approved by the Senate, adding only the phrase "and this title" so that it would apply to the pending bill. At the subcommittee rate, and the Senator approved the amendment, for the second time, by a vote of 44 to 34, reaffirming its preference and support for the original wording of the Stennis-Ribicoff amendment.

When the bill reached the House, the House committee approved substantially similar language, leaving out references to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Act of 1966 and also omitting the words "whether de jure or de facto." This action was approved by full House committee and so far as I can determine, was not even discussed on the floor of the House. After passage by the House, the bill with its amendments, combined with the higher education bill, was returned to the conference committee, which reported the complete bill, with the Stennis amendment in the same form as originally passed by the Senate and the complete bill was passed by the Senate in that form.

Therefore, the matter before the House-Senate conference relating to the Stennis amendment was to work out the differences between the amendment approved by the Senate on the one hand, and the language approved by the House on the other hand. The alternatives were to add to the Senate amendments the additional Senate language, in whole or part, or to delete from the Senate language those words not included in the House language, in whole or part. Of course, the conference could, in lieu of this more obvious and logical approach, adopt both amendments, leaving out of the Senate language the words "and this title," This is what the conference did.

The language of the conference report

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speaks for itself. It is clear that the Senate has approved and the House has approved a policy for the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and the Elementary and Secondary Education Act and the Emergency School Aid Act now pending shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

That is what the conferees have done and that language speaks for itself. For the first time, if this conference report is adopted and the bill is signed into law, we will have a uniform national policy in school desegregation matters. Northern, Southern, and West applied uniformly without regard to the origin or cause of such segregation. That is the Stennis amendment, pure and simple. The conferees have approved uniformly in all regions of the United States and the Elementary and Secondary Education Act and the Emergency School Assistance Program. Title VI of the Civil Rights Act of 1964.

This amendment, as included in the conference report, is a form of legislation which I have offered would have brought uniformity to the enforcement of the law in the schools of the United States. It is a form of legislation which I have offered would have brought uniformity to the enforcement of the law in the schools of the United States. It is a form of legislation which I have offered would have brought uniformity to the enforcement of the law in the schools of the United States.

In any event, the Stennis-Ribicoff amendment has been approved by the conferees and I expect to remain constantly informed as to the steps taken by the Department of Health, Education, and Welfare, the Justice Department and other Federal agencies to make certain that all of the objectives of congressional policy is complied with fully.

In view of all these considerations, I am going to support the conference report to S. 695 with the hope and belief that this measure is a step forward and takes real affirmative action for a national policy to get our public schools back to their proper role of educating our students without unreasonable and unnecessary outside control and interference in matters having nothing to do with education.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL. Mr. President, I yield the Senate two additional minutes.

The PRESIDING OFFICER. The Senator is recognized for two additional minutes.

Mr. STENNIS. Mr. President, I have conferred at length by telephone with my colleague, the Senator from Mississippi, who is unavoidably detained from the Chamber today. He authorizes me to say for him that on the points I have enumerated here, and for the reasons given, if he were here he would vote for the presidential conference report under these circumstances with the same hope for future consideration on the matter of forced busing.

Mr. PELL. I thank the Senator.

Mr. STENNIS. I thank the Senator and those Senators who worked on this bill.

Mr. PELL. Mr. President, I thank the Senator from Mississippi for his words and for passing on the sentiments of his senior colleague from Mississippi. I express my deep appreciation to both of them for supporting the conference report.

Mr. STENNIS. I thank the Senator. Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. GAMBRILL. I thank the Senator from New York for yielding to me.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GAMBRILL. Mr. President, by unanimous consent the Senate has passed the higher education bill, which I opposed on the votes of the Senate and, still support its principal components, exclusive of the provisions dealing with forced school busing. With reference to the busing provisions of the legislation, my position is quite clear from the debates which have occurred in the past on this subject. I am opposed to school busing as being applied in Southern States, when such enforcement is being applied in other parts of the country.

Legislation which I have opposed would work toward real educational opportunities, as well as equalized desegregation enforcement throughout the country. It is obvious that the dictates of current political expediency are opposed to any such high-minded objectives.

In my opinion the conference report is a compromise which smells to high heaven. It is an unwise program arrived at by the unwilling, to be imposed on the unrepresented. I put the blame for this fiasco at the door of the White House. Instead of providing positive leadership toward equal education opportunities, and a fair solution of the busing question, President Nixon has proposed a plan which is neither fish nor fowl, and as might have been expected, has attracted no support.

The provisions of the present legislation are ambiguous. We have little indication as to what it means, or to whom it might apply. Whatever antibusing relief it contains is temporary and what is most repugnant about the proposal is the threat of antibusing relief against those most deserving of relief. Forced busing will continue to be rigidly applied to those who have suffered with it the longest, and those who have tried to voluntarily comply with the patchwork orders of Federal district courts and the Department of Health, Education, and Welfare. I would now say that in the busing issue, the American people will have no opportunity to forcefully express themselves on the subject. In my opinion, this is the year to solve the matter, and to give the American public an opportunity to speak for equal education opportunities while expressing their resentment over bureaucratic abuse which lies at the heart of the busing controversy.

In view of the sentiments which I have expressed here I have decided to vote against the higher education bill. This is not a vote against the higher education bill. It is not a vote against the emergency school assistance program. I have voted for both of these bills when presented separately, although each has some defects that concern me.

Also, I do not relish or approve of the practice of holding legislation "hostage," in order to piggyback legislation in which I am interested. Unfortunately, this tactic has been made necessary by the stubborn and intolerant refusal of the Senate leadership and the refusal of the Education Committees of both Houses, to make any effort to represent the will of the people on the busing issue.

Finally, I regret to say that the people's wishes on this matter have come more nearly to being recognized, as more than busing has been required in areas of the country outside the South. What was once detached support for busing has changed to frenzied and desperate maneuvering for the support of the Nixon administration, will bring this issue to a point where it can be fairly and declinably disposed of. I reject any half-measures. Let us get on with a final solution.

I yield the floor.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair will inform the Senator from Rhode Island that he has insufficient time. He would have to suggest the absence of a quorum on the time of the Senate from New York.

Mr. PELL. Insufficient time?

The PRESIDING OFFICER. For a quorum call.

Mr. PELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. PELL. How much time does the Senator from New York have?

The PRESIDING OFFICER. Fifty-two minutes.
May 24, 1972

Mr. PELL. I ask unanimous consent that the time for the quorum call be taken out of the Senator from New York's time.

The PRESIDENT pro Tem. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT OF THE SENATE. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I yield the Senator from New York.

Mr. President, I approach this vote on the conference report for the Education Amendments of 1971 with mixed and troubled emotions.

I am proud of this bill, which represents years of hard work by myself and other members of the Education Subcommittee under the dedicated chairmanship of the distinguished Senator from Rhode Island (Mr. Pell), weeks of consideration by the Senate and the House, and 2 months of conference to resolve differences between the House and Senate bills.

The conference report establishes a new program of basic educational opportunity grants, a new commitment that no qualified American student should be denied the resources to attend an institution of higher education.

It contains a desperately needed program of aid to institutions of higher education, to help them meet the soaring costs of postsecondary education, which cannot be met through tuition alone.

It contains the Emergency School Aid Act, a $2 billion program to assist school districts desegregating as a matter of local policy, and a legal requirement in providing integrated education of high quality to all students.

It contains the Indian Education Act, sponsored by Senator Kennedy and myself, which passed the Senate unanimously last October, a measure which, if adequately funded, should go far toward assuring real educational opportunities for the 70 percent of Indian children attending public schools.

Just this one measure alone, embodying many of the fundamental recommendations of the Select Committee on Indian Education originally chaired by the late Senator Robert Kennedy, is of fundamental importance.

In addition, the conference report provides for the establishment of a National Institute of Education, modeled on the National Institute for Health, to provide the coordinated educational research and development activity now so clearly lacking—which includes a much needed initiative for innovative and creativity in higher education.

Mr. President, it is well known that a long overdue and fundamental reform. Serving, as I have for nearly 2 years, as chairman of the Select Committee on Equal Educational Opportunity, I am appalled by the amount we yet need to learn about the best way to educate the children of our nation, particularly about bringing equality of educational opportunity to millions of what I call "cheated children" in America, who are denied the minimum ingredients for a hopeful life, including a decent education.

Hopefully, the National Institute will, for all this, as a broad, thoroughgoing, highly sophisticated, and ongoing series of research and demonstration projects to determine how best to meet this compelling and heartbreaking problem in this country.

This measure also provides for expanding existing programs of assistance to postsecondary education, for protection against discrimination on the basis of sex in educational programs, for a National Student Loan Marketing Association to support the guaranteed student loan program, which provides for the first time for ethnic heritage studies centers in local communities and for still other programs.

Ethnic heritage studies centers are a long overdue proposal to fund studies in the history and cultural tradition of American ethnic groups. It provides for a great deal of interest in this program. In Minnesota, for example, representatives from the Iron Range would like to establish an ethnic heritage center there, and undertake, while there is still time and while many of the oldtimers are still around, a basic study of the ethnic heritage of the people of that remarkable area of my State. And many other areas of the State see great promise in the ethnic heritage center studies program as well.

This is perhaps the single most important education bill ever before the Congress. Preparation of the legislation contained in this conference report has occupied much of my time for the past 2 years. And the Senator from Rhode Island (Mr. Pell), above all, has spent hundreds of hours listening to the best minds in this country, listening to teachers, parents, professors, and other persons interested in education, and is most responsible for the remarkable and revolutionary measure which now is before the Senate in this amendment.

But, to my great sorrow, I am unable to support this report which contains so much that is innovative and badly needed.

The higher education bill left the House floor with three amendments designed to cripple thecaption of Federal courts and agencies to remedy racially discriminatory school segregation under the Constitution and title VI of the Civil Rights Act of 1964.

These amendments would have prohibited Federal funds from support desegregation-related transportation, forcing financial hardship on numerous school districts undertaking added transportation under court order or title VI plan.

These amendments would have prohibited the Departments of Health, Education, and Welfare and Justice from encouraging or requiring any transportation to achieve desegregation, effectively barring Civil Rights Act enforcement in many cases.

And they would have required exhaustion of appeals before implementation of any court order involving either transport or transportation of students.

The Senate responded with the so-called "Scott-Mansfield compromise," which effectively nullified the worst features of the House amendments, permitting funding for transportation or voluntary request of local officials, permitting continued law enforcement under the Supreme Court's guidelines for transportation, and staying orders pending appeal only in mult district cases, a development area of the law where further clarification through judicial review is needed, and where courts themselves have shown willingness to stay orders pending appeal.

The conference has substantially improved the original House provisions. Funds will be available to support transportation, and law enforcement can continue under reasonable guidelines. But the conference report retains the so-called House "Broomfield" amendment, relating to exhaustion of appeals through January 1, 1974. This provision would represent the first congressional retreat from the national commitment to nondiscrimination in public education embodied in the Civil Rights Act of 1964.

The amendment, in my opinion, is badly drafted, and it may well be found to have no legal effect. But the intention of its principle sponsor seems clear enough. The provision is designed to postpone all orders, in all cases—however simple—invoking either the transportation or the children to achieve desegregation. All desegregation—even straightening a "gerrymandered" school zone line—requires "transfer" of students from one school to another. And a clever lawyer can keep the average case on appeal for years.

If the intention of its sponsor is given effect, the Broomfield amendment will halt 14th amendment enforcement in its tracks for up to 18 months—6 months longer than President Nixon's proposed moratorium.

It cannot support this provision, for two reasons. First, I believe the Broomfield amendment is unconstitutional. Its provisions for extensive delay in the simplest cases contravene the Supreme Court's rulings in Alexander v. Holmes 286 U.S. 195 (1932), West Feliciana Parish, 396 U.S. 226 (1970), where the Court ordered immediate implementation of plans pending appeal.

Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unity schools.

Second, I believe the Broomfield amendment's vain and unconstitutional attempt to halt all desegregation trag-
We are aware of these real concerns—the concern of minority group parents that their children will be victims of further discrimination within "desegregated" schools, the concerns of all parents that their children not be transferred to bad schools while we disease the constitutional efforts to roll back the clock, to suspend the Constitution in hopes that the problem will disappear.

Perhaps the Broomfield amendment is "the best we can do" in this Congress. But I cannot bring myself to support this provision which I vote against the courts in an unconstitutional effort to sanction continued maintenance of officially imposed school segregation for an additional 18 months.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield the Senator 2 additional minutes.

Mr. MONDALE. Mr. President, I think most of us would agree that if someone offered us a bargain—to reduce the freedom of speech, our right to assemble, or our right to petition the Government—we would change for another 10 miles of super highways—we would all say, we cannot exchange our freedoms for such considerations.

The freedoms found in the Constitution, the freedoms fundamental to American life, are in a real sense non-negotiable. They are on a different level, a different plateau, and bear a different value from other disputes.

I do not think we can compromise the basic human rights even for a magnificent program of higher education such as that embodied here. Therefore, in sorrow, and not in anger, I cannot support the conference report.

Mr. President, I ask unanimous consent that a memorandum entitled "The Constitutionality of the Nixon Administration's Proposed Student Transportation Moratorium Bill" prepared by Richard T. Seymour and Lewis D. Sargentich for the Washington Research Project Action Council, be printed in the Record at the conclusion of my remarks. This memorandum, which discusses the constitutionality of the administration's proposed student transportation moratorium, also demonstrates the very doubtful constitutionality of the so-called Broomfield amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I close by professing my profound admiration for the gifted, creative and dedicated work by the chairman of the subcommittee, the Senator from Rhode Island (Mr. PELL), the Senator from New York (Mr. DODD), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. Eagleton), and many others who worked so hard for all these years which pushed one of the most impressive and creative educational proposals ever to reach this stage of the legislative process in the history of the U.S. Congress.

The Exhibit

EXHIBIT 1

The Constitutionality of the Nixon Administration's Proposed Student Transportation Moratorium Bill

(By Richard T. Seymour and Lewis D. Sargentich)

Introduction and Contents

This memorandum discusses the proposed student transportation moratorium bill from the standpoint of the ordinary principles of Constitutional law by which the courts have been guided in construing the Constitution, and the ordinary principles of legislations. Other memoranda, parts of which are still in preparation, will discuss other issues.

The questions which this memorandum seeks to answer are four:

1) Can Congress lawfully suspend the right to an integrated education while it deliberates on the second Nixon bill? See page 2.

2) Is the proposed legislation unlawfully overbroad—i.e., so completely unrelated to the evils it claims to redress that it violates the constitutional right to an integrated education through other, narrower legislation having a closer relationship to these evils than would be upheld by the courts? See page 3.

3) Does this legislation's difference in treatment between school districts desiring to remain segregated (which are spared the need to integrate) and those desiring to integrate (which are required to comply with the Constitution (which can) violate the Constitution by making the enjoyment of a constitutional right turn on the will of the court? See page 10.

4) Does the proposed moratorium violate a 54-year string of constitutional decisions of the Supreme Court of the United States, 396 U.S. 289, in authorizing a moratorium in such a way that the constitutional right to an integrated education would be suspended by the school board district? See page 10.

Some of the discussions on these points is as relevant to the proposed Equal Educational Opportunities bill as to the transportation moratorium bill.

1. The constitutional right to an integrated education cannot be suspended while Congress deliberates.

The bill seeks to suspend for a year the power of Federal courts to order any meaningful remedies in dealing with de jure segregated schools. This is ostensible so that Congress will have the necessary time to deliberate about the problem of school segregation and come up with appropriate remedies. The problem is that constitutional rights cannot be suspended while a legislature contemplates means of dealing with a problem. When the Supreme Court handed down the second Brown decision in 1955, 349 U.S. 294, it authorized a departure from the normal rule that deprivation of constitutional rights should be remedied immediately and totally, and allowed limited delays in achieving complete desegregation. If such a law would board could "establish that such time is necessary in the public interest" and was consistent with full compliance.

As early as 1964, the Supreme Court announced that "this is the period in which these rights could be suspended had come to an end."

"The time for mere "deliberate speed" has run out, and that phrase can no longer justify denying these Prince Edward County school children their constitutional rights to an education equal to that afforded by the public schools in the other parts of Virginia." Griffin v. County School Board of Prince Edward County, 377 U.S. 218 (1964).

"As early as 1964, the Supreme Court announced that the period in which these rights could be suspended had come to an end."

"The time for mere "deliberate speed" has run out, and that phrase can no longer justify denying these Prince Edward County school children their constitutional rights to an education equal to that afforded by the public schools in the other parts of Virginia." Griffin v. County School Board of Prince Edward County, 377 U.S. 218 (1964).

The court reiterated this point the next year. In Bradley v. School Board of the City of Richmond, 382 U.S. 103, 105 (1965), it stated, "Delays in desegregating school systems have stretched on for a long period of years. In 1955, 349 U.S. 294, the Supreme Court, again held that these rights could no longer be suspended."

"The burden on a school board today is to come forward with a plan that advances the work, and promises realistically to work now." Green v. County School Board of New Kent County, 391 U.S. 439, 439 (1968). At the request of the Senate Subcommittee on Education, 396 U.S. 253, 255 (1969).

In October, 1969, the Supreme Court again held that the constitutional right to an integrated education cannot be suspended while a legislature contemplates means of dealing with a problem. When the Supreme Court handed down the second Brown decision in 1955, 349 U.S. 294, it authorized a departure from the normal rule that deprivation of constitutional rights should be remedied immediately and totally, and allowed limited delays in achieving complete desegregation. If such a law would board could "establish that such time is necessary in the public interest" and was consistent with full compliance.

"Alexander makes clear that any order so approved should thereafter be implemented by a legislative scheme."

"Thus, we would lead to the conclusion that in no event should the time from the finding of noncompliance with the requirements of the Green case to the time of the actual operation of the school system effectuate the required relief."

"This, in my opinion, is the "maximum" timetable that can be established today for cases of this kind." 396 U.S. at 292, 293.

Referring to two other cases, Justices Harlan and White continued:

"...this would lead to the conclusion that in no event should the time from the finding of noncompliance with the requirements of the Green case to the time of the actual operation of the school system effectuate the required relief."

"This, in my opinion, is the "maximum" timetable that can be established today for cases of this kind." 396 U.S. at 292, 293.

Justices Black, Douglas, Brennan and Marshall expressly disagreed with the conclusion of Justices Harlan and White that an eight weeks' delay in full integration would be permissible:

"...those views retreat from our holding in Griffin v. County School Board of Prince Edward County, 377 U.S. 218 (1964), that "the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools.""
The student transportation moratorium bill is purportedly directed at the physical and educational harms caused by excessive busing. If the legislation were closely linked to the prevention of such harm, it could well be upheld by the Court. The Nixon proposal is a blunderbuss approach that reach all student transportation and have not the remotest links to the degree of harm present in any particular situation.

The articulation of the purported goals of this legislation in the "findings" of Section 3 cannot save the legislation if it is premised on an impermissible and fundamental rights, the constitutional standard by which it must be judged is that enunciated in Bates v. City of Little Rock, 361 U.S. 516, 528 (1960).

But governmental action does not automatically become reasonably related to the achievement of a legitimate and substantial governmental purpose by mere assertion in the preamble of an ordinance. When it is shown that state action threatens significantly to impinge upon constitutionally protected freedoms it becomes the duty of this Court to determine whether the action bears a reasonable relationship to the achievement of the governmental purpose asserted as its justifying purpose.


"In a series of decisions this Court has held that governmental action that purports to be legitimate and substantial, the purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end sought is achieved by more precise means. "A breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose.""

In Buckley v. Valeo, 424 U.S. 1, 438 (1976), the Court stated:

"Precise regulation must be the touchstone in an area so closely touching our most precious freedoms."
the opportunity to vote. The constitutional question presented is whether the Equal Protection Clause of the Fourteenth Amendment permits a State to discriminate in this way among its citizens.

"To decide whether a law violates the Equal Protection Clause, we look, in essence, to three distinct characteristics of the classification in question: the individual interests affected by the classification; and the governmental interests asserted in support of the classification." 40 U.S. Law Week at 4271 (footnote omitted).

This proposed legislation seeks to divide all black school children into two classes: those who wish to obey the Constitution, and those attending school in districts that prefer to continue each of the remaining vestiges of discrimination and the guarantees of constitutional law which would require some degree of student transportation. The consequence of what district a black child attends is severe: in the first, he will obtain full and immediate enjoyment of his constitutional rights; in the second, his rights will be suspended for a year or, perhaps, be lost altogether.

The government accounts for such a total disparity in the enjoyment of a constitutional right is the choice of the school board. The proposed legislation establishes no standards or guidelines for the state, in deciding how to exercise its choice: a decision based upon whim or caprice, or based upon the school board's belief that a certain racial characteristic is inherently inferior, is fully acceptable under the Nixon plan. The children in both types of school systems are equally entitled to redress, and legislative schemes that conditions the enjoyment of constitutional rights on so unprincipled a pivot must fail. The language of the Court in Yick Wo v. Hopkins, 118 U.S. 356, 366-367 (1886), is telling: "We are consequently constrained, at the outset, to differ from the supreme court of California upon the real meaning of the ordnances in question; that these ordinances as vesting in the board of supervisors a not unusual discretion in granting or withholding their assent to the use of wooden buildings as schoolrooms, to be exercised in reference to the circumstances of each case, with a view to the protection of the public against the dangers of fire. We are compelled to reject the interpretation of the power conferred upon the supervisors. There is nothing in the ordinances which points to such a regulation of the use of school buildings as tablets for laundries. They seem intended to confer, and actually do confer, not a discretion to be exercised upon a consideration of the circumstances of each case, but a naked and arbitrary power to give or withhold consent...."

"[If a mandamus action was brought against supervisors who had arbitrarily withheld consent to the use of certain wooden buildings as schoolrooms, the Court held that the power to give or withhold consent did not confer the judicial power upon the supervisors.]: Accord, e.g.; Gulf, O.S. & F. Ry. Co. v. Ellis, 165 U.S. 150, 155, 159-60 (1897); McLaughlin v. Florida, 379 U.S. 184, 190-91 (1964).

The conclusion of the Supreme Court in striking down the San Francisco ordinance serves as well to indict the "free will" classification of the two Administration bills:

"... [I]n the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men. For the very idea that men should rule, and not be ruled by the laws and principles of justice, is intolerable in any country where freedom prevails, as being the essence of slavery itself.'"
that "in the field the way must always be left open for further legislation." Thus, the Court, in deciding remedial questions to be: "Local courts so far as practiceable, those courts to be guided by traditional equitable flexibility to shape a remedy judicious and reconcile public and private needs." 395 U.S. at 227.

This policy was strongly endorsed by Chief Justice Warren, in his dissent in 1972 CONGRESSIONAL RECORD - SENATE 18849,


If school authorities fail in their affirmative obligations under these holdings, judicial authority may be invoked. Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies.

"The doctrine of jurisdiction has been the power of the Chancellor to do equity and to mould each decree to the necessities of the particular case. Flexibility rather than rigidity has distinguished it. The qualities of mercy and practicability have made equity the instrument for nice adjustment and reconciliation between the public interest and private needs as well as between competing private claims." Hecht Co. v. Bowles, 321 U.S. 372 (1944), cited in Brown II, supra, 394 U.S. at 300, 79 S.Ct. 788 (1959).


This is especially true where, as here, the legislation is intended to maintain the notion of the class and subject to the "most rigid scrutiny." E.g., McLaughlin v. Florida, 379 U.S. 189, 196 (1964); Bolling v. Sharpe, 347 U.S. 497, 499 (1954); Stanley v. Illinois, 355 U.S. 63 (1957); Jordan v. Massachusetts, 214, 216 (1944); Anderson v. Martin, 375 U.S. 399 (1963); Watson v. City of Memphis, 373 U.S. 528 (1963).

4 The due process clause of the Fifth Amendment is coextensive with the Equal Protection Clause of the Fourteenth Amendment in the area of school desegregation. Bolling v. Sharpe, 347 U.S. 497 (1954).


While theoretically applicable to all, these new requirements primarily affect those who bore the brunt of previous discriminations and gained the advantage which one class has already obtained over the other. . . .

It may be said that when illegal discrimination or other practices have worked inequality on a class of citizens and the court puts an end to such a practice but a new and more onerous standard is adopted before the disadvantaged class may enjoy their rights, already fully enjoyed by the rest of the citizens this amounts to "freezing" the privileged status for those who acquired it during illegal discrimination and "freezing out" the group discriminated against.

The three-judge court in United States v. Louisiana, 255 F.Supp. 353, 395 (E.D. La., 1965), affirmed, 380 U.S. 145 (1965), stated: "A court of equity is not powerless to eradicate the effects of former discrimination. It can at least ensure permanent existence of the injustices of the past."

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I suggest the absence of a quorum, on my time. Mr. MONDALE. The PRESIDING OFFICER. The clerk will call the roll.

Mr. JAVITS. Mr. President, I yield 2 minutes to the distinguished Senator from Louisiana (Mr. LONG).

Mr. LONG. Mr. President, a national newspaper, the National Enquirer, recently devoted nearly three full pages of space in three separate issues to the question of school busing. I am on record as opposing the forced busing of children for the first time and was very much in favor of a constitutional amendment to prevent this injustice.

The National Enquirer ran both sides of the issue. A letter written by my distinguished colleague, Senator George McGovern, against school busing. The newspaper asked me to present views and our letters ran side by side.

In addition, other issues of the National Enquirer presented the views of two Members of the House of Representatives and two prominent educators on this question. A ballot was printed in each issue, asking the readers to express their sentiments.

Mr. President, the first result of this nationwide poll is overwhelmingly against school busing. After a third weekly tally of the ballots, the total of 11,270 respondents and the ballot in March 1972 CONGRESSIONAL RECORD - SENATE 18854 shows that 89.4 percent registered a protest against forced busing of little children to achieve racial balancing of our public schools.

A total of 11,094 were against busing, with only 176 in favor of it. That is an astounding majority of more than 73 to 1 against busing.

Mr. President, I might point out that the National Enquirer took no sides on the question, but rather presented the pro and con statements of over 3,300 — and its distribution through supermarkets and other places handy to everyone provide a good barometer of public opinion against forced school busing.

I yield unanimous consent that the excerpt from the April 23, 1972, issue of the National Enquirer be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

ENQUIRER READER POLL ON FORCED SCHOOL BUSING

This is another Enquirer opinion poll. We believe your opinion is important and that you should have an opportunity to express your views on this important issue.

Do you favor or are you opposed to the forced busing of school children to achieve racial balance in our public schools?

If you favor busing, please mark the O. If you are opposed, please mark the X.

The results. So speak out. Make your opinion heard.

THE FACTS

One of the most hotly disputed issues of the day is the forced busing of school children to achieve racial balance in our public schools. Legislators, clergymen, educators and ordinary citizens have lined up on both sides of this issue. Both blacks and whites have publicly spoken out on both sides of this question.

An amendment to the U.S. Constitution has been introduced in Congress that would prevent busing to achieve integration. In one state — Louisiana — the voters have had a chance to register their feelings on an anti-busing amendment in a straw vote on March 14. By a margin of nearly 3 to 1 (1,096,025 for, 384,503 against) the voters endorsed the idea of an anti-busing amendment.

Now, The Enquirer extends the chance to people in all 50 states to make their opinion known on this important question.

FOR DEAR ENQUIRER READER: All of my political life I have fought for the principle and the practice of integrated schools, based on simple justice and the unanimous view of all those who believe that integrated education is better for the children and the community. I will not change that position, regard of the political cost.

I believe that school busing and redistricting, as ordered by the federal courts, are
among the prices we are paying for a century of segregation in our housing patterns. For more than a generation, black children were bused to avoid integrated schools, and one of the more cynical aspects of our present debate is that President Nixon, seeking to make political capital of this difficult situation, is ignoring history and asking the nation to begin yesterday.

Talk about a Constitutional amendment to prevent busing is sheer demagoguery, whether it comes from Governor Wallace or the President. This is an attempt to divert Americans from the enormous frustrations which now beset us. An anti-busing amendment will not bring our POWs home one day sooner from Vietnam. It will not make our income or property tax system any less unfair. It will not put a single unemployed American back to work, nor will it take one milligram of filth from our air or water. All it will do is to increase racial tension and despair.

We would be better served if the President announced, as I have, that he intends to enforce the law, and not turn Americans against their neighbors on this issue. Then we could all turn our attention to the real problem: To achieve quality education at the end of the bus line, and neighborhood schools in neighborhoods in which every American can live.

Senator George McGovern.

against

Dear Enquirer Reader:

I feel it is idiotic and discriminatory to bus children around the countryside to achieve some misguided do-gooder's concept of racial balance.

In 1954, the Supreme Court decision meant to me that every child was entitled to go to the school nearest his home. The logic of that decision was that it was discriminatory to tell a child that he could not go to a particular school because of his race.

Now in 1972, that's exactly what the courts are ordering to achieve racial balance—telling children that they cannot go to a particular school near their home because of their race. It is discriminatory and an outrage to send children to achieve their education, and have to spend several hours a day, who approves of forced school busing. The only people who want it are the intellectuals and even they don't want it for their children.

A good education for every child should come first. It's far better to spend our money on teachers and building better classrooms than to spend it on buses and drivers which contribute nothing to a child's education. The only logical answer is to say that every child is entitled to go to the school nearest his home, he can go wherever he pleases. I am very much in favor of a Constitutional amendment which would prevent forced school busing by saying that if the Congress approves this amendment, the voters in each state will make their feelings known so strongly that this amendment will be ratified with record-breaking speed.

Senator Russell Long.

ORDER OF BUSINESS

Mr. JAVITIS. Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, how much time remains to the manager of the bill?

The PRESIDING OFFICER. Six minutes remain to the Senator from Rhode Island, and 12 minutes remain to the Senator from Florida.

Mr. JAVITIS, Mr. President, I yield 3 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. CHILES. Mr. President, I understand that under the previous unanimous-consent agreement I was to be recognized for up to 15 minutes prior to the time of the vote.

Mr. PELL. The Senator is absolutely correct. He has already spoken for 2 minutes. That means that he has 9 minutes remaining. We have to vote at 3:30 this afternoon.

Mr. JAVITIS. Mr. President, I yield 5 minutes to the Senator from Florida.

Mr. PELL. Mr. President, I yield the remainder of my time to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 11 minutes.

Mr. CHILES. Mr. President, I thank the Senators. I do not think I will use all the time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Florida yield me an additional 2 minutes with the same understanding?

Mr. CHILES. With the same understanding, I yield 2 minutes to the Senator from West Virginia.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972 AND FISHERMAN'S PROTECTIVE ACT—UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, with the authorization of the majority leader and having discussed the following request with the assistant Republican leader and with the Republican leader and other Senators, I propose the following unanimous-consent request.

I ask unanimous consent that the following amendments to the unfinished business, the State authorization bill, be agreed to:

That on amendment No. 1203 offered by the Senator from Pennsylvania (Mr. Scozz) there be a 1-hour limitation.

That on amendment No. 1201 offered by the Senator from Tennessee (Mr. Baker) there be a 1-hour time limitation.

That on amendment No. 1196 offered by the Senator from Virginia (Mr. HARRY F. BYRD, JR.) there be a 2-hour time limitation.

That on amendment No. 1174 offered by Mr. Brooks, there be a 2-hour time limitation.

That on amendment No. 1176, offered by the Senator from Colorado (Mr. DOMINICK), there be a time limitation of 1½ hours.

That on an amendment to be offered by the Senator from Illinois (Mr. Percy), there be a time limitation of 1 hour.

That on the bill, H.R. 7117, there be a time limitation of 1 hour.

That the time on each amendment be equally divided between and controlled by the mover of the amendment and the manager of the State authorization bill.

That with respect to the bill, H.R. 7117, the time be equally divided between the Senator from Washington (Mr. Mac-

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIMM. Mr. President, with the following unanimous-consent request. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me an additional 2 minutes with the same understanding?

Mr. CHILES. With the same understanding, I yield 2 minutes to the Senator from West Virginia.

Mr. ROBERT C. BYRD. H.R. 7117 is an act to amend the Fisherman's Protective Act of 1967. It is Calendar No. 736.

Mr. GRIMM. Mr. President, I must say that I did not realize this earlier. However, the Senator from Texas (Mr. Tower) has an amendment to offer to that bill. I do not know what time limitation he would agree to. For the time being, could we eliminate that portion of the request.

Mr. ROBERT C. BYRD. Mr. President, for the time being I withdraw that portion of the unanimous-consent request.

Mr. JAVITIS. Mr. President, reserving the right to object, may we know whether this would foreclose other amendments to the State authorization bill?

Mr. ROBERT C. BYRD. It would not.

Mr. JAVITIS. Just those that have been enumerated.

Mr. ROBERT C. BYRD. No.

Mr. JAVITIS. Just those that have been enumerated.

Mr. ROBERT C. BYRD. The Senator is recognized.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia?

Mr. HUGHES. Mr. President, reserving the right to object, and I do not wish to do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged against the time of the Senator from Florida.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia?

Mr. HUGHES. Mr. President, reserving the right to object, and I do not wish to do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I seek unanimous consent that the time not be charged against the time of the Senator from Florida.
give me an opportunity to talk to him for a couple of minutes. I would rather not do it in colloquy if that is possible.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request for the time being, and I ask unanimous consent that the time of the Senator from Florida be allowed to expire in 15 minutes prior to the rolloff.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JAVITS. Mr. President, reserving the right to object, I do not think we have a full minute here. We have no requests for speakers. I am willing to yield all the time that I have remaining, with the exception of 2 minutes, to the Senator from Florida.

Mr. CHILES. That will be sufficient.

EDUCATION AMENDMENTS OF 1972—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating the National Foundation for Post-secondary Education and a National Institute of Education, the Elementary and Secondary Education Act of 1965, Public Law 87-1, 81st Congress, and related acts, for other purposes.

Mr. CHILES. Mr. President, in discussing the conference report, we are of course talking about a number of important subjects encompassed in this conference report.

I think that the conference committee has done some yeoman work in bringing back to the Senate a report that they could reach an agreement on with the House. I compliment the chairman of the Senate conferees as well as the other members of the Senate conferees for being able to reach some agreement.

Mr. President, I think the distinguishing feature of the conference report is the number of important subjects encompassed in this conference report. I think that the conference committee has done some yeoman work in bringing back to the Senate a report that they could reach an agreement on with the House. I compliment the chairman of the Senate conferees as well as the other members of the Senate conferees for being able to reach some agreement.

Mr. President, in May of 1971, I introduced S. 1755, a bill to establish a student loan marketing association, and S. 1765, a bill to strengthen the student insured loan program. The program provides for student loans. The program for insured loans is excellent. However, it did and does need some adjustment.

Over the past 5 years it has gone from $77 million in 1966 to $863 million in the first 9 months of fiscal year 1971.

In 1970, there were 921,896 students receiving assistance from this program. And dollar for dollar the taxpayers' money goes to providing more students with a guaranteed student loan program than any other form of student loan assistance.

It is also important because it provides that students can get assistance under the main requirements having to do with poverty and those having to do with their needed amount of economic assistance. Yet with the high cost of tuition and the high cost of obtaining a college education, for many students in the lower middle class and the middle class this is the only way they have an opportunity to obtain an education. They will eventually pay the money back into the Federal funds, but meantime, it is an important subject encompassed in this conference report.

Mr. President, I wish to touch on one other section that I think adds greatly to the present law. I refer to the provision having to do with the impact funds for segregation for trying to help an area that the Swann decision, which has to do with future busing, but gave no relief to areas that are trying to comply and requests funds to comply with that order, HEW would not be able to do so if that order is not going to work a penalty on a school board, because of an inadvertent violation of one of these provisions.

Mr. President, another section of the conference report to which I lend my strong support is the language that provides where a local school district may be in violation of the law with regard to Federal funds, a technical or inadvertent violation, and where the violation is clearly unintentional, there will be given the opportunity to correct the situation and not lose the Federal funds or the right to obtain Federal funds under the emergency integration portions of the loan or be required to pay back any monies received, as happened in some school districts, because of technical or minor violations of sections of the program.

I think the conference report adds clarity to that section and evidences the congressional intent that we are not going to allow these Federal funds under the impact program to be used to foster segregation, but at the same time we are not going to work a penalty on a school board, because of an inadvertent violation of one of these provisions.

Mr. President, before I come to the most controversial section of the conference report I wish to touch on one other section that I think adds greatly to the present law. I refer to the provision having to do with the impact funds for segregation for trying to help an area that is trying to comply and requests funds to comply with that order, HEW would not be able to do so if that order is not going to work a penalty on a school board, because of an inadvertent violation of one of these provisions.

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I think the conference report adds clarity to that section and evidences the congressional intent that we are not going to allow these Federal funds under the impact program to be used to foster segregation, but at the same time we are not going to work a penalty on a school board, because of an inadvertent violation of one of these provisions.
agreed to. I support the conference report.

Mr. JAVITS. Mr. President, I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I rise to urge my colleagues of all political persuasions and viewpoints to join together in supporting the conference report, which covers such a broad spectrum. I think that a large and overwhelming supportive vote in the Senate will play a great role in the deliberations in the House when they consider this matter. I ask for that support.

Mr. JAVITS. Mr. President, as I have maintained for 2 days of debate on the conference report, this is a magnificent education bill. However, it is terribly unfortunate that it is marred by unjust, oppressive, unconstitutional, as well as legally vague provisions construed by those who offered them in the other body, and by the managers, as “anti-busing.”

I close with the feeling that I have expressed constantly that the vote is a matter of deep conviction by each individual as a matter of principle, of unjust provision to which I have referred or the benefit of a great education bill. I have chosen the first course. I shall vote “No” on the report. In addition, I would like to urge the highest priority in the litigation which will test this provision.

The committee invites it and I am very pleased the managers do not construe the Bloomfield amendment to be retrospective but prospective. The committee invites early judicial consideration; I do, too.

I will face no happier day than the day the Supreme Court settles this question and strikes down the amendment and leaves us all to enjoy the great benefits that inhere in this bill.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time, by authorization of the able majority leader, to announce, first of all, that there will be at least one more rollcall vote today.

Mr. STENNIS. Mr. President, may we have order? We cannot hear.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. After the adoption of the conference report, there will be at least one further rollcall vote today.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972—UNANIMOUS-CONSEN T AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the disposition of the conference report, the Senate proceed to the consideration of amendment No. 1203 by Mr. Scott to the State Department authorization bill, and that there be a limitation of 1 hour on that amendment, to be equally divided between the distinguished author of the amendment and the distinguished manager of the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that there will be a rollcall vote on this amendment.

Then I ask unanimous consent that on the following amendments there be time limitations as stated. I do this by direction of the majority leader, having discussed it with the distinguished Republican lead­ers—and the distinguished assistant Republican leader.

Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on amendment No. 1201 by Mr. Baxxen, there be a limitation of 1 hour—these are amendments to the unfinished business, the State authorization bill—that on amendment No. 1196 by Mr. HARRY F. BYRD, Jr., there be a time limitation of 2 hours; that on an amendment by Mr. Baxxen (No. 1174) there be a limitation of 2 hours; that on amendment No. 1176 by Mr. DOMINICK, there be a time limitation of 1½ hours; that on an amendment by Mr. Percy, the number of which I do not now have, there be a time limitation of 1 hour. In each case the time limitation is to apply at such time as the amendment is called up.

The PRESIDING OFFICER. Is there objection to the several requests of the Senator from West Virginia? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, reserving the right to object, what is going to happen if any amendments are offered to any of those amendments?

Mr. ROBERT C. BYRD. Mr. President, that is a very pertinent question. I think it would apply for the Senator to raise the question.

I ask unanimous consent that time on any amendment to an amendment be limited to 30 minutes, and the same with respect to any debatable motion or appeal.

Mr. JAVITS. That does not exclude motions to table?

Mr. ROBERT C. BYRD. It does not. The PRESIDING OFFICER. Is there objection to the several requests?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object, because all these requests have been cleared, as the distinguished majority whip has indicated—I want to make it clear, however, to some of our colleagues who have inquired of me that these amendments do not involve any of the so-called end-the-war amendments. The Senator from Massachusetts (Mr. Baxxen) has one, but the one the Senator referred is another amendment that he has in that category.

Mr. CASE. Mr. President, reserving the right to object—

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. I am sorry I was not here when the Senator read his request, but I understand it may include a vote tomorrow on the Dominick amendment, so I am aware of that.

Mr. ROBERT C. BYRD. In reply to the able Senator, it would be the intention of the majority leader or myself later today to ask unanimous consent to clock these amendments into sequence.

It would be our intention to ask the Senator to put off routine morning business, take up the Fisherman’s Protective Act of 1967, H.R. 7117; with that to be followed, on the Foreign Relations Authorization Act, by the amendment by Mr. Baxxen (No. 1201); to be followed by the amendment by Mr. DOMINICK (No. 1176). That would constitute the business for tomorrow, and the Senate would then go over until Tuesday next.

Mr. CASE. The Senator from New Jersey, unfortunately, has to be away. He is not away very often, but he has made a long-term commitment to be at a labor gathering at Montclair, which is important in its own right to labor and to the Senator from New Jersey. The Senator has long been interested in the Bloomfield amendment, because it would strike a provision which was inserted in the bill at my instance. Therefore, I must be here. I would need about a half hour, but I would not want either to claim time on this amendment or to have a vote on it tomorrow.

Mr. ROBERT C. BYRD. The request of the distinguished Senator from New Jersey (Mr. CASE) will certainly be taken into consideration. I am not asking at this time to clock these sequences of any of these amendments, and the Senator’s wishes will be taken into consideration when such is done.

The PRESIDING OFFICER. Is there objection to the several requests of the Senator from West Virginia? Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, as I understand it, the Senator from West Virginia did not put it in the form of a unanimous consent request at this time.

Mr. ROBERT C. BYRD. Mr. President, in answer to the able senior Senator from Virginia, the request at this time is only with reference to a time limitation on each of the various amendments that have been enumerated by this Senator, but I say this has been cleared with the leadership.

Mr. HARRY F. BYRD, JR. It does not apply to the so-called sequence?

Mr. ROBERT C. BYRD. Only with respect to amendment No. 1203 by Mr. Scott, on which we will have a rollcall vote which is about to be had.

The PRESIDING OFFICER. Is there objection to the several requests? Without objection, they are agreed to.

EDUCATION AMENDMENTS OF 1972—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act
May 24, 1972

CONGRESSIONAL RECORD — SENATE

18553


Mr. BALLENG: Mr. President, as a member of the Senate of the United States and the conference committee, I urge favorable Senate action on the Conference Report on S. 659, the Education Amendments of 1972.

The issues confronting the Congress were indeed complex and complicated. The bill that emerged from the conference committee represents a compromise hammered out in extended conference meetings.

When the legislation passed the Senate on August 6 of last year, I said:

This measure is both massive and monumental. It is not only for the moment, but for the future.

Truly, this bill is one of the most significant education measures ever enacted by the Congress of the United States. It is designed to carry out the historic pledge made by the President of the United States when he declared:

No qualified student who wants to go to college shall be barred for lack of money. That has been a great American Goal; I propose that we achieve it now.

The pending measure is designed to bring about a realization of this great national goal.

To achieve this goal of making post-secondary education available to all with the ability and desire to attend, the bill authorizes a new student assistance program called "basic educational opportunity grants", which is viewed by the conference committee as the foundation upon which all other Federal student assistance programs will be based. Under this program, the student will be entitled to receive a grant of $1,400 minus expected family contributions. The amount of the grant, however, could not exceed one-half the actual cost of attending the institution selected by the student.

In addition, present student aid programs such as work study, the national defense student loans, the guaranteed student loan program, and the educational opportunities in the various States; $275 million over a 3-year period is authorized for the purposes of this title. Grants can be made for planning and managing capabilities of institutions of higher education were dropped. I believe that reading is the key to success in school as well as success in later adult life. It is my hope that this will be the number one priority of the new national institute.

There are numerous other important provisions of S. 659, such as the sections dealing with the community college provision, which was found in title X of the Senate bill, and in addition, the occupational education program of the House bill. This occupational education program was similar to S. 1856, cosponsored by me on the Senate side.

The community college provision authorizes a program for community colleges to provide educational opportunities in the various States; $275 million over a 3-year period is authorized for the purposes of this title. Grants can be made for planning, development, establishing, and conducting all operations of the community colleges. Along with Commissioner Martin and others, I have been speaking on the need to improve and emphasize occupational education programs in the country and I am delighted that this is included in the final product. The bill, as before the Senate, authorizes a new program to assist the States in the designing, establishing, and conducting programs of postsecondary occupational education with an authorization of $100 million for fiscal year 1974, $250 million for fiscal year 1975. Occupational and vocational education has been the stepchild of education in this country for too long. It is time that the country give the occupational education programs the resources that are needed to do the job.

The legislation also authorizes a National Institute of Education which is designed to redress the sorry state of educational research. It is no secret that we know very little about the learning process as, for example, how students really learn to read.

As the President stated:

We must stop pretending we understand the mystery of the process.

Our social problems and rising expectations underscore the need for a quantum leap in educational research, development, and equally important, dissemination of such research. A new national institute will give particular attention to the reading problem. I believe that reading is the key to success in school as well as success in later adult life. It is my hope that this will be the number one priority of the new national institute.

In agriculture, we spend an amount equal to about 6 percent, or $900 million annually, of the total net income from farming on research and development and application by Government agencies, colleges, and industry.

In the health area, we as a nation spend approximately 5 percent or $2.5 billion of the total national expenditures for health research.

In industry, for example, spends about 4 percent or $12.5 billion of net sales on basic and applied research.

Thus, there is little question that educational expenditures for research and development must be greatly expanded and I am delighted that these two powerful vehicles for change and reform, the Institute and provisions for support for improvement in postsecondary education, are included in this legislation.

The authorization for the National Institute is over one-half billion dollars a year, and it is my hope that the national institute will give particular attention to the reading problem. I believe that reading is the key to success in school as well as success in later adult life. It is my hope that this will be the number one priority of the new national institute.

There are numerous other important provisions of S. 659, such as the sections dealing with the community college provision.
calling for a study of postsecondary education; the provisions prohibiting sex discrimination; and the sections creating a new ethnic heritage and consumer education programs. Furthermore, the legislation extends various existing higher education programs including cooperative education, community services, college student aid, and research programs, developing institutions, and higher education facilities to mention a few.

I am pleased that the conference included a small but important amendment offered by my colleagues, that children in institutions for neglected or delinquent children or in adult correctional institutions will be eligible for elementary and secondary education funds. I offered this amendment to prevent the hardships that would have resulted to the Hagerstown Correctional Training Center, as described by the Baltimore Sun reporter Roger Twigg on July 30, 1971. I ask unanimous consent that the article be printed in the Record following my remarks.

The conference committee also sustained the Senate's position and retained the amendment extending educational definition to include training for volunteer firemen.

No group does more for their communities than this dedicated group of citizen-firefighters, and this is a small step in recognition of the public service and sacrifice that these men make in order to make all of our communities safer.

The bill also authorizes a 2-year, $2 billion program of grants to facilitate desegregation. The program will also be used to aid schools in our inner-city areas which have a large concentration of minority students.

Finally, the conference committee reached a compromise on the busing controversy. While no one is completely satisfied with this provision, it is the best settlement the conference committee could reach under the circumstances. I ask unanimous consent that the language of the conference report, report on pages 219 and 220, be printed following my remarks.

Mr. President, in the Nation's history and in its education system, one can discern a steady, forward march in the extension and the expansion of educational opportunities for more of our young men and women. This measure will be a giant step in our constant pursuit of the national goal of making certain that financial barriers will not prevent American youth from attaining their educational potential. I strongly urge the enactment of this landmark legislation by the Senate.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Baltimore Sun, July 30, 1971]

**CORRECTIONAL CENTER LOSES FEDERAL EDUCATION PROVISION**

(By Roger Twigg)

The education of nearly 1,000 young inmates at the Hagerstown Correctional Training Center will be curtailed because of the elimination of federal financing for the program.

The funds to educate "youthful offenders" at the minimum security institution had been provided for the past three years under Title I of the Elementary and Secondary Education Act.

A spokesman for the U.S. Department of Health, Education and Welfare, which distributes the funds, said money for the Maryland program is set at $200,000 for the current fiscal year. The spokesman added, "they will have to refund the balance of unspent funds."

**MONEY ORDERED RETURNED**

The federal government has ordered the state Division of Correction to return $90,000 of the $200,000 it received for the educational program this year.

According to an informed source, the federal agency has told the Division of Correction that "it was not the intent of Congress, when the Education Act was passed in 1965, to provide funds for educating juveniles in adult institutions."

The program was first authorized by Congress in 1965 to educate "youthful offenders in juvenile institutions," the source said.

**AMENDED IN 1968**

But, he added, the act was amended in 1968 to allow the Department of Health, Education and Welfare to, "at its own discretion, or at the request of the state..."

Thenceforward, the source said, "it is the policy of the federal government to educate delinquent children 16 to 21 years of age whether or not they were housed in adult or juvenile institutions."

He said the lack of federal funds will seriously curtail—by as much as two-thirds—the education of nearly 1,000 young inmates at the training center.

The number of inmates, the source said, are 21 years old or younger and are serving terms for what police describe as "soft crimes," such as daylight burglary, larceny and shoplifting.

He said nearly 80 per cent of the inmates at the training center have not completed public school education, while 50 per cent have less than a fifth-grade education. About 90 per cent of them "are out of the ghetto sections of Baltimore city," he added.

The federal spokesman said financing for such a program could be provided only to institutions which "house children who have been adjudicated to be delinquent."

He said the age limit for the delinquent children is 21.

"I can assure you that this has been given very close scrutiny because of the very strong efforts of Maryland officials to maintain the program," the spokesman said. "For some reason or other, that institution does not fall under the guidelines or else the program would be continuing."

**STRINGENT GUIDELINES**

The informed source said the state Division of Correction accused the federal agency of applying "stringent guidelines to tie up, by bureaucratic red tape, funds which rightfully belong to the correctional institution."

Consultant Dr. Beall, of Towson, Md., in a letter to state officials last week, described the cut in funds as a "misunderstanding."

Dr. Beall said he has introduced an amendment to the Education Act which would clarify use of the funds. He said he introduced the amendment in the Labor and Public Welfare Committee and what it was adopted and would be sent to the Senate floor.

**WILL ALSO AID STUDY**

The Division of Correction said source of the loss of federal funds will force the state agency to release 16 teachers, an administrator and a secretary from the training center. The state study "emergency state funds can be obtained."

**THE LOSS OF FEDERAL F medium**

The loss of federal financing also will halt a 5-year, $75,000 state-financed study by the Department of Vocational Education to develop a full-scale educational program for Maryland correctional institutions, the source said. The study presently is in its third year.

**GENERAL PROVISIONS RELATING TO ASSIGNMENT OR TRANSPORTATION OF STUDENTS**

Use of funds for transportation.—(a) The Senate amendment provided that funds pro-

vided for the transportation of students to or from school in the course of their education must be used to aid schools in our inner-city areas which have a large concentration of minority students.

The House amendment provided that no officer or employee of the Department of Health, Education, and Welfare (including the Office of Educators) of any other Federal agency from urging, persuading, inducing, or requiring any solicitation of the students or teachers who have less than a fifth-grade education. About 90 per cent of them are over the juvenile sections of Baltimore city, he added.

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Mr. DOMINICK. Mr. President, as the ranking minority member of the Education Subcommittee, I rise in support of the conference report of the Education Amendments of 1972. The conference report contains the basic educational opportunity grant "entitlement" for such students who read the bill instead of their own headlines and rhetoric.

Killed in the heat of such anti-Broomfield rhetoric would be programs such as the entire student assistance program in S. 659 which is structured, more than ever before, for the needy students by the inclusion of the basic educational opportunity grant "entitlement" for such students. Even without the BEOG or the expanded authorizations of S. 659, during fiscal year 1971, approximately 1,280,000 national defense loans, college work-study jobs, and educational opportunity grants were distributed to America’s poor students. Additionally, 1,080,000 guaranteed student loans were made in fiscal year 1971 with 70 percent of the recipients having family incomes below $6,000. Also, 90 percent of the institutional assistance program is specifically written to encourage the enrollment of poor students. Part I of title I contains a special graduate fellowship program for students from disadvantaged backgrounds. A vote

national guarantees of equal educational opportunity are occurring. The bill has been variously referred to as "the most significant piece of postsecondary education legislation to be passed in a lifetime" and as "one of the greatest accomplishments in higher education in the history of Congress." Platitude aside, the report presents, at the very least, approximately an $8.5 billion Federal commitment to postsecondary education commitment and expansion through fiscal year 1975. The greatness or importance of S. 659, quite unlike its predecessors, is not in hindsight, but it promises much to a higher education system which, lacking innovation, could well become moribund during the next several years.

I mention several years, because, if we fail to enact this bill, it may well be 2 years before Congress is able to again devote the time and resources to higher education extension legislation. A continuing resolution of old programs is all that is possible this session, and next year Congress may be preoccupied on extending and expanding the elementary and secondary education programs—a most challenging project in view of the present financial problems besetting our Nation's school districts. Even if Congress is physically able to act on higher education legislation next year, I cannot see Congress approving two expensive education authorizations in 1 year, and priorities being what they are, I foresee higher education suffering as a result. Thus, the issue becomes one of not the future greatness of S. 659, but rather, one of most emergent practical need for such legislation.

Mr. President, unfortunately, the emergent need for extending and expanding higher education legislation is being held ransom by a busing controversy which transcends reason. It is particularly unfortunate for American taxpayers, postsecondary students, their parents, and the postsecondary institutions themselves that the merits of programs authorizing approximately 1,280,000 student loans and 900,000 work-study jobs, and educational opportunity grants were distributed to America’s poor students. Additionally, 1,080,000 guaranteed student loans were made in fiscal year 1971 with 70 percent of the recipients having family incomes below $6,000. Also, 90 percent of the institutional assistance program is specifically written to encourage the enrollment of poor students. Part I of title I contains a special graduate fellowship program for students from disadvantaged backgrounds. A vote

religious, color, or national origin. The House passed the Broomfield amendment staying the effect of the Supreme Court’s decision in the case, rather than shuttling the controversy which is beginning to transcend advocating defeat at all costs of the Broomfield amendment staying the effect of busing orders until all appeals are exhausted or, in the event no appeals are taken, until the time for such appeals has been exhausted. The Senate amendment provides that this section shall expire on June 30, 1973.

The conference agreement contains the precise language of the House amendment and provides that this section shall expire midnight January 1, 1974. This section does not authorize the reopening of final orders, however, appealable orders are considered to be within the scope of this amendment. The conferences are hopeful that the judicial system will take such action as necessary to expedite the resolution of the issues subject to this section.

Amendments authorizing intervention in court order.-The Senate amendment, but not the House amendment, provided that a parent or guardian of a child transported to a public school in accordance with a court order to seek to reform or intervene in the further implementation of such order, if time or distance of travel is so great as to risk the health of the student or if the effect of the order is alleged to be significantly impinge on the quality of his or her educational process. Such right of intervention shall extend on a case-by-case basis in which such busing plan on behalf of such student and all other students similarly affected thereby.

The conference amendment is a substantial change in the Senate amendment. The language relating to time or distance of travel was conformed to be identical with the report in S. 659, section 407(a).

Amendments affecting rules of evidence.—The Senate bill, but not the House amendment, requires that the rules of evidence in the school districts. The House amendment in assigning students to public schools shall be uniform throughout the United States.

The report recedes.

Application of proviso of section 407(a) of the Civil Rights Act.—The Senate amendment reeated a portion of the language of section 407(a) of the Civil Rights Act, which prohibited the use of Federal funds to transport students from families with lower socioeconomic status, the effectiveness of such transportation being restricted to court orders. requiring transportation of students with respect to race, sex, religion, or national origin. The House amendment in assigning students to public schools shall be uniform throughout the United States.

The report recedes.

Proposed section 407(a) of the Civil Rights Act.—The Senate amendment reeated a portion of the language of section 407(a) of the Civil Rights Act, which prohibited the use of Federal funds to transport students from families with lower
against the conference report is a vote against authorizations of $96 million, $100 million, $100 million, and $100 million for this year and the next 3 years, respectively, for the special programs for students from disadvantaged backgrounds. These three programs—upward bound, talent search, and special services for students—served a total of 143,000 disadvantaged students toward postsecondary education in 1971. Also killed would be special educational programs, such as the Indian Education Act with authorizations of $116 million, the strenuous efforts of the Senate to strengthen the bilingual and migrant education programs contained in part E of title I and title V—all over the busing fight.

Mr. President, if the conference report fails to pass, then the poor child's opportunity to escape poverty through the new $850 million Occupational Education Act or the extended Vocational Education Act fails also. Dying with the bill would be the $25 million ethnic heritage program and the $80 million consumers education program. Finally, as a last watery drop in a pool of chaos, the civil libertarians would vote against a $2 billion emergency school assistance program designed to assist school districts in meeting the special needs incident to desegregation, to encourage voluntary integration, and to aid schoolchildren in overcoming the educational disadvantages of minority group isolation. The record should be clear that those who vote against the conference report because of the Broomfield language is ambiguous or not strong enough may I point out that this was the best we could get. May I quote to you some legislative history from the House side describing exactly what is intended by the language. On March 8, 1972, the distinguished minority leader (Mr. GERALD R. FORD) asked the author of the amendment several highly pertinent questions. Their colloquy went like this:

Mr. GERALD R. FORD. I would like to ask the gentleman by way of a further question. For instance, is the Broomfield amendment retroactive?

Mr. BROOMFIELD. Yes; it is.

Mr. GERALD R. FORD. Is it retroactive in its entirety?

Mr. BROOMFIELD. In its entirety.

Mr. GERALD R. FORD. The second question is this: Your amendment states that the effective date of the act is the fiscal balance of students 'shall be postponed.' Now, does that mean that it would affect orders which have already been put into effect or put into partial effect? In other words, all would be suspended pending final appeal?

Mr. BROOMFIELD. That is correct.

The only limitations that the conference placed on the express and clearly intended terms of the amendment are the termination date of January 1, 1974, and the statement of the conference's qualification that it affects only appealable orders. I understand this qualification to add nothing other than to substantiate the finality of the order language already contained in the amendment. In view of the language and the legislative intent, I believe the test of Broomfield is clear, and my colleagues should vote accordingly with full knowledge of the consequences.

Hopefully, the above has been helpful in clarifying and placing in better perspective an issue which should be considered by the Senate. The crux of the conference report have already been most thoroughly described by the distinguished chairman of the subcommittee (Mr. PELL) and certainly do not require my reiteration.

Mr. President, however, like to make special reference to some significant provisions which I personally took a substantial interest in. Section 133 of the bill creates a Student Loan Marketing Association to serve as a secondary market and warehousing facility for guaranteed student loans. Sallie Mae, as the association is referred to, would provide much needed liquidity for private lenders dealing in the most active Federal student assistance program. The guaranteed student loan program, in its 5-year existence, has made more than $3.6 billion loans totaling more than $3.3 billion to students attending more than 2,000 educational institutions. In spite of the above-cited activity, private lenders are becoming more hesitant to devote a substantial portion of their loan portfolio to low-interest loans which are not fully paid for as long as 10 years after the student has completed graduate school, and served in the military, the Peace Corps or VISTA.

The association would encourage greater participation by furnishing a source where the student loan paper could be discounted by such lenders thus freeing money for more loans. The particularly attractive aspect of Sallie Mae is that except for $5 million in seed money which it can raise, the ability of the guaranteed student loan program is immeasurably expanded without the use of Federal funds. After June 30, 1982, Sallie Mae becomes completely independent and continues to operate on a profit. Looking to the future, the association will not even be able to issue Federal guaranteed obligations.

In order to overcome funding contingencies and formula restrictions contained in the new general institutional aid program, Senator BEALL and I introduced a concept of emergency institutional assistance. It is intended to provide interim emergency assistance through fiscal year 1974 to institutions faced with financial distress serious enough to jeopardize the conferring of the institution or curtailment of quality education programs. Whereas 45 percent of the general institutional assistance is contingent upon substantial appropriations for basic educational opportunity program grants, 55 percent of it is contingent upon the enrollment of students receiving student assistance, this assistance is available upon a determination of need only. To insure against funding abuses, the program requires that need be determined for public institutions by both an appropriate State agency and the Commissioner after he has conferred with such a panel of non-Federal Government specialists. Private institutions have the option of using the need determination by the State where the authorization level was cut to $40 million, the program should prove most helpful to those institutions beyond the assistance of the general institutional aid program.

To further educational opportunities for the disadvantaged, the conference report includes a 5-year existence eligibility requirement for developing Indian institutions, if he determines that such action will increase higher education for Indians. This language which was strengthened by Senator BEALL on the floor and modified in conference allows Indian institutions, consistent with Commissioner Marland's concept of career education and my own desire to restore the respect for and interest in trades and careers which literally built our country and which are necessary for its continuation.

In the original Senate report on S. 659, which was ordered printed on August 3, 1971, I devoted the majority of my individual views to advocating a more flexible, postsecondary education system with increased emphasis on the training of skills for blue collar trades and careers. Thus, I am delighted that the conference saw fit to provide such emphasis by extending the Vocational Education Act of 1963, as amended in 1968, for 3 years and authorizing a new $650 million occupation assistance program which, among other things, would provide further diversity away from purely baccalaureate degrees, the conference also created a new community college plan to encourage the planning, establishment and expansion of State community college systems. These actions are consistent with Commissioner Marland's concept of career education and my own desire to restore the respect for and interest in trades and careers which literally built our country and which are necessary for its continuation.

Mr. President, I must cite the excellent and diligent efforts of our Education Subcommittee chairman, Mr. PELL. He guided this mammoth bill through endless months of hearings, executive sessions, floor debates, recommittal, and finally through the conference itself. Also deserving special mention is the noteworthy attendance and participation of the minority Senate conferees. To Senators JAVITS, SCHWEIKER, BEALL, and STAFFORD, I offer my profound appreciation and gratitude for the long hours throughout a very grueling conference.

The conference report contains part and parcel of each man's labors and contributions. It represents a most conscientious effort by all Senate conferees to reflect the will of the Senate. It substantially accomplishes this result to the definite benefit of American postsecondary education.
Mr. President, I urge my colleagues to vote in support of this substantial monument to the improvement of higher education in America. The busing issue is of great importance and must be faced but there are many other opportunities to debate the issue without jeopardizing this landmark legislation.

Mr. KENNEDY. I face a dilemma with this bill because, on the one hand, I vigorously support the truly landmark higher education provisions approved by the conference committee. I believe these provisions represent the most far-reaching higher education legislation reported to the Senate in modern times.

But today, the Nation's most pressing social issue is not the manner nor the level of Federal assistance to higher education. Rather, it is the question of how black Americans and white Americans will live together. Therefore, I felt it would be wrong to indicate in any way that I recommend the conference report to my colleagues with its antibusing desegregation provisions.

It is painfully clear that providing endless delays to desegregation orders is a slap in the face to the Nation's minority citizens. It is a blow that is especially unwelcome because that legislation effectively hampers any initiative by the Federal Government or the courts to seek an end to inequality in our Nation's public schools. Black and white families alike are distressed and frustrated by the clamor over school busing. White families feel that orders requiring suburban students to attend schools in deprived inner city classrooms are wrong.

But for years, parents of black children stood helplessly as all-white suburban heavens were promoted by official actions of Government agencies which could have prohibited racial discrimination in real estate dealings, had they wished.

If we believe that busing to erase the inequalities in our schools must be halted, then we must be prepared to adopt other measures that seek to accomplish that goal. Outlawing busing will not solve the problem of an inadequate education for black or white Americans, Clear, we are not in favor of busing which endangers a child's health.

Clearly, we are not in favor of busing which significantly impinges on the educational process. Clearly, we are not in favor of busing whose sake. But if it is wrong to send white children to schools that some people call "inferior," then it is wrong to tell black children that they must stay in those schools and keep quiet about it.

Measures that prohibit school authorities from carrying out their constitutional mandate to adjust the deprivation caused by segregated schooling are unacceptable. I cannot support them. And the same reasoning applies to equal education under the emotional veil of the busing issue. So long as we have public schools in this country, white and black children will drive buses. They rode them in the 1930's. They rode them in the 1970's. They will ride them long after this debate is a memory in Senate history. But, equally sorry will be the chapter in the national history showing that we told millions of black men and women across the country that their children were not permitted to attend decent schools.

Anyone who denies that this is the effect of antibusing measures has not faced up to the shameful results of years of blatant neglect and discrimination.

Eighteen years after the surging thrust of the struggle, it is clear that Americans know how deep down that the real goal is and must be quality education for all, regardless of race. Busing was not conceived as a last-ditch and permanent approach to that problem. And it should not be. It is a stop-gap measure to achieve the goal of ending segregated education.

As it appears on the floor today, this measure contains three basic discriminatory amendments, all designed to interfere with the ability of the courts to assure quality education to the children of this Nation. Although the conferees were successful in preserving the diluting language of the Mansfield-Scott compromise in both the Ashbrook and Green amendments reported by the House, we were unsuccessful in an important third area.

The provision known as the Broomfield amendment was adopted virtually intact by the Senate conferees. The vote came after an all-night bargaining session and climaxed a 2-month conference. The House proposal was accepted by a 7-to-5 margin.

The proposal meant that the Broomfield amendment as it had been passed by the House would be accepted in its entirety. There would be no change in the text of the amendment; although the House conferees did limit its duration to 18 months.

The Broomfield amendment signifies exactly what the President's moratorium symbolizes—willingness by the Federal Government to see the fourteenth amendment guarantee of equal educational opportunity diluted, delayed and diminished.

The amendment provides for the delay of any Federal court order requiring the transfer or transportation of students, until appeals have been finally exhausted. This amendment is the result of the Supreme Court decision in Alexander v. Holmes County (396 U.S. 19 (1969)) where the Court specifically rules that remedies must be enforced during the appeals process in school desegregation cases.

The Court had seen the same sorry record that we have seen since 1954, the same delays, the same maneuvers, the same refusal to respond affirmatively to the Court ruling in Brown against Board of Education.

An so the Court ruled that compliance with the Constitution required that desegregation orders be enforced, because the constitutional rights of minority children were being denied each day they were forced to attend segregated schools. Moreover, because the appeals process may run for many years, the courts demanded obedience to desegregation orders without further delay.

That the appellate process can take many years is evident in the case of the State of South Carolina which 9 years elapsed between the Court's initial order and the final decree to eliminate segregation in the public schools. Within 2 years of that date, the situation in South Carolina shifted dramatically. In 1970, before the final order was implemented, only 15 percent of the State's black students were in desegregated schools. By last September, over 90 percent were in desegregated schools.

Thus, for 16 years, the process of compliance with the Constitution was delayed. Now other States and school districts that process continues to be delayed.

For those districts, the Broomfield amendment would offer still more time for the constitutional rights to equal education to be denied to minority children.

At a time when we are committed to law and order, it is inconsistent, and probably unconstitutional, to pass legislation which has the specific objective of preventing enforcement of constitutionally protected rights. For the effect of the Broomfield amendment would not simply be to deny relief but to deny relief required by the Constitution.

Some have argued that the amendment may be interpreted to apply only to orders which require racial balance. And since the Supreme Court never has interpreted the Broomfield amendment would not simply be to deny relief but to deny relief required by the Constitution.

Some have argued that the amendment and out of existence. However, valid that claim may be, and I hope that the Court places that interpretation on it. The author of the amendment stated quite clearly his intent when he introduced and defended the amendment before the House.

His intent was to delay all orders requiring busing. While he argued that he simply sought uniformity to end any unfairness caused by rigid adherence to the Supreme Court decisions around the country; in fact, the House heard him well and understood that his course was first, delay, and only second, uniformity.

And that view was reflected in the conference. For in the interest of compromise suggested that if the Broomfield amendment was substantially shortened in time to a period of several months, and a provision was added requiring immediate review by the Supreme Court of a district court order—by bypassing the circuit courts of appeals—and then the demand for uniformity would be met.

However, the House conferees rejected that proposal, arguing that the
intent of the House would not be satisfied by my suggestion.

And so the final version is before us. Its intent goes far beyond busing. It is a measure, as was the President's, to turn the clock back. It is a measure to maintain confusion and uncertainty in school districts and states and to allow the courts to define the measure which denies to minority children the rights that the Constitution guarantees them.

Therefore, I found that I could not sign the conference report recommending this legislation to my colleagues. And I did so with great reluctance because of my regard for the yeoman work accomplished by the chairman of the Subcommittee on Education, Senator Pell, in the field of higher education.

I believe that the provisions in the Senate-passed version of S. 659, the Pell provisions of which are retained in the conference report, represent a stellar legislative achievement.

As a co-sponsor of the higher education bill and as a member of the Subcommittee on Education, I watched the progress of this measure during hearings both in the 91st Congress and in the current session.

And the thrust of this legislation is aimed at relieving the following three gaps in our system of higher education:

First, postsecondary education has been denied to young men and women because of financial obstacles. The Commissioner of Education told the subcommittee last year that a student from a family with an income over $15,000 is almost 60-percent more likely to attend college than a student from a family with an annual income under $3,000.

Second, there is the growing financial crisis among the colleges and universities across the land. The Carnegie Commission study a year ago discovered that 40-percent of the 2,340 institutions of higher education in the Nation were on their way to financial trouble or already mired in the red. At a time when enrollments are 60-percent higher than in 1965, Federal support to colleges and universities is only 30-percent of the lowest level since 1966. The financial crisis spans both public and private institutions. Public institutions find themselves resting on the shaky foundation of property taxes and private institutions on the even shaker ground of tuitions and donations. In my own State of Massachusetts, where more than half of the 215,000 full-time undergraduates are enrolled in private schools, the financial conditions of those schools is dire. A selected few have been able to find financial solutions to the financial problems of private higher education in the State reported that we could probably expect a deficit of $50 million within 4 years and two to three times that amount by 1980 to 1981.

Third, there is the demand to provide diversified, secondary education and innovation and reform as well. The growing population of high school graduates has swept around and over the traditional 4-year college or university. Their demands frequently are better satisfied by community colleges and vocational institutions.

At the same time, there has been a recognition, forced on us in part by the students, and shared by many educators and administrators as well, that the rigid structure of the traditional 4-year college needs basic reform. The free university, the university without walls—these were all responses to a need. But research within the higher education community has been relegated to a low priority and the funding of promising experiments has been inadequate.

The Senate higher education bill grappled with these three problems and it succeeded, I believe, in meeting them. Providing a thoughtful and far-reaching solution, I believe the conference report preserves those solutions.

STUDENT ASSISTANCE

The pioneering aspect of the student-aid package is that it commits the Federal Government strongly to the principle that every qualified high school graduate is entitled to further education, whether in community colleges, vocational institutions, or in traditional 4-year college or university.

I have endorsed the concept of an educational entitlement equivalent to the GI bill of rights for several years. In April 1969, I introduced a higher education bill on which I have been working in cooperation with the subcommittee chairmen and the leaders of both Houses of Congress, a bill that I believe is one of the best possible public policy by supporting the right of young people to receive support from relatives or civic groups. Also, institutions of higher learning serving predominantly disadvantaged populations tend to have smaller endowments and thus are unable to offer their own students any significant support.

Without other alternatives, the question whether these students receive Federal assistance will determine their educational future. And the importance of this fact is simply that for many of these students the primary means of moving into the mainstream of American economic and social life is to obtain a college education.

The basic grant program reflects the best possible public policy by supporting young citizens for matching grants to their colleges and universities.

Nor does it void in any way the existing student assistance programs. The basic grant program can be funded only after the level of appropriations that was available this year for the traditional EOG program and the student loan programs has been matched.

We have accepted the House provision to increase the EOG grant ceiling to $1,500. We have adopted a new scholarship program providing funds to States for State scholarships with a 3-year, $150 million-per-year authorization. We have raised the level of funding for the special programs for disadvantaged students increasing the authorization for upward bound, talent search and special services for disadvantaged students to $100 million for each of the next 3 years. And we have provided for the establishment in inner city areas and poverty areas, educational opportunity centers to provide guidance to young people on entering college.

The student loan program was retained and a new student loan marketing association established to expand the availability of credit. The association will be able to buy up loan paper from banks and other lending associations, thereby making it possible for them to expand the number of student loans.

In that program, Congress also tried to end a discriminatory situation which has existed for 4 years. Banks have been requiring that students or their families maintain accounts with them before they grant loans. The Senate wanted the intent of Congress. Three years ago, we passed legislation to prevent this from occurring. However, the Secretary has failed to issue any regulations on this matter. This year, we adopted a provision prohibiting such discrimination, and, although the House adopted it, a compromise was adopted which exempts smaller banks from this requirement. Hopefully, we will prevent most students from being denied a loan because a bank demands a prior commitment to open a savings account.

These student aid and student loan provisions combine to establish the broadest and most expansive student assistance program ever offered by the Federal Government. They offer visible evidence of the congressional intent to ensure students from low- and middle-income families to receive the benefits of higher education. It is a worthy goal and the programs are designed to achieve that goal.

INSTITUTIONAL AID

Also, the conference recognized the financial crisis facing higher education and provided with direct college operating subsidies. The funds will be allocated: to colleges and universities partly according to the number of Federal grant recipients enrolled and partly according to the total...
volume of Federal student aid funds it received. Ten percent of the allocation will depend on the number of graduate students that a college enrolls.

These cost of instruction payments will be geared to increase as the size of the institution grows smaller. In this way, the conference took note of the special problem of the small liberal arts schools, which have been hit hardest by the financial crisis.

Also, there was an attempt to provide $40 million in emergency assistance for the next 2 years to put the financial props back under some of the Nation's colleges which are suffering the most.

In addition, the conference increased grant authorizations for undergraduate and graduate facilities and expanded the availability of construction loans.

The conference version of S. 659 retains almost in its entirety the Senate direct assistance package for the expansion of the Nations' community colleges. Some $275 million has been authorized over the next 3 years to provide for new community colleges, and the expansion of existing community colleges.

A similar effort to expand the vocational institutes of higher education occurred as the bill establishes within the Office of Education a Bureau of Occupational and Adult Education and authorizes $650 million for the next 5 years to strengthen occupational education programs.

In this way, a major effort was undertaken to reverse the trend of decreasing Federal assistance to the institutions of higher education.

EDUCATIONAL DIVERSITY AND REFORM

The conference adopted major new provisions aimed at improving the development of the teachers and counselors and administrators who direct our educational system.

The teacher corps is continued and given new independence within the Office of Education and the efforts to recruit and train teachers for elementary, secondary, and higher education are expanded.

In addition, new provisions are included to improve the education of disadvantaged and bilingual children through retraining teachers, employing high school and college students as tutors and improving teaching programs. In the conference, my amendment to focus greater attention on the use of these programs for the needs of bilingual children was adopted with specific earmarking for that purpose.

The bill insures that there will be a single Federal agency headed by an Assistant Secretary for Education who is a spokesman for Federal education policies.

To accomplish this purpose, the committee establishes a Division of Education within the Department of Health, Education, and Welfare. The new Division will include the Office of Education and a new National Institute of Education.

The new Institute will continue its function of providing a coordinated system of research into higher education as provided by the original Senate amendment. But, in addition, it will also include the grant authority of the proposed National Foundation to promote innovation in the design of post-secondary education, in the modes of teaching and learning and in the ways in which higher education can be opened to all segments of our population.

In the conference, the suggestions of Congressmen Breaux and Thompson in the Senate on the need for diversity and reform in higher education can be opened to all segments of our population.

In this way, the need for diversity and reform and innovation in higher education has been met by the conferees. For their part, the conferees increased the opportunities for funding that determination and leads the Nation away from an integrated society. I refuse to turn in that direction and I therefore must sadly vote against this bill.

Mr. WILLIAMS. Mr. President, we are today considering an historic piece of legislation designed to provide new directions in the Federal effort to increase educational opportunities in the United States. It represents perhaps the most far-reaching and significant program ever developed and approved by the Congress to insure continued excellence in the American system of postsecondary education. It has been called by one newspaper "the most important piece of legislation to come out of the 92d Congress."

S. 659 was first introduced in the Senate on February 18, 1971. On August 6 of last year it passed the Senate by a unanimous vote. Two months later the House of Representatives passed its version of this bill, and on March 1 of this year the Senate and the House came around the issue of school busing, the Senate once again voted its approval of this legislation.

As every Senator knows, the conference with the House has been a long and arduous one. We were faced with almost 400 substantive differences which had to be painstakingly discussed and carefully reconciled; and after 10 weeks of hard work which culminated in an all-night session a week ago today, the conference was able to reach the agreement which is now before us.

I could, of course, speak at great length about each of the important provisions of this bill. Every change in an existing law has been fashioned to substantially improve upon current programs and to eliminate abuses and duplications which have occurred in the past. There are three major initiatives which are critical to the future of higher education in the United States and which merit our special attention.

The student assistance programs which we enacted beginning in 1958 have gone far to open the doors to higher education for a large segment of our society. National defense student loans, the guaranteed student loan program, edu-
cational opportunity grants, and the work-study program have all been a vital part of our commitment to postsecondary education in the United States. Yet, it was clear from all available evidence before us that the objectives these programs were designed to achieve have not been adequate to meet the rising demands for higher education and the rising costs of attending postsecondary education institutions. To meet this need, the Senate bill created a new program of basic education opportunity grants for all students whose available resources are insufficient to enable them to attend a college or university. The basic education opportunity grant provides for a payment of up to $1,400, minus the amount which can reasonably be expected to be contributed by the student's family for his education. This program is designed to assure that no student shall be denied the opportunity to avail himself of educational opportunities beyond high school if he cannot afford it. The conditions attached to provision in the House bill and I think that we can all take satisfaction from the fact that the primary thrust of this new program has been retained in the conference report.

The second landmark program provides financial assistance for the schools themselves. It is designed to lend financial support to the postsecondary schools for each student who is a recipient of Federal financial assistance and who is in attendance at such postsecondary institution. The program is designed to help reimburse the schools for improving the quality of teaching and providing specialized services which may be needed by the less advantaged students we are inducing to enroll. The House bill had provided an across-the-board per capita formula of institutional aid which was primarily with regard to whether their students were receiving Federal assistance. It was an important concept but one which the conference ultimately decided against adopting. The institutionally based institutional aid approach of the Senate bill was better justified and would more likely achieve the goals which everyone felt were necessary. I view the adoption of this provision as a significant step forward in helping our institutions of higher education meet the demands which will be made upon them in the future, and this provision merits our enthusiastic support.

The third significant initiative in this bill concerns the development of America's community colleges. I have before us this afternoon the need for greater assistance for expanding and improving community college education. These low-cost institutions have experienced phenomenal growth in the past decade and are of particular appeal to those institutions which are relatively near those students in the metropolitan area and have the need for greater assistance for expanding and improving community college education. These low-cost institutions have experienced phenomenal growth in the past decade and are of particular appeal to those institutions near those students in the metropolitan area and have the need for greater assistance for expanding and improving community college education. In response to the growing demand for community college education and the relatively small amount of Federal support for this new form of education, I introduced legislation in the 91st and 92d Congresses designed to provide substantial assistance for comprehensive community college education. S. 659 adopts new provisions for State planning, start up, and expansion grants for community colleges and provides for the annual revision and phasing out of the Federal Government to these schools. In addition, it calls for the establishment of a community college unit within the Office of Education which is expressly designed to coordinate all programs administered by the Office of Education and to improve the quality of Federal support for expanding and improving community college education.

Mr. President, the directions for higher education in the United States which are contemplated in the conference report are bold, innovative and of utmost importance to the future of our Nation. In addition to the initiatives which I have already discussed, the bill incorporates numerous other programs which will help raise the quality of our American educational system. Among these are the new National Institute for Education, the new educational opportunity program, the provisions for creating new educational opportunity for American Indians, the establishment of a student loan marketing association, the provisions for a new postsecondary occupational education program, the provisions designed to provide financial assistance to institutions of higher education which are in serious financial distress, and the establishment of an ethnic heritage studies program and of a consumer education program.

Mr. President, I know that most of us in the Senate felt it was, indeed, unfortunate that legislation designed to assist desegregation at the elementary and secondary school level was added to the House higher education bill last year. The Senate felt this provision was not justified and would more likely achieve the goals which everyone felt were necessary. I view the adoption of this provision as a significant step forward in helping our institutions of higher education meet the demands which will be made upon them in the future, and this provision merits our enthusiastic support.

In conclusion, Mr. President, it is my judgment that the agreement which was reached on these matters is, in fact, the best that we could have reasonably expected. I do not make me happy. Yet, my greatest fear is that we have not reached an understanding at the time this issue came before us in the conference, it is likely that the emotions in future days would force the enactment of legislation which would severely cripple Federal efforts to meet the obligations of the Constitution which have been the theme of our decisions since 1954. We must not let this happen. And we must view the legislation before us today in its entirety—for what it does to bring new hope to thousands of young Americans who could not previously afford to expand their educations beyond high school, for what it does to assure stability and growth in the American system of higher education, and for what it does to provide meaningful assistance to elementary and secondary schools in their efforts to provide quality integrated educational opportunities for all children.

Mr. President, this conference report is the result of long hard work and is a tribute to the men and women who labored so hard to achieve a meaningful conference agreement. Each one of the conferees deserves the greatest praise for their interest and concern in the development of a rational and forward-looking approach to educational in the United States. Congressman Perkins, Congresswoman Seek, Senator Muskie, Senator Cranston, Senator Thompson, and all of their colleagues representing the House deserve the highest praise for their efforts in this bill and we owe them our deepest gratitude for their perseverance and integrity. Senator Mansfield, Senator Cranston, Senator Javits, Senator Dominick, and indeed, all of the Senate conferees made immeasurable contributions of time and energy in securing what we all consider to be an excellent agreement. Yet above all, I must point to the tireless efforts of the chairman of the Senate Education Subcommittee, Senator Pell. He has demonstrated an understanding of the problems of higher education which is second to none among the Members of this body. He has shown his compassion for the problems of students, his innovations have created the enormous demand for postsecondary education. And his success in guiding this bill through the conference clearly shows his brilliant legislative ability. He was always there. He put the need to reach agreement above any personal need or concern. And we are all in his debt for the fine service he has rendered to Congress and the Nation.

Mr. President, the United States cannot afford to lock the doors to education. Too much is at stake for ourselves and for our children. We all know it is the position to approve legislation which can be the key to opening those doors and show the way to full educational opportunity for all Americans.

Mr. Tower. Mr. President, it is with reluctance that I shall vote to support the compromise amendments of 1972. I am particularly pleased that the compromise bill includes strong support for bilingual education programs. Earlier in the Senate, my amendment to increase these funds by $15 million was accepted and this additional bilingual education authorization remains in the compromise version. In all, the bill provides at least $80 million for
bilingual education. These funds are of great importance in Texas where many children from Spanish-speaking families enter elementary schools where classes are taught mainly in English. Bilingual education programs help these Spanish-speaking children to learn English more easily and teach them as well to read and write in Spanish. Bilingual education is making marvelous strides in giving Spanish-speaking children an equal start in the educational process, and I am glad that the Congress has recognized this important educational concept and is authorizing more fund-in-land for this purpose.

The bill also provides an authorization for aiding needy students to go to college. Titled the Basic Educational Opportunity Grants, this section is designed to provide the difference between a student's financial capability and the cost of his education. This Federal commitment to aid capable but needy students is indeed, laudable. This commitment, when combined with the emergency assistance to institutions of higher education which are in "serious financial distress" and the "financial crisis that many of our nation's institutions of higher education are presently facing.

I am concerned, however, Mr. President, that the conferees have not done enough on the subject of busing. While the bill does contain a provision that would stay any busing order now on appeal or any new busing order until all appeals are exhausted, or until December 31, 1973, whichever is earlier, the conference committee has failed in its most important mission. The great majority of busing will continue in the country. Nothing in this bill will prohibit Federal judges from ordering still more busing in the Nation, thus disrupting still further the education process. Also, it may lead some lawmakers to think that we have actually accomplished something in this field, when, in fact, we have not. All we are doing is postponing public relief on this issue—relief that has been demanded in every primary where the issue was on the ballot, and in every poll taken on the subject.

President Nixon has proposed a program that would prohibit further busing orders, coupled with a proposal that would end busing for all practical purposes within 3 years of enactment. Several of my colleagues and I have proposed a constitutional amendment that would prohibit the use of forced busing in order to overcome racial imbalance. I shall continue to press for action on these measures. We must have substantive relief. We can no longer afford to duck the issue. With the elections coming up, the American people will be demanding that we provide a resolution to the problem of busing. The proposal in this bill will not satisfy many.

Mr. THURMOND. Mr. President, the higher education conference report which is before the Senate today, is the most important and comprehensive achievement in the field of higher education. This bill provides appropriations for many worthwhile educational programs which would be of great benefit to the States.

The provisions on forced busing of schoolchildren are not the ones I would have desired. However, these provisions do provide some measure of relief from the terminating forced busing to achieve a racial balance.

The importance of these busing provisions is emphasized by the fact that this is the first time the whole Congress has provided some measure of relief from the undesirable forced busing. While I would have preferred the House version of the antibusing provisions, I feel that the present provisions do provide a measure of relief which is greatly needed in the United States.

The conferees did a less than acceptable job on the busing question; however, for the reasons stated above, I believe that the present antibusing provisions are better than none at all.

This bill expands all existing Federal educational programs and provides a large number of programs which are helpful to and desired by the States.

Although I cannot endorse all the content of this comprehensive bill, I feel that it is one on which I support the conference report.

CONFERENCE REPORT ON HIGHER EDUCATION IS PRACTICAL COURSE TO ADVANCE AID TO INSTITUTIONS AND STUDENTS

Mr. RANDOLPH. Mr. President, the conference report on S. 659, the Education Amendments of 1972, is of major importance to education in West Virginia. The educational needs of West Virginia are great. S. 659, as reported from the conference, will help to meet these needs.

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It is all further complicated by the fact that there is no doubt some busing proposal will be adopted and that proposal is likely to raise even more serious constitutional and practical problems.

Nothing will be accomplished by defeating the report and a major educational bill will be lost in the process. I hope, therefore, that the conference report is adopted. If my vote is needed, I will support it. If not, I will vote "no" as a protest against the conference modification of the Senate busing amendment.

Mr. PELL. Mr. President, I wish to express my strong support for the conference report on S. 659, the Higher Education Act of 1972. I believe this legislation represents one of the greatest steps we have taken in the educational field and certainly it is legislation which is sorely needed.

This conference report represents far more than individual amendments aimed at improving our existing system. This measure, if enacted, will establish a new type of Federal assistance to educational institutions. The conference bill provides the necessary assistance, without allowing the Government to interfere with the institutions' independence of action.

The key provision of this bill is a new program of grants for needy college students. These grants will provide a minimum $1,400 annual subsidy to every needy college student, minus the amount his family can reasonably be expected to contribute toward his education. This Government contribution to his education would be reduced gradually, according to his family income level, until it would disappear at the $15,000 income level. This bill would continue funding the present student grants, low-interest direct loans, and work-study pay proposals.

One of the most innovative features in this bill is a new type of college operating subsidy, also called a "cost of education" grant. These funds are distributed to educational institutions based on the number of federally assisted students enrolled, and would also be allocated to institutions based on the number of their graduate student enrollment.

This bill also authorizes: A National Institute of Education, which will finance educational research at all levels of schooling.

Immediate aid to those educational institutions which are in the worst financial shape by authorizing $40 million to be spent over the next 2 years.

Funds to finance reforms in education.

The establishment of a student loan marketing association, designed to expand Government-backed private loans to students by buying up loan paper from banks and other lending institutions.

I believe this is one of the most comprehensive approaches to educational assistance which has been considered by the Congress in the last decade, in that students may now have a choice of which schools they wish to attend, regardless of their economic condition. This legislation will make it possible for them to select a school of their choice without being wholly influenced by their economic plight, and at the same time, colleges would be competing for these students, who would be bringing additional Federal funds for their particular institution. I believe this will expand the educational opportunities for needy students and at the same time, to keep pressure on these institutions to continuously upgrade their facilities and their curricula.

It is significant that the Carnegie Commission on Education has characterized this bill as the most important proposal on higher education brought before the Congress since the passage of the Morrill Land Grant Act of 1862. We must have a modern education system to meet the demands of this society, and an educational system that will provide assistance for those students who are meritorious, deserving, and capable of pursuing a college-level work. I believe this bill goes a long way toward meeting these needs. I commend the chairman of the Education Subcommittee and the other members of the Labor Committee for their sagacity and perseverance, in being able to report and carry through the legislative process, to this stage, this important legislation.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

THE PRESIDENT. Mr. President, I announce that the yeas and nays on the conference report were agreed to.

The yeas and nays were ordered.

The PRESIDENT. The hour of 3:30 having arrived, the Senate, under the previous order, will proceed to vote on the conference report on S. 659, and the clerk will call the roll.

THE PRESIDENT. The legislative clerk called the roll.

Manfield (for having voted in the negative) Mr. President, if he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I vote "nay."

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), and the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Wyoming (Mr. MCGEE), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Utah (Mr. MOSS) is absent on official business.

First further announce that, if present and voting, the Senate from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Idaho (Mr. JORDAN), the Senator from Wyoming (Mr. HANSEN), the Senator from Maryland (Mr. MATHIAS) are absent on official business.

The Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDRY) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

On this vote, the Senator from Wyoming (Mr. HANSEN) is paired with the Senator from Massachusetts (Mr. BROOKE). If present and voting, the Senator from Wyoming would vote "yea" and the Senator from Massachusetts would vote "nay."

The result was announced—yeas 63, nays 15, as follows:

[No. 185 Leg.]

YEAS—63

Aiken
Allen
Allott
Baker
Boggs
B cittman
Bailey
Bennett
Bristol
Bible
Boggs
Brooks
Burghardt
Byrd
Byron, H. J., Jr.
Byrd, Robert O.
Cannon
Chambliss
Cook
Cook
Cooper
Coppola
Cranston
Currie
Dole
Domenici
Engleton
Elliender
Ervin
Fannin
Fulbright
Gibson
Gurney
Hollings
Humphrey
Jackson
Long
Magnuson
McIntyre
McNary
Miller
Montoya
Peake
Pearson
Pell
 preferences

NAYS—15

Buckley
Case
Gambrell
Gravel
Hart
Hatch
Hefley
Hatfield
Hansen
Hartke
Hatch
Hatfield
Humphrey
Jordan
Jordan
Mundt
Manson

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—21

Anderson
Bellmon
Brooke
Church
Eastland
Feng
Goldwater

So the conference report was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, at this time I would like to pay particular tribute and to express my personal thanks to my colleagues who were of such great assistance during both the development of S. 659 and in the conference recently concluded.

Initially, I would like to thank the junior Senator from Colorado (Mr. DOMINIO) for the excellent and conscientious way he fulfilled his responsibility as ranking minority member of the subcommittee. Moreover, without his help there could not have been a conference report.
I should like to pay particular thanks to Senator Randolph for his valued assistance. The new division of adult and vocational education can be directly attributed to his efforts. Indeed the assistance found in this bill for small colleges is due to Senator Randolph's strong advocacy of their cause.

During the conference Senators Stafford, Schweiker, and Beal were of great help as were Senators Williams and Cranston.

In closing, Mr. President, I would like to pay a special tribute to those conference members who fully supported the education provisions of S. 659 but who had to oppose the bill because of moral consideration. Senators Javits and Mondale were indeed architects of the bill. Senator Javits time and again used his great skill and knowledge to help create solutions and resolve problems. Senator Mondale made an immense contribution by the role he played in developing the remarkably imaginative emergency school aid program portion of the bill. Senators Kennedy and Mondale together provided the vocational education portions of the bill, which is a very great tribute to the work done by our former colleague, the late Senator Robert F. Kennedy.

Finally, these remarks would not be complete if I did not pay tribute to the House of Representatives. The Education Subcommittee's counsel, and Richard Smith, the subcommittee's associate counsel. Roy Millenson, the minority staff director, likewise contributed to the development of this remarkable bill. And the credit for the Congressional portions of the bill, which is a very great tribute to the work done by our former colleague, the late Senator Robert F. Kennedy.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate the unfinished business, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3529) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will proceed to the consideration of amendment No. 1203 by the Senator from Pennsylvania (Mr. Scott), which will be stated:

The assistant legislative clerk read as follows:

On page 30, line 19, strike all through "(b)" on line 6, page 31, and insert:

"STATE DEPARTMENT CEILING

"Sec. 504."

The PRESIDING OFFICER. Under the unanimous consent agreement, there is a limitation of one hour on the amendment, the time to be equally divided between and controlled by the Senator from Pennsylvania (Mr. Scott) and the Senator from Arkansas (Mr. Fulbright). Who yields time?

Mr. SCOTT. I yield myself 10 minutes. The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Pennsylvania yield for a question?

Mr. SCOTT. Yes, it is; and I now ask for aye and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Is it the intention of the distinguished minority leader to have a rollcall vote on the pending amendment?

Mr. SCOTT. Yes, it is; and I now ask for aye and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished minority leader yield again?

Mr. SCOTT. I yield.

Mr. ROBERT C. BYRD. Mr. President, I presume that we have the unanimous consent of the members of the Foreign Relations Committee to extend the time.

Mr. SCOTT. I yield.

Mr. ROBERT C. BYRD. Mr. President, I now ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I now ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SCOTT. This does not include the so-called Church-Case amendment?

Mr. ROBERT C. BYRD. It does not.

Mr. SCOTT. Mr. President, I do not intend to use my full time. I hope I can be through in 10 minutes, more or less, and therefore we may come to a vote rather shortly, if not too much is said by other speakers.

Section 504(b) (section (a), requires a 10 percent reduction in the number of Federal civilian employees in foreign countries. Specifically excluded from this cutback are State Department employees, Peace Corps volunteers and leaders, and other Federal employees who are assigned a reimbursable basis. In addition, the Senate acted last week to extend this exemption to employees of the Department of Agriculture. Section 504 also requires a 10 percent cutback in members of the Armed Forces detailed to the Department of State to perform diplomatic or to military assistance advisory groups or military aid missions. The cutback will apply against overseas strength as of July 1, 1972, and must be realized by the end of the fiscal year on June 30, 1973.

The total number of personnel under the jurisdiction of diplomatic mission chiefs amount to 26,000. After excluding employees to which the cutback does not apply, some 11,800 personnel are subject to the cut. A cutback against a base of 11,800 personnel means that almost 1,200 positions must be cut before June 30, 1973.

I am not against cutbacks for programs that are overstuffed. Substantial reductions in overseas Federal employment have already been effected—about 20 percent since 1967. Perhaps there is more fat to cut. My point is simply that some of the programs affected by this across-the-board cut are under the jurisdiction of other committees of Congress, and that these committees should have the opportunity to consider the value to the United States of these programs and the personnel who staff them. Some of these programs may be of vital national security and cannot be effectively operated if they are reduced. I assume the very same reasoning was behind the action of the members of the Foreign Relations Committee who voted to exclude the Department of Agriculture from the cut, and instead placed an overall ceiling on these other employees.

I hope my remarks have made it clear why I cannot support section 504 as written and why I have proposed an amendment which would strike section 504(a).

Section 504, subsection (a), requires a 10 percent reduction in the number of civilian employees of the Department of State, Armed Forces, for example, has a very great interest in these military missions and in the military personnel involved. The Committee on Appropriations, of course, has an interest in this matter. Yet, the Department of Agriculture has received an exemption; the Committee on Foreign Relations has added an exemption to a number of personnel under its jurisdiction, but has not yet applied the same exemption elsewhere.

So that we are proceeding without regard to the committee system. It seems to me. We are proceeding without regard to the actual needs in accordance with our national security position and without regard to the views of those committees which have not had an opportunity to act or to consider this matter.

Therefore, I hope that my amendment will be adopted. The effect of the amendment will be to prevent the loss of 1,200 employees, many of whom are in vital positions and in positions of extreme importance to the security of the United States.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The other day, in dealing with the amendment by the distinguished Senator from Oklahoma (Mr. Bellmon), I covered much of the basic material and information on this subject. I hesitate to take time to repeat it, because I do not think it, but I will just cover the highlights.

This is a problem of long standing, going back particularly to the height of the cold war a few years ago. According to the most recent information available to the committee, there are some 28,000 personnel of the jurisdiction of diplomatic mission chiefs. Of this total, State Department personnel engaged in regular department-related activities number 3,409, or about 13 percent.

If to this total are added those carried on the Department's rolls as reimbursable personnel, those with duties on behalf of other agencies—that is, the USIA and