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Senate

S. 726 AND S. 727—INTRODUCTION OF NATIONAL AGRICULTURAL BARGAINING AND MARKETING LEGISLATION

Mr. MONDALE. Mr. President, today I am introducing two bills designed to increase the marketing strength of U.S. farmers: The National Agricultural Bargaining Act of 1971, and the National Agricultural Marketing Act of 1971. Joining me as consponsors of both these bills are Senators BURDICK, CHURCH, CRANSTON, HARRIS, HART, HUMPHREY, MANSFIELD, MCGEE, MCGOVERN, and YOUNG. I ask that the bills be received and referred to the appropriate committee or committees.

These bills are identical to titles I and II, respectively, of the National Agricultural Bargaining Act of 1969 (S. 812), which I introduced into the 91st Congress on January 31, 1969. Since January 1969, the general parity ratio of farm prices has gone down four points—from 72 to 68. Indeed, the farmers' economic plight is currently so serious that the Nixon administration—in an apparent attempt to "paper over" the unfavorable situation—has shifted the primary base period on which the parity ratio is computed from 1910–14 to 1967. The result is a paper increase of the parity ratio by 23 points—from 68 to 91.

Mr. President, it is impossible in this or any other way to disguise the fact that the Nation's farmers today need market power even more than they did 2 years ago. These bills are intended to focus debate on the best ways to accomplish this objective—in the best interests of the farmer and the American people generally.

None of those Senators who join with me in cosponsoring these bills are wedded to all of their specifics. Our purpose is to express our deep interest in finding out through hearings whether legislation is possible or workable.

These bills offer two approaches toward providing greater economic muscle for farmers. The National Agricultural Bargaining Act would enable farmer-elected marketing committees to bargain and negotiate with processors and other buyers for decent and adequate prices on a commodity-by-commodity basis. The National Agricultural Marketing Act would make all commodities eligible for marketing orders, and provide a broad new range of powers for farmers under market orders—including collective bargaining for minimum price and nonprice terms of sale of the particular commodity involved.

We had extensive hearings on this type of legislation in the 90th Congress, but no legislation was reported or recommended by the Senate Agriculture Committee. The hearings disclosed a great deal of controversy, but at the same time widespread and deep support for the concept of farmer bargaining legislation across the country.

The time has come finally to get down to the hard specifics of legislation, and see whether or not this concept can be achieved at all in legislative form. It is my hope that reintroduction of this legislation will encourage and focus debate on the benefits and problems that may be associated with farmer collective bargaining.

This legislation, or something very nearly like it is sorely needed and must be passed if we expect the American family farmer to continue in the business of farming. Without it, the farmers are doomed to economic disenfranchisement. Without it, farmers will continue to be the low man on our economic totem pole without any real hope of attaining the just portion of national income to which they are entitled.

No business—and farmers do run substantially large businesses—could function or stay in operation under the conditions faced by most farmers. They are, first of all, at the mercy of many variables, including the weather, entirely outside their control. In addition, farmers have no economic power to establish the price on the commodities they produce. They must take, in all reality, whatever is offered by way of the market price or Federal programs. They have no alternative.

There is no doubt, and the records are clear, that this inherently weak bargaining position has caused the American family farmer to lag far behind the prosperity enjoyed by nearly every other segment of our society. The record is quite clear. Consumers in this country are estimated to have expended about $85.5 billion during 1967 for domestic farm products. This represents an increase over the last 20 years of 100 percent.

The farmer's share, or the farm value of that food marketing bill, is only $27½ billion and has increased in the last 20 years by only one-half.

For example, the farmer receives only 2.7 cents for the wheat in a pound loaf of white bread, or 12 percent of the cost of that loaf. It is a fact that the American farmer subsidizes his consumer counterpart, by continuing to produce food for substandard returns. At the same time, the farmer has been increasing his own productivity fourfold over the last 30 years. Between 1950 and 1965 alone, the output per man-hour in agriculture rose nearly three times as fast as in nonfarming occupations, 132 percent in agriculture against 47 percent for the rest of the economy. In one sentence, that sums up the farm subsidy to consumers. Consumers pay more, but farmers get less.

The legislation that we introduce today is not intended to replace existing farm programs. We have not regarded the National Labor Relations Act as a total solution for all the ills of the workingman, and neither will these bills. The National Labor Relations Act has not superseded the need for minimum wage legislation or unemployment compensation legislation, and I do not expect that we can regard farm bargaining as a complete substitute for existing programs, at least not without much experience under it.

I will briefly explain the provisions of these bills and describe the general framework of their provisions.

The National Agricultural Bargaining Act of 1971 provides that when the price of a particular agricultural commodity is unfair and unreasonable, the farmers producing that commodity may ask the newly established National Agricultural Relations Board to conduct a farmer referendum for the purpose of electing a bargaining committee to negotiate a fair price and other terms of sale in bargaining sessions with a similar committee representing processors and other purchasers of that commodity.

The Board is established as an independent agency to assist farmers and buyers in the process of bargaining. If no agreement can be reached—whether on price or nonprice terms of sale—or if the purchasers fail to bargain in good faith, the unsettled or disputed issues would be resolved by a three-man Joint Settlement Committee. This Joint Settlement Committee would be composed of a farmer representative, a purchasers representative, and a neutral party.

The price and nonprice terms of sale of the commodity, whether reached through the bargaining process or the joint settlement committee would be binding on all producers and all buyers.

This procedure is available to the producers of all commodities under the proposed legislation without exception, and would also permit the farmer bargaining committee to recommend a plan of marketing controls for approval by farmers in an additional referendum.

The bill does not provide a specific, detailed test for determining whether farm prices are unfair or unreasonable, but relies on basic economic realities and prevailing market factors to achieve this objective. While farmer bargaining committees would be free to ask for any price level they feel necessary, they could not demand an unreasonably high price without running a very serious risk of competition from substitutes, increased integrated farming, loss of export markets, increased imports, or, in the absence of supply control, tremendous surplus-producing increases in production.

But while this proposal will require the fullest consideration of the realities of the marketplace it does seek to overcome the American family farmer's chief handicap; namely, that he is the weakest link in the marketing chain from the land to the table.

The bill does not describe in detailed terms who may serve on a purchasers' committee, nor spell out how that committee must be selected by the purchasers. It seems to me that this question may be more fairly and expeditiously reviewed during hearings in the Agriculture Committee.

The National Agricultural Marketing Act of 1971 is an amendment to the Agricultural Marketing Agreements Act of 1937. It would enable the producers of any agricultural commodity to form a market order, with a new broad range of powers available for use in the order—including collective bargaining for establishment of minimum prices.

Under this bill an agricultural commodity is eligible for a market order if a majority of the producers favor the establishment of an order in a special referendum conducted for that purpose by the Secretary. Orders could include collective bargaining, minimum pricing, pooling of proceeds for commodities in addition to milk when prices are established on a use-classification basis, and producer allotments based on historical marketings or quantities currently available or any combination to assure equitable distribution of returns.

Prices or other terms agreed upon between farmers and processors or handlers would become binding on all producers and all buyers on the approval of the Secretary and, further, on reaching agreement with processors or handlers taking 50 percent of the volume of the commodity.

Provision is also made for the establishment of a producer advisory committee for the guidance of the Secretary on formulation of new market orders and specific order provisions.

In my judgment, these two bills are not contradictory. Congress could pass either or both or a combination of the two. They are different approaches to the same objective—bargaining power for farmers.

Mr. President, I ask unanimous consent that the bills, as well as a section-by-section analysis of them, be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. GAMBRELL). The bills will be received and appropriately referred; and, without objection the bills and materials will be printed in the RECORD.

The bills (S. 726) to assist producers of agricultural commodities by providing an orderly means of bargaining with the handlers of such commodities; and (S. 727 to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, to assist producers in the marketing of their commodities at a fair price, introduced by Mr. MONDALE (for himself and other Senators), were received, read twice by their titles and referred to the Committee on Agriculture and Forestry, as follows:

S. 726

A bill to assist producers of agricultural commodities by providing an orderly means of bargaining with the handlers of such commodities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Agricultural Bargaining Act."

POLICY AND FINDINGS

SEC. 2. The Congres finds that the production and marketing of agricultural commodities is a basic and essential industry of the United States, involving the supply of the Nation's food, feed, and fiber which must be available in adequate volume without impairing or wasting the soil resources of the country.

Agricultural commodities produced for comercial purposes are marketed either in the current of interstate and foreign commerce or in a manner which directly burdens, obstructs, or affects such comerce and the marketing of that part of such commodity as enters directly into the current of interstate and foreign comerce cannot be effectively regulated without also extending the regulations, in the manner provided in this Act, to that part which is marketed within the State of production.

Farmers, ranchers, and other producers of agricultural commodities are located and operate throughout the United States, produce the same or similar or competitive crops in many States, carry on their farming operations with the use of borrowed funds and on leased land as well as their own land, and their operations are subject to uncontrollable and unforeseeable natural causes which often adversely affect the supply and directly affect consumer and national welfare.

Agricultural producers do not now enjoy the opportunity, comparable to that of industrial workers and those in many other forms of enterprise or employment, to organize and bargain effectively for a just and reasonable return or compensation for the commodities they offer for sale in domestic and foreign commerce. Adequate Government protection or assistance is not available to the vast majority of them in their effort to market their agricultural commodities in an orderly manner at reasonable prices. The producers of agricultural commodities are one of the very few economic groups, if not the only economic group, which must sell in markets largely controlled by the buyers, brokers, commission agents, and other representatives of buyers. As a result, producers of agricultural commodities are unable to effectively prevent or avoid the wasting of natural resources, the disorderly marketing of their comodities, congestion in transportation, storage, and processing, and other burdens on interstate and foreign commerce.

Disorderly marketing and abnormally excessive supplies of agricultural commodities unduly depress the prices received by the producers, burden and obstruct interstate and foreign commerce, cause wide and injurious disparity between the prices received by producers of such commodities and the cost to such producers of the materials and supplies required to produce such agricultural commodities, thus depressing the net return received by such producers, and threaten the maintenance of a continuous and stable supply of agricultural commodities to meet the requirement of the Nation and the consumers of said commodities.

NATIONAL AGRICULTURAL RELATIONS BOARD

SEC. 3. (1) There is hereby created a board, to be known as the National Agricultural Relations Board (hereinafter referred to as the "Board"), which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, two for a term of three years, and two for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfesance in office, but for no other cause.

(2) The Board's is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof. The Board shall have an official seal which shall be judicially noticed.

(3) The Board shall at the close of each fiscal year make a report in writing to Congress and to the President stating in detail the business it has conducted over the preceding year, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the Board, and an account of all moneys it has disbursed.

(4) Each member of the Board shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment. The Board shall appoint an executive secretary, and such other employees as it may from time to time find necessary for the proper performance of its duties.

(5) All of the expenses of the Board, including all necessary traveling and subsistence expenses outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Board or by any individual it designates for that purpose.

(6) The Board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by sections 551 through 559 of title 5, United States Code, and subject to the provisions of sections 701 through 706 of such Code, such rules and regulations as may be necessary to carry out the provisions of this Act.

(7) The Board is authorized to use the services of the employees of the Department of Agriculture and of the committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, in the performance of all of its duties and responsibilities provided for herein.

MARKETING COMMITTEES

SEC. 4. (a) In order to effectuate the policy of this Act, whenever a representative group of producers of any agricultural commodity or relative group of commodities or any market classification or product thereof the initial sale of which is customarily made by the producer or his cooperative or other marketing representative, shall file with the the Board a written petition stating that the average market price received by the producers of said agricultural commodity or commodities is below a fair and reasonable price to the producers thereof or that the price to the producer of said agricultural commodity or commodities may reasonably be expected to be below a fair and reasonable price to the producer thereof during the next marketing season or seasons and shall define the area within which said agricultural commodity or commodities is commercially produced or, if said agricultural commodity is produced in a lesser area than the entire United States, shall define the boundaries of the lesser area by States or political subdivision of States; or, if the Board finds and determines that the average market price received by the producers of any agricultural commodity is below a fair and reasonable price to the producers thereof or that the price to the producers of such agricultural commodity or commodities during a future marketing season may reasonably be expected to be below a fair and reasonable price to the producers thereof, taking into account: (1) the direct cost of production, including hired labor; (2) the reasonable value of the time, skill, and experience of the individual producing such commodity or commodities; (3) a fair return upon essential invested capital; (4) continuation of the American family farm pattern of agricultural production; and (5) other appropriate factors, including compensation comparable with that of other persons engaged in other means of earning a livelihod for themselves and their families, the Board shall announce the receipt of said petition or its findings and determination and promptly thereafter shall initiate and conduct a referendum among producers of such agricultural commodity to determine whether or not said producers favor the establishment of a representative marketing committee of the producers of said commodity to be chosen by such producers of the commodity to determine a fair minimum price or nonprice terms for the sale and purchase of said commodity. If the Board determines that such agricultural commodity is commercially produced in a lesser area than the entire United States it shall so state in its announcement and define the boundaries of the lesser area by States or political subdivisions of States. Commodities of the same general calss or which are used wholly or in part for the same purpose may be treated as a separate commodity for the purposes of this Act.

(b) All phases of said referendum, including preparation and distribution of ballots, establishment of voting places and procedures defining the further qualification of producers eligible to vote, the tallying of the vote upon the issue of whether or not a marketing committee shall be created and authorized and the number of the initial members of the marketing committee for said commodity as hereinafter provided shall be prepared and conducted by the Board.

(c) Said referendum ballot shall contain the names of at least twice as many persons as the membership of the proposed initial marketing committee, to be selected by the Board from recommendations submitted to it by the Agricultural Stabilization and Conservation County Committees established by section 8(b) of the Soil Conservation and Domestic Allotments Act, as amended, in which capacity such committees shall merely act as conduits, transmitting to the Board the names of all eligible candidates. The membership of the marketing committee shall be elected at large or the whole area may be divided into divisions from subareas and the number of members to be selected from each division or subarea to be elected by the eligible producers resident in such division or subarea shall be fixed by the Board. No person shall be eligible to vote for or serve on any marketing committee unless more than 60 per centum of his annual gross income received from production during each of the preceding three calendar years has been derived from farming or ranching as owner-operator or lessee-operator and the commodity named in the Board's announcement constitutes a significant portion of the total farming or ranching operations of said proposed marketing committee member.

(d) If a majority of producers eligible to vote and voting in said referendum shall approve the establishment of such a marketing committee, the Board shall so publicly announce and shall promptly notify the person elected as the initial members of said marketing committee that a meeting of said committee will be convened at a time and place, either in Washington, District of Columbia, or elsewhere, for the purpose of organizing and planning the work of the committee.

(e) Concurrently with its announcement of the creation of a marketing committee as provided for in this Act, the Board shall give notice to prospective purchasers of such commodity and request such prospective purchasers to select a purchasers committee for the purpose of participating in negotiating a minimum price at which said commodity shall be offered for sale and sold by the producers thereof and negotiating nonprice terms of such sales.

(f) If prospective purchasers do not select a committee which is fairly representative of all prospective purchasers of the commodity within thirty days after date said invitation was issued by the Board, or within such additional period as the Board may fix, the Board is authorized to select a committee which it determines is fairly representative of all commercial purchasers of said commodity. The Board is authorized to fix the time and place of a meeting or meetings of the marketing committee and the purchasers committee for the purpose of negotiating a minimum price at which such commodity is to be offered for sale and sold by producers and on nonprice terms of such sales. The marketing committee and the purchasers committee shall bargain in good faith during such meeting or meetings. The marketing committee shall also invite the Chairman of the Consumer Advisory Council to designate one or more persons to represent the interest of consumers in said meeting and to present such data and information, recommendations and suggestions on behalf of consumers as said consumer representatives deem desirable.

(g) The Board and the Secretary of Agriculture are authorized and directed to make available to the marketing and purchaser committees such information, statistics, and assistance as are reasonably available to them and will assist in determining the facts relating to the production and marketing of said agricultural commodity and a fair and reasonable minimum price. But no employee of the Board or of the Department of Agriculture shall participate in any meetings of such committees except that the Board or its delegate may act as an arbitrator in any bargaining negotiations between the marketing and purchaser committees if invited by a majority vote of the membership of both committees and both committees accept the terms and conditions prescribed by the Board concerning the scope and nature of its participation in such negotiations.

(h) If less than a majority of the producers eligible to vote and voting in the referendum favor the establishment of a marketing committee, the Board shall make public announcement of that fact and shall not take any further action to establish a marketing committee for that commodity during the current marketing year or season. The Board shall, however, be authorized to submit a referendum to the producers within the same area applicable to a subsequent marketing year or season, except that if a majority of said producers voting fail to vote in favor of a marketing committee in three successive referendums, the Board shall take no further action to establish a marketing committee for said commodity produced within said area unless at least 20 per centum of the producers of said agricultural commodity in such area shall sign and submit to the Board a petition requesting another referendum.

(i) Each marketing committee constituted pursuant to this Act shall be authorized and empowered—

(1) to establish the minimum price by size, grade, quality or other type of condi-

tion, and other nonprice terms of sale, and the date upon which said price and terms shall become effective, for the agricultural commodity described in and produced within the area defined in the Board's announcement, in accord with agreements reached after negotiations with representatives of prospective purchasers of such commodity as provided in this Act; or, if said representatives of the prospective purchasers of the product fail or refuse to negotiate, or, if after a reasonable period of negotiations in good faith as determined by the Board, the parties fail to agree upon a minimum price, then the Board shall promptly offer and provide such conciliation and mediation services to the marketing committee and purchasers committee as may be useful and helpful in bringing them to agreement. If such agreement is not thereupon reached within thirty days, the issues under dispute shall be submitted to a joint settlement committee, to be selected as follows: One member to be chosen by the marketing committee, and one member by the purchasers committee, and the third member to be chosen within five days by the first two. If the first two members cannot agree upon such third member within such period, the latter shall be a neutral appointed by the Board. The Board may apply to the appropriate Federal district court to compel action unlawfully withheld or unreasonably delayed under this section. The joint settlement committee shall proceed to resolve such issues, allowing the marketing committee and purchasers committee reasonable opportunity to present pertinent information and argument, through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner. The decision of the joint settlement committee on the issues in dispute shall be judicially reviewable in the appropriate Federal district court to the extent provided hereafter. The reviewing court shall hold unlawful and set aside decisions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with this Act; (2) affected with bias or prejudice on the part of the neutral member of the joint settlement committee; (3) in excess of jurisdiction or authority granted under this Act; or (4) without observance of procedures required herein;

(2) to announce said minimum price and the effective date thereof of the commodity by any one or more of the usual and available media of publication and communication;

(3) to establish reasonable rules for the operation of the committee, including the rules and procedures for the election of their successors and to fill vacancies on the committee;

(4) to establish terms of service on the committee;

(5) to request the Board to submit referendums to producers from time to time for the committee's guidance;

(6) after the second year or season of its operations, to recommend to the Board a reasonable assessment on the producers of the commodity, by unit or by value, for the cost of carrying on the activities of the committee, to be assessed and collected by the Board through the committees established by section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended;

(7) to recommend to the Board that injunctive or related actions be instituted to prevent any buyers from purchasing or any producers from selling the commodity at less than the minimum price established under this section or in violation of other, nonprice terms of sale so established; and

(8) to establish additional penalties for violation of subsection 103(k) of this section by producers after approval in a referendum by a majority of producers eligible to vote and voting.

(j) All marketing committees created pursuant to this Act shall cease to have any authority and shall be dissolved by the Board after three years from the date of its first meeting if, during the third year of said three-year period, at least a majority of the producers then eligible to vote and voting fail to vote in favor of the continuation of the marketing committee in a referendum conducted by the Board.

(k) In order to effectuate the purposes of this Act, no producer shall offer to sell or sell and no buyer shall offer to purchase or purchase from a producer said commodity at a price lower than the minimum price agreed upon and fixed by the marketing and purchasers committees or, in the absence of an agreement by said committees, at the price established by the joint settlement committee under this section. Compliance by a producer with the minimum prices established by a marketing committee under this Act for a commodity shall be established by the Secretary as a condition of eligibility for price support, loans, purchases, and other similar payments authorized under any other Act.

RECORDS AND REPORTS

SEC. 5. All producers of a commodity covered by the provisions of this Act for which a marketing committee has been elected shall keep such records and furnish such reports with respect to production, storage, marketing, and other relevant matters as the marketing committee may require; and all persons purchasing or acquiring possession of any such commodity shall supply such information concerning such commodity as the marketing committee finds to be necessary to enable it to carry out the provisions of this Act. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.

PRODUCTION CONTROLS

SEC. 6. Notwithstanding the foregoing provisions of this Act the Board may, with the approval of the marketing committee, if it deems such action will not substantially interfere with the achievement of the purposes of this Act or the effective operation of the marketing committee, determine for any agricultural commodity a uniform amount of production (in terms of acreage, production units, or commodity units) per form which may be marketed in specified markets free of restriction for all uses or limited uses.

REMEDIES

SEC. 7. Injunctive proceedings or other penalties provided for by this Act shall be brought by the Board in the name of the United States. The several district courts of the United tSates are vested with jurisdiction of such suits, and it shall be the duty of the United States attorneys in their respective districts, at the request of the Board and under the direction of the Attorney General, to prosecute such proceedings. The remedies and penalties provided for herein shall be in addition to and not exclusive of any of the remedies or penalties under existing law.

PAYMENT OF EXPENSES

SEC. 8. To effectuate the purposes of this Act, the Board is directed and authorized to pay the costs of conducting any referendum required to be submitted to producers, including the cost of publishing notice in newspapers, radio, and television announcements, posting notices throughout the area, giving notices to prospective purchasers of the commodity, pay the costs of operation of the marketing and purchasers committees including a meeting room, temporary clerical and stenographic assistance, necessary transportation, meals and housing costs of members while traveling to and attending such meeting or any adjournment or continuation thereof.

FINALTY OF BOARD DECISIONS

SEC. 9. The decision of the Board with respect to the boundaries of the area and the commodity to be affected by his announcement and the results of the referendum conducted pursuant thereto shall be final.

AUTHORIZATION FOR APPROPRIATIONS; USE OF COMMODITY CREDIT CORPORATION FUNDS

SEC. 10. There is authorized to be appropriated to the Board such sums as Congress may from time to time determine to be necessary to enable it to carry out the purposes of this Act including the reasonable and necessary expenses and per diem of any marketing committee elected by the producers of a commodity. Obligations may be incurred in advance of appropriations therefor and the Commodity Credit Corporation is authorized to advance from its capital fund such sums as may be necessary to implement this Act during any current fiscal year.

EXEMPTION FROM ANTITRUST LAWS

SEC. 11. No bargaining or negotiating activities by a marketing committee pursuant to this Act and no price agreement reached as a result of such negotiations and bargaining shall be deemed to be in violation of any of the antitrust laws of the United States.

MARKETING ALLOTMENTS

SEC. 12. Whenever a marketing committee shall have established a minimum price for any commodity and thereafter shall also determine that the total supply of said commodity produced within the defined area will so substantially exceed the effective demand for said commodity during the market year as to nullify or defeat the purposes of this Act, said marketing committee, in consultation with the Board and the Secretary of Agriculture, shall develop a plan or program of marketing allotments, with or without acreage or production limitations, and shall request the Board to submit said plan or program by referendum to the producers of said commodity within said defined area for the approval or rejection of said producers. If a majority of producers eligible to vote and voting in said referendum approve said plan or program, the Board shall instruct the Secretary of Agriculture to proceed immediately to put said plan or program into effect.

RULES AND REGULATIONS

SEC. 13. The Secretary of Agriculture is hereby authorized to establish all reasonable rules and regulations necessary to effectuate such plan and program, including the fixing of reasonable penalties for the violation of said rules and regulations. The Secretary is further authorized to use any existing authorities available to him for the purpose of putting said plan or program into effect and, in the event he determines that he is without sufficient authority to effectuate any part of said plan or program, the Secretary is directed to suggest enabling legislation before the Congress of the United States.

DEFINITIONS

SEC. 14. For the purposes of this title, the following definitions shall apply:

(1) "Secretary" shall mean the Secretary of Agriculture.

(2) "Commodity" shall mean any agricultural commodity or any regional or market classification, or product thereof, the initial sale of which is customarily made by the producer, or his cooperative, or other marketing representative, and shall further include a combination of agricultural commodities of the same general class which are used wholly or in part for the same purpose. The plural shall be included whenever the context so requires.

(3) "Total supply" of any agricultural commodity for any marketing year shall be the carryover at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(4) "Marketing year" for an agricultural commodity shall be any period determined by the Board during which substantially all of a crop or production of such commodity is normally marketed by the producers.

SEPARABILITY CLAUSE

SEC. 15. If any provision of this title, or any section thereof, is declared unconstitutional or the applicability thereof to any person, circumstance, commodity, or product is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons, circumstances, commodities, or products, shall not be affected thereby.

S. 727

A bill to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, to assist producers in the marketing of their commodities at a fair price

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Agricultural Marketing Act".

SEC. 2. The Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, is further amended as follows:

(1) Section 8c(2) is amended by inserting after the third sentence ending with the words "Southwest production area." the following: "Notwithstanding any of the commodity, product, area, or approval exceptions or limitations in the foregoing sentences hereof, any agricultural commodity or product (except canned or frozen products) thereof, or any regional or market classification thereof, shall be eligible for an order, exempt from any special approval required by the preceding sentences hereof, if after referendum of the affected producers of such commodity the Secretary finds that a majority of such producers voting in such referendum favor making such commodity or product thereof, or the regional or market classification thereof specified in the referendum, eligible for an order: *Provided, however,* That such referendum shall not be required for any commodity or product for which an order otherwise is authorized under the preceding sentences of this subsection (2) and for which no special approval or area limitation is specified therein."

(2) Section 2(3) is amended by inserting "such minimum prices and other terms and conditions for the acquisition of commodities by handlers as are provided for in section 8c(6)(J)," immediately after "establish and maintain".

(3) Section 8c(5)(A) is amended by inserting "by collective bargaining in good faith (including provisions for the designation, by election of committees of producer representatives to bargain with handlers, or groups of handlers), or otherwise," after the phrase "method for fixing."

(4) Sections 8(c)(6)(A), (B), (C), (D), and (E) are amended by inserting ", species or other classification" after the words "grade, size, or quality" wherever the latter words appear.

(5) Section 8c(6), as amended, is further amended by adding the following at the end thereof:

"(J) Providing a method for establishing by collective bargaining in good faith between producers and handlers (including provision for the designation by election of committees of producer representatives to bargain with handlers or groups of handlers), the minimum price or prices and other minimum terms and conditions under which any such commodity or product, or any grade, size, quality, variety, species, container, pack, use, disposition, or volume thereof may be acquired by handlers from producers or associations of producers: *Provided,* That no such minimum price or prices or other terms and conditions shall become effective unless agreed to by handlers who during the preceding marketing year acquired from producers at least 50 per centum of the commodity sold by producers which was produced in

the production area subject to the order and unless thereafter approved by the Secretary of Agricultue: *Provided further*, That if the Secretary of Agriculture finds that the parity price of any such commodity, other than milk or its products, for which such minimum prices or other terms or conditions are to be established is not adequate in view of production costs, prices to consumers, and other economic conditions which affect market supply and demand for such commodity subject to such order (including any marketing limitation of the commodity otherwise provided by such order), the Secretary of Agriculture shall determine a price or prices for such commodity at such levels as he finds will insure a sufficient market supply of the commodity, reflect such factors, and be in the public interest, and such price or prices shall be used in lieu of the parity price for the purpose of section 2 of this Act: *Provided further*, That the agency designated to administer provisions authorized under this subsection shall be a committee primarily composed of producers of the commodity: *And provided further*, That an order containing provisions authorized under this subsection shall also contain provisions authorized under section 8c(6)(K) or section 8c(7)(E), or both, if the Secretary of Agriculture finds that such combination of provisions is necessary to provide an equitable distribution of market opportunity and returns among producers.

"(K) With respect to orders providing for minimum prices on a classified use basis (i) providing for the payment to all producers or associations of producers of uniform minimum prices for the commodity or product marketed by them (within their allotments, if any), irrespective of the use or disposition thereof, subject, however, to adjustments specified by the order, including but not limited to adjustments for place of production or delivery, grade, condition, size, weight, quality, or maturity, or any other adjustments found to be appropriate to provide equity among producers, and (ii) providing a method for making adjustments in payments as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the commodity or product purchased or acquired by him at the classified use minimum prices fixed pursuant to such order."

(6) Section 8c(7), as amended, is further amended by adding the following at the end thereof:

"(E) Notwithstanding any other provisions of this Act—

"(i) allotting, or providing methods for allotting, the quantity of such commodity or product or any grade, size, or quality thereof, which each producer may be permitted to market or dispose of in any or all markets or use classifications during any specified period or periods on the basis of (a) the amount produced or marketed by such producer or produced on or marketed from the farm on which he is a producer in such prior period as the Secretary of Agriculture determines to be representative, subject to such adjustment for abnormal conditions and other factors affecting production or marketing as the Secretary may determine, or (b) the current quantities available for marketing by such producer, or (c) any combination of (a) and (b), to the end that the total allotment during any specified period or periods shall be apportioned equitably among producers. Allotments hereunder may be in terms of quantities or production from given acres or other production units. If the Secretary determines that such action will facilitate the administration of a marketing order hereunder and will not substantially impair the effective operation thereof he may fix, or provide a method for fixing, a minimum allotment applicable to producers and producers whose production does not exceed such minimum shall not be subject to the regulatory provisions of the order except as prescribed therein;

"(ii) any producer for whom an allotment is established or refused under the authority of this subsection may obtain a review of the lawfulness of his allotment as prescribed by the order of the Secretary establishing the allotment and rules and regulations thereunder, which shall constitute the exclusive procedure for review thereof and section 8c(15)(A) of this Act shall not apply thereto. Under such order, rules, or regulations any officers or employees of the Department or any committees or boards created or designated by the Secretary of Agriculture may be vested with authority to perform any or all functions in connection with such review proceedings including ruling thereon. Committees or boards created or designated for this purpose shall be deemed agencies of the Secretary within the meaning of subsection 8c(7)(C) and section 10 of this Act. The ruling upon such review shall be final if in accordance with law. The producer may obtain a judicial review of such ruling in accordance with the provisions of section 8c(15)(B) of this Act;

"(iii) when allotments for producers are established under this subsection the order may contain provisions allotting or providing a method for allotting the quantity which any handler may handle so that any and all handlers will be limited as to any producer to the allotment established for such producer, and such allotment shall constitute an allotment fixed for each handler within the meaning of section 8a(5) of this Act."

(7) Amend section 8c by adding at the end thereof a new paragraph (20) as follows:

"PRODUCER ADVISORY COMMITTEES

"(20) The Secretary of Agriculture may establish a producer advisory committee with respect to any commodity, or group of commodities, for which a marketing order is potentially authorized. Such committee shall be composed of producers of the commodity or commodities for which the committee is established. Such committees may be called on by the Secretary of Agriculture to provide advice and counsel with respect to the initiation of proceedings for the promulgation of a marketing agreement or marketing order for such commodity or commodities and may also formulate specific proposals for purposes of a public hearing concerning such a proposed marketing agreement or marketing order. The establishment of such a committee shall not, however, be deemed necessary to the initiation of any such proceeding to promulgate a marketing agreement or marketing order."

(8) Amend section 10(b)(2) by adding at the end thereof a new subparagraph (iv) as follows:

"(iv) If the order contains provisions authorized by section 8c(6)(J) or section 8c(7)(E) it shall provide that the assessments payable by handlers under subsection (i) or (ii) shall initially be payable pro rata by the producers of the commodity to such handlers thereof, who shall be responsible for the collection thereof from producers and payment to the authority or agency established under such order."

SEC. 3. Nothing in this Act shall supersede the provisions of other statutes relating to marketing quotas, acreage allotments or limitations, or price support, with respect to agricultural commodities and no action taken or provisions in an order issued under the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, shall be inconsistent with the provisions of such other statutes or actions taken by the Secretary of Agriculture under such other statutes.

The material presented by Mr. MONDALE is as follows:

SECTION-BY-SECTION ANALYSIS OF THE NATIONAL AGRICULTURAL BARGAINING ACT

SECTION 2. POLICY AND FINDINGS

Farmers do not have the opportunity to bargain effectively for a fair and reasonable return for their production, because of an inherently weak economic position.

SECTION 3. NATIONAL AGRICULTURE RELATIONS BOARD

This independent five-member Board, appointed by the President with Senate confirmation, is established to provide administrative, technical, and supporting assistance to farmer Marketing Committees and Purchasers Committees. It does not represent either farmers or buyers. It would administer farmer referendums and assist the Committees in holding meetings.

SECTION 4. MARKETING COMMITTEES

4(a) *Petition and Referendum.* When the Board receives a petition from the producers of a particular agricultural commodity, stating that the average market price is below a fair and reasonable level, it shall proceed to conduct a referendum among producers to determine whether a Marketing Committee should be established and who should be elected to that Committee. The Board may also initiate a referendum upon its independent determination that the market price is below a fair and reasonable price. This procedure may be used for any commodity or commodity group.

4(b) *Referendum.* The Board supervises and administers all phases of the balloting, including voting qualifications in addition to 103(c).

4(c) *Voting and Candidates.* ASC County Committees will furnish names of candidates to the Board, which shall include on the ballot at least twice as many as will be elected. Candidates may be elected at large or from lesser subdivisions. Basic eligibility for voting and membership requires that at least 60% of income must be from farming or ranching, and the particular commodity must be a "significant portion" of the farming operation.

4(d). *First Meeting.* Upon a majority referendum vote, the Board will convene the first meeting of the Marketing Committee.

4(e). *Notification to Prospective Buyers.* The Board must notify prospective purchasers of the existence of the farmer Marketing Committee, requesting them to select a Purchasers Committee to meet and negotiate price and nonprice terms of sale of the particular commodity involved.

4(f). Board is authorized to fix the time and place of a meeting between the Purchasers Committee and the Marketing Committee. The Marketing Committee must invite consumer representatives to present the viewpoint and information on behalf of consumers at such meetings.

4(g). Statistical and factual data are to be supplied to the respective Committees by the Board and USDA. Provides that the Board may act as an arbitrator if both Committees invite its participation and if both Committees accept the Board's conditions.

4(h). *Failure of Referendum.* Provides procedures for resubmission through referendum on the questions of establishing the Marketing Committee and the membership in following years.

4(i). *Powers of the Marketing Committee.*

Establish minimum price and nonprice terms of sale pursuant to agreements in negotiations.

Where negotiations for whatever reason do not result in a minimum price, the Board is required to mediate the dispute. If this does not lead to agreement within 30 days, the disputed issues are referred to a Joint Settlement Committee composed of a Purchasers representative, a farmers representative, and a neutral selected by each. The Joint Settlement Committee, after reasonable opportunity for the parties to be heard, must decide the questions at issue, and its decision is judicially reviewable.

Other powers dealing with operation of the Marketing Committee, and enforcement of their responsibilities. See also Section 111.

4(j). *Dissolution of Marketing Committees.* Provides for termination of a Marketing Committee unless approved by referendum every three years.

4(k). *Prohibition.* Prohibits the sale or purchase of the commodity below the established price.

SECTION 5. RECORDKEEPING

Farmers are required to keep certain records to aid in carrying out the Marketing Committee's functions.

SECTION 6. EXEMPTION

The Board may, with the approval of the Marketing Committee, where it will not interfere with the purposes of this Act, allow some farm production in the commodity to be marketed for specific markets outside the limitations of this Act.

SECTION 7. REMEDIES

Injunctive procedings provided, through U.S. Attorneys in U.S. District Courts.

SECTION 8. PAYMENT OF EXPENSES

The Board is required to pay for and conduct all referenda, and cost of operation of the Marketing Committee.

SECTION 9. FINALITY OF BOARD DECISIONS

The Board's decisions on the boundaries of marketing areas, the scope of the commodity, and the results of the referenda are final.

SECTION 10. AUTHORIZATION OF APPROPRIATIONS AND USE OF COMMODITY CREDIT CORPORATION FUNDS

SECTION 11. ANTITRUST EXEMPTION

SECTION 12. MARKETING ALLOTMENTS

Provides that the Marketing Committee, when necessary to achieve the purposes of the Act, may prepare in consultation with the Board and the Secretary of Agriculture a plan of marketing allotments, with or without acreage or production limitations, for submission to farmers for approval in a referendum. If approved, the Secretary of Agriculture will administer the program.

SECTION 13. RULES AND REGULATIONS

Authorization for the Secretary to implement the plan approved under Section 111.

SECTION 14. DEFINITIONS

SECTION 15. SEPARABILITY CLAUSE

SECTION-BY-SECTION ANALYSIS OF THE NATIONAL AGRICULTURAL MARKETING ACT

Section 2. Amends the Agricultural Marketing Agreement Act of 1937, as amended, in eight respects, as follows:

2(1). Amends Section 8c(2) to make any additional agricultural commodity or product (except canned or frozen products) eligible for a marketing order if the Secretary, after a special preliminary referendum of affected producers, finds that a majority of those voting favor making that commodity or product eligible for such an order.

2(2) and 2(5). Provide authority to include in marketing orders provisions establishing a method of establishing, by collective bargaining (including provisions for the designation by election of committees of producer representatives to bargain with handlers or groups of handlers), minimum prices and terms and conditions under which handlers may acquire a regulated commodity or product thereof (other than milk and its products) from producers or associations of producers. The minimum prices and other terms prior to becoming effective would have to be agreed to by the handlers of 50 per cent of the commodity and would be subject to approval by the Secretary.

These provisions also specify special pricing standards to be the statutory objective for such price determining purposes if the Secretary finds that parity for a regulated commodity is not adequate. The alternative pricing standard would take into account factors such as production costs, prices to consumers, and other factors affecting supply and demand for the commodity, including any limitations on marketings that may otherwise be included in the marketing order.

In addition, Section 201(5) would authorize the pooling of proceeds of sale of a commodity other than milk when minimum prices are established on a use-classification basis. If the Secretary found that pooling

and producer marketing quotas were necessary in conjunction with pricing provisions to provide equitable distribution of returns and market opportunity among producers, he could require the use of such combined authority.

2(3). Authorizes the establishment of minimum pricing for milk through a collective bargaining process.

2(4). Amends Section 8c(6)(A) through (E) by adding "species or other classification" after "grade, size, or quality" to make this regulation available by such categories with respect to livestock and other commodities.

2(6). Adds a section 8c(7)(E) to:

(i). authorize the Secretary to issue producer allotment bases for any commodity including milk on the basis of (a) the amount produced or marketed by such producer or from the farm on which he is a producer in a representative prior period, subject to adjustment for abnormal conditions and other factors the Secretary may determine, or (b) the current quantities available for marketing by such producer, or (c) any combination of (a) and (b) that will result in the total allotment being apportioned equitably among producers. A minimum allotment could be fixed for producers whose production does not exceed that amount.

(ii). establish an administrative procedure, with subsequent court review, for reviewing the lawfulness of a producer's allotment. This would be similar to the section 8c(15)(A) and (B) review procedure for handlers.

(iii) specify that a handler may not handle more of a producer's allotment base than is authorized to be marketed.

2 (7). Adds a Section 8c(2) to authorize the Secretary to establish a producer advisory committee for any commodity to provide advice on starting proceedings to promulgate a new order and formulate specific hearing proposals.

2 (8). Provides that orders containing price bargaining or producer allotment provisions under proposed Section 8c(6)(J) or Section 8c(7)(E) (see items 5, 6) would impose administrative assessments pro rata on producers, payable through handlers to the agency administering the order. Handlers would have the responsibility of collection from producers.

Section 3. Would make it clear that the new authorities provided by Title II shall not supersede the provisions of other statutes relating to marketing quotas, acreage allotments or limitations, or price support and that no action taken or any provision of an order issued under the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation shall be inconsistent with such other statutes or actions taken by the Secretary thereunder.

United States of America

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PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

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Senate

S. 834—INTRODUCTION OF THE INTERNATIONAL TRADE ACT OF 1971

STATEMENT OF SENATOR MONDALE

Mr. President, I am pleased to join with the distinguished Senators from New York (Mr. JAVITS), and Oklahoma (Mr. HARRIS) and the other co-sponsors of the International Trade Act of 1971.

There is no question that this Congress must face up to an accumulation of grave problems with respect to international trade. And there is similarly no question but that the major trade legislation which emerges from this Congress will set the tone for our—and the entire world's trade policies for at least the rest of this decade. This is a crucial year for trade legislation, and the challenge must be met positively and responsibly.

Many sectors of our economy are facing increasing competition from abroad. While competition and specialization—doing what one does best—is at the very heart of a market economic system, both national and international, this absolutely must be fair competition.

There is strong feeling, and not without justification, that this import competition has not always been fair, and that our government has not been sufficiently aggressive in protecting the legitimate interests of our workers and industries faced with foreign export subsidies, dumping, and illegal restrictions on U.S. exports and investments abroad.

We have been the world leader in promoting the enormous economic advantages of open world trade. There is no other respectable or responsible position for the world's greatest economic power to take. Yet we must take stronger measures to see that our lead is, in fact, followed. Japanese restrictions on investments, Common Market barriers to agricultural exports, and remaining high tariffs and quotas abroad are evidence that our leadership has relied too much on "good example" and not enough on hard negotiations backed up by legitimate retaliatory authority.

In addition, regardless of the "fairness" of international competition, there will always be industries whose long run competitive edge is simply declining in the world marketplace—just as there will always be newer industries which are becoming increasingly competitive and able to expand their sales abroad.

There is no way to eliminate these trends altogether—short of an economic withdrawal from the rest of the world and denying our workers, industries, and consumers the enormous benefits of open world trade. But this does not mean that we can or should close our eyes to these inevitable problems of international competition.

Neither worker nor industry can be abandoned to an economic principle, oblivious to the very human hardship suffered by those in declining industries. We absolutely must do more than we have done in the past to help industries recover their competitive edge, to assist workers in maintaining their standards of living and productive usefulness, and to give all other forms of reasonable assistance where true "injury' has been found.

These real and legitimate grievances during the last year gained powerful momentum due, in large part, to the state of our domestic economy and the nearly 80% increase in national unemployment. With the jobless rate rising to its highest point in a decade—4.6 million workers by the end of the year and over 5 million unemployed today—the fear of foreign competition increased drastically. Whatever the cause of unemployment—and we know that the overwhelming cause, in simple terms, is a full-fledged recession—the unemployed worker looks first to the elimination of foreign competition as a means of preserving his own job.

We know from history that such a response, as understandable as it may be, is no solution. The Smoot Hawley tariff of 1932 was a child of the great depression, and only hastened the world-wide economic collapse of that decade. We cannot export if we will not import, and an invitation to an international trade war generated by economic insecurity will only cost more jobs than it can possibly save or recapture.

But our recession continues with no upturn yet in sight, and the fears so generated will continue to provide a powerful source of pressure for "solutions" through the erection of barriers to world competition, both fair and unfair.

Another source of pressure for protectionist trade legislation is political promises made to certain industries. Once industries with some legitimate grievances have been led to believe that they can receive special solutions—solutions which circumvent not only established procedures for the redress of injury, but international trade law itself—these industries soon become convinced of both the wisdom and the justice of such "solutions." This again, is understandable. But there is no way, as we saw last year, to grant special treatment to some industries and to deny such treatment to others which, by any measure, are far more "deserving" than the industry currently in political favor.

There are remedies—reasonable and legal—which can be applied to cases of injury or unfair froeign competition. As I said earlier, these must be strengthened and made more responsive to the legitimate problems suffered by many industries and workers. But protectionism is a contagious disease, and "political deals" in international trade can only result in an escalation of trade barriers and the disaster of foreign retaliation and trade wars.

Mr. President, these are the pressures which last year brought us to the very brink of such a trade war.

I and many of my colleagues opposed the protectionist legislation which died a fortuitous death in he closing logjam of the 91st Congress.

While I take relief in what I believe to have been a reversal of the protectionist momentum, I take no real comfort in having had a role in opposing this legislation. For I know that the only truly responsible alternative to protectionist sentiment lies not simply in opposition to quotas and other trade barriers, but in offering positive, forward-looking, and responsive legislation to deal with the legitimate problems—present and future—of international trade.

I promised on December 31, 1970, at the close of the 91st Congress, that those of us who believed in the benefits of expanded world trade would no longer rely simply on opposition to protectionist trade legislation. I promised then that we would have a positive answer—a constructive, responsive, and comprehensive trade bill for this Congress which could ease the domestic burdens of foreign competition and further the cause of expanded, open world trade.

The International Trade Act of 1971 is such a piece of legislation.

It is a forward-looking trade bill, continuing the momentum of the 1962 Trade Expansion Act toward the further mutual reduction of world trade barriers.

It provides a much needed stimulation for U.S. exports through the device of tax "drawbacks." For the first time, U.S. exporters would match some of the advantages of the European exporting firms who receive indirect but legal subsidies through rebates of their border taxes.

It provides for an elimination of the American Selling Price system, and grants negotiating authority to bring order to proliferation of non-tariff barriers being erected by all nations.

And this legislation take a small step toward granting the nations of Eastern Europe sufficient, selective access to our market to further open the channels of East-West Trade in peaceful goods, when such trade is in our national interest.

But most important, the International Trade Act of 1971 is responsive, to the limits prescribed by the international rules of trade, to the legitimate anxieties of American workers, farmers, business, and industry.

The criteria for escape clause relief calling for quotas or higher tariffs are substantially liberalized. While I have opposed legislated quotas which were in violation of the GATT, I recognize that they may at time be necessary and entirely justified, and that injury findings have been far too difficult to obtain in the past. By maintaining the established *procedure* for escape clause relief, but by liberalizing the *criteria for* injury we can be much more responsive to the problems of workers and industries without overthrowing the civilized rules of international trade and inviting certain retaliation upon our exports.

The bill also liberalizes the procedures for granting adjustment assistance to workers and firms which may be suffering from foreign competition regardless of the competi-

tive status of the entire industry or the justification for quotas or higher tariffs. Beyond making this adjustment assistance easier to obtain, we have also provided for substantially liberalized benefits, both for the maintenance of income and for the necessary retraining, placement, counseling, and other services designed to assist workers in moving into more proauctive and higher paying fields.

Perhaps of equal importance to the liberalized escape clause procedures are provisions of this bill designed to strengthen the U.S. negotiating hand in eliminating unfair trade practices by other countries. These provisions would expand the President's retaliatory authority against other countries which impose illegal restrictions upon our exports, both agricultural and industrial, or upon certain U.S. investments abroad.

In addition, it would tighten up our present anti-dumping and countervailing duty laws, designed to combat unfair methods of foreign competition.

Mr. President, a summary of this comprehensive trade legislation has been prepared for the record. But the truly significant points, I think, are these:

First, there are legitimate problems which have accumulated in the international trade field for which our existing remedies have been obviously inadequate.

Second, remedies for these problems must come both through tighter and more liberalized legislation, *and* through more aggressive and responsive administration of the remedies long on the books, including retaliatory authority against other nations which have yet to follow upon our lead in opening world trade.

Third, we must shift the emphasis away from protectionism and isolationism toward an *expansion* of world trade, with all of its benefits to the American worker, farmer, businessman, and consumer.

Something in nature abhors vacuum, and the absence of expansionary, forward-looking trade legislation in the last several years has given over the field to myriads of protectionist trade bills. It is our hope now to fill this vacuum with the kind of trade legislation which can set the tone for new trade policies of the 70's.

Those of us who have opposed the remedy of illegal legislated quotas owe it to our industries and workers to come up with a responsible positive alternative. I believe that this legislation is that alternative, and I hope that more of our colleagues will join us in support of this effort.

SUMMARY OF INTERNATIONAL TRADE ACT OF 1971

TITLE I—SHORT TITLE AND PURPOSES

This title provides that the Act may be known as the "International Trade Act of 1971" and briefly states the purpose of each of the succeeding six titles.

TITLE II—TRADE AGREEMENTS PROGRAM

This title amends the Trade Expansion Act of 1962 (TEA) so as to—

(1) give the President, until July 1, 1973, the authority to reduce tariffs by 50% and to eliminate tariffs of 5% or less, with a new Congressional directive that any trade agreement negotiation should be aimed at establishing fair and equivalent conditions of access for agricultural and industrial articles to the markets of all the countries involved;

(2) repeal the duty-eliminating authorities in the TEA that are based on a now questionable "special relationship" with the European Economic Community;

(3) require that any investigation under the national security provision shall be completed within one year;

(4) provide an express authorization of appropriations for the annual U.S. contribution to the GATT, both to put this appropriation on a normal basis and to emphasize support of this key international institution; and

(5) expand the President's authority to retaliate against other countries' restrictive actions and permit him, consistent with our international obligations, to impose import restrictions when another country—

(i) illegally or unreasonably imposes restrictions on U.S. exports,

(ii) impairs or nullifies a tariff concession that could permit increased U.S. exports by illegally or unreasonably restricting U.S. direct investment in that country, or

(iii) subsidizes exports to a third country and thereby substantially reduces sales of U.S. exports to such country.

TITLE III—ASSISTANCE TO FIRMS, WORKERS, AND INDUSTRIES

This title amends section 301 of the TEA so as to—

(1) relax the criteria for escape-clause relief—i.e., higher tariffs or quotas for an entire domestic industry—by requiring the industry to show that increased imports are *the primary cause* of serious economic injury;

(2) liberalize the criteria for adjustment assistance—i.e., financial and other forms of relief not involving import restrictions for an individual firm or group of workers—by providing that a firm (or individual plant) or a group of workers (in a firm or plant) shall show that increased imports are *a substantial cause* of economic dislocation;

(3) take the function of determining whether the criteria for adjustment assistance are satisfied in specific cases away from the Tariff Commission and give it to what would probably be a three-agency board of the Executive Branch; and

(4) require the Tariff Commission to find the probable effect upon consumers of any escape-clause relief it recommends to the President.

In addition, this title—

(1) liberalizes the provisions authorizing adjustment assistance to firms;

(2) assures that workers under the adjustment assistance program will receive financial benefits equal to the wages they earned prior to unemployment;

(3) requires the President, in deciding whether to grant escape-clause relief, to take into account its probable effect upon consumers and domestic competition;

(4) requires the Tariff Commission, in reviewing existing escape-clause actions, to take into account their impact upon consumers, domestic competition, and exporters;

(5) requires any industry seeking the extension of an escape-caluse action to indicate the specific efforts made to adjust to import competition; and

(6) makes permanent the special adjustment assistance provisions of the law implementing the U.S.-Canadian Automotive Agreement.

TITLE IV—NON-TARIFF BARRIERS TO TRADE

This title attempts to clear the way for substantial further progress in the important field of non-tariff barriers (NTB's). In particular, it—

(1) urges the President to do all he can to eliminate NTB's and, if necessary, to negotiate so-called *ad referendum* agreements that are first concluded and then brought back to the Congress for the enactment of implementing legislation;

(2) provides that any NTB negotiation be preceded by public hearings and an investigation by the Tariff Commission into its probable economic effect and that such negotiation be attended by Congressional delegates from the Ways and Means and Finance Committees; and

(3) authorizes the complete elimination of the American selling price system of customs valuation—a precondition in the eyes of Europeans to further international action with respect to NTB's.

TITLE V—COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES

This title authorizes the President to conclude a three-year renewable commercial agreement with a Communist country with whom we have diplomatic relations. Under such an agreement, the President would extend non-discriminatory—or so-called most-favored-nation—tariffs to one or more products of the Communist country in return for equivalent commercial benefits. The President is authorized to terminate such most-favored-nation treatment at any time, and he is required to do so whenever he determines that the Communist country is not fulfilling its obligations or that termination is in the national interest.

TITLE VI—ENCOURAGEMENT OF EXPORTS

This title would encourage exports by expanding the concept of drawback—or refund—of duties and taxes on exports. First, it would liberalize the so-called "substitution provision" in the present law that provides for the drawback on duties. Second, it would authorize—but not require—the Secretary of the Treasury to refund Federal and State indirect taxes on goods, services, and property used in the manufacture of exports. The Secretary could not, however, grant the refund unless he found that it was likely to increase U.S. exports and was in the national interest. Such refund would be consistent with the GATT, would probably average about 2.5 percent of the sales price, and would reduce, though not eliminate, the advantages presently enjoyed by exports from the European Economic Community under its border tax system.

TITLE VII—UNFAIR IMPORT COMPETITION

This title would amend the three provisions of law directed at dumping, subsidization, and other unfair practices in the import trade.

In general, this title would—

(1) establish fixed time periods within which investigations into such alleged practices would have to be concluded;

(2) require a public hearing to permit all interested parties to have a voice in the proceeding; and

(3) assure judicial review of the pertinent agency determinations.

In particular, this title would specify the kinds of economic injury to which the Antidumping Act pertains. In addition, it would make the anti-subsidy law applicable to both duty-free as well as dutiable products, instead of just the latter as at the present. Moreover, it would add an injury requirement to the anti-subsidy law—effective January 1, 1975. The President would be urged to negotiate an international agreement limiting the use of other countries' trade-distorting subsidies, with the United States undertaking for the first time to adopt an injury standard in its law. If this effort should fail, the adoption of the injury standard could be eliminated by concurrent resolution or proclamation.

[2-17-1971]

WALTER F. MONDALE
MINNESOTA

United States Senate

WASHINGTON, D.C. 20510

Dear Sir:

It has come to our attention that you may have received a letter of solicitation from an organization called the East West Trade Mission, located in San Francisco, California.

This letter, signed by a Mr. Paul Sjeklocha and listing us as members of an "advisory board," purports to offer the recipient an opportunity to accompany an alleged trade mission to Yugoslavia, Russia and Mainland China.

We wish to make it emphatically clear that we did not give permission for our names to be used; are not members of the so called "advisory board;" and do not have any connection with, or confidence in, this enterprise.

Others listed as members of the "advisory board" have asked us to inform you that their names were also used without authorization. These include Messrs. Booher, Hanson, Schwamm, Mathews, Schoyer, Sharpe, Eckstein, Grossman, Lowenthal, May, Pisar, Kronfeld, McCullach.

We also wish to advise that the Department of State and Department of Commerce have not "cleared" this mission as alleged in the letter of solicitation, nor is the U.S. Government aware of the authenticity of other allegations made in the letter.

Very sincerely,

WALTER F. MONDALE
United States Senate

CHARLES H. PERCY
United States Senate

ROBERT L. LEGGETT
Member of Congress

SILVIO O. CONTE
Member of Congress

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

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Senate

TITLE V—INDIAN EDUCATION

Mr. KENNEDY. Mr. President, the distinguished Senator from Minnesota (Mr. MONDALE) joins me in introducing this proposal. He was a member of the Subcommittee on Indian Education, which previously had as its chairman Senator Robert Kennedy and which later I chaired. I believe he has contributed more to the work in the field of Indian education than any other member of this body.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MONDALE. Mr. President, I wish to congratulate the distinguished Senator from Massachusetts for his remarkable contribution to this effort to reform Indian education in America.

Under the leadership of his brother, Robert Kennedy, and then under his leadership, the Senate Special Subcommittee on Indian Education addressed itself more carefully, more fully, and more broadly to Indian education problems in this country than I think either branch of Congress had done before.

The result of the work of the Subcommittee on Indian Education consumes thousands and thousands of pages of testimony. We heard from almost every Indian leader in the country. We traveled thousands and thousands of miles throughout the country from the Navajo reservation to the Aleuts and Eskimos of Alaska. No study has gone as far as this one, and no committee has tried to hear from so many of the Indians themselves as this one did The leadership of the distinguished Senator from Massachusetts has been instrumental in focusing public sentiment, to the point that today we are able to introduce this broad and sweeping measure, to do something about a national disgrace.

I am sure the Senator from Massachusetts recalls our tour through Alaska; we visited a BIA school in the frozen tundra and found a white teacher, who could not speak Eskimo, teaching Eskimos who could not speak English, from a "Dick and Jane" textbook which showed green grass and white houses containing nothing with which the children could identify, let alone understand.

I am sure the Senator from Massachusetts recalls seeing children who had been shipped thousands and thousands of miles to boarding schools, to be away from their parents for 8 or 9 months a year, because the BIA had a policy that would not add desks in one area if there were empty desks somewhere else in the Nation.

We recall the testimony about eliminating the boarding schools. The renowned Dr. Mennninger said it was worse than anything he had seen.

As the Senator pointed out, the dropout level, the failure to perform at grade level, the truancy level, the unemployment level, the problems in mental illness, alcoholism, and suicide have all resulted, as the Senator's late brother said, in making America's first Americans the last Americans.

There are other elements, but we must begin with an education that entails, first of all, respect for different languages and cultures, and accepts them for the value they still have for Indian children.

I do not think there is any chapter in our history that is more sordid than our treatment of the American Indian. This legislation is an important and meaningful step to do something about that situation. I am pleased to join the Senator from Massachusetts in introducing the Indian Education Act today.

America's Indian children—the heirs of a unique and majestic tradition—have inherited an aching legacy of neglect and discrimination.

Fifty percent dropout rates.

Twelve thousand children not in school, most of them physically or mentally handicapped.

Indian children being disciplined with handcuffs.

Psychiatric reports that Indian children have the lowest levels of self-respect and the highest anxiety of any group in our country.

Perhaps the worst indictment of all is that much of this has been the failure of the Federal Government. By a blatant cultural colonialism, we presumed we knew best. Of the many examples, one is especially stark.

The Choctaw and the Cherokee nations ran their own school systems from about 1800 until after the Civil War—when the Government took their authority away and put them on the reservations. In the days when they were running their own schools, the Choctaws and the Cherokees were more literate in their own language than the average American citizen was in English, and they were more literate in English than the average citizen in frontier States.

Today, 40 percent of adult Cherokees are functionally illiterate in English; only 39 percent have completed the eighth grade.

The average educational level is 5 school years for all Indians under Federal supervision.

But this system not only stifled young lives; it also twisted historical truth as surely as any totalitarian censor.

Indian children learned that their ancestors were savages, and that the white men who killed them were heroes. When Indians attacked a settlement, in what they saw as defense of their land, it was a "massacre." When the U.S. Cavalry rode down a village of women and children, it was a "victory."

We have come a long way since Lewis and Clark and other explorers marveled at the unique culture and bold self-reliance of America's Indians.

And it has nearly all been down.

The subcommittee report told the story in its title—"Indian Education: National tragedy, A National Challenge."

All of us have a share in the 400 years of tragedy borne by the Indian people. All of us have a responsibility to put a stop to the mutilation of the minds and spirits of Indian children.

There can be no reason for any more delay.

As early as 1928 we had a comprehensive report which described the disgrace in Indian education. The Congress and the President had a blueprint for reform then, over 40 years ago. Now the subcommittee has compiled over 4,000 pages of testimony, most of it from the Indian people themselves, in exhaustive hearings and field investigations throughout the country.

The present bill, first introduced 5 months ago, is based on the recommendations developed by the subcommittee from that testimony. Though there was not time for full consideration of the bill in the hectic closing months of the last Congress, Senators have had opportunity to consider its implications in the context of other measures affecting Indians.

Now we must act.

The subcommittee's final report listed 60 recommendations which would radically improve Indian education. A number of these recommendations have been implemented.

For example, bilingual education efforts have been expanded considerably. The National Council on Indian Opportunity was funded. The Department of Health, Education, and Welfare and the Department of the Interior have begun devising a plan to better coordinate their Indian education activities. Public Law 81–815 was amended so that public schools educating Indians will have higher priority in funding than they have in the past.

And bills have been introduced to legislate a number of other proposals, including recommendations to hold a White House Conference on Indian Affairs, and to raise the BIA Commissioner to Assistant Secretary of the Interior status.

The actions of the Senate in the last months of the 91st Congress show that we are starting to recognize the need to act on behalf of Indians, that the tide of political opinion is moving toward a proper redress of 400 years of exploitation. In the last Congress the Senate passed total Federal support for Indian welfare assistance, recognition of Taos Pueblo legal claim to sacred lands, and new support for Indian manpower programs.

The President has indicated his support for action now on behalf of Indians. He strongly supported the right of the Taos Pueblo to their sacred lands. His message to the Congress last session placed high priority on a number of the reforms we introduced in this bill, including administration by Indians and expanded urban programs. I look forward to his further assistance on behalf of Indians.

Yet all our progress will be fragile without a true commitment to excellence in the education of Indian children, without a recognition of the basic right of the Indian not only to equal educational opportunity, but to dignity and respect for his culture and heritage.

The bill we reintroduce today is unique in two respects. First, it is an expression of the wishes of many Indian people. I want to stress that during its 2½ years, the Indian Education Subcommittee traveled to all parts of the country to listen to the Indian people.

We held public hearings in Washington, D.C., California, Oklahoma, Arizona, South Dakota, Oregon, and Alaska, and conducted field investigations in Minnesota, Idaho, Maine, New York, and several other locations. We heard from Indians throughout the country. We have taken their suggestions and put them together into this bill we are introducing today.

This bill is also unique among Federal education legislation. It is not an attempt, for example, simply to provide some funds and set up some new administrative machinery to do more of what has been done in the past. It is an attempt rather to change the very nature of the cruelty and fraud that has historically passed for Indian education.

The Indian does not want that kind of Indian education. He wants an education that will tell him the truth about his tribe, his heritage, his traditions, his place in the world—an education over which he will have some control. That is what this bill is going to enable him to do.

This Indian Education Act amends Senate bill 659, the Education Amendments of 1971, as title V of that bill.

There is no need to go into a lengthy explanation of the different sections of this legislation. Basically, part A provides for payments to schools educating Indian children. It includes funds for urban as

well as reservation Indians, and the money is to be used for programs designed to meet the special educational needs of Indian children.

Part B is a grant program for planning pilot and demonstration programs in a number of areas: bilingual, bicultural, health nutrition services, instructional materials, guidance and counseling services, and other such programs. Of special significance is the fact that grants can also be made for developing programs to prepare persons to teach Indian children, and to improve the qualifications of persons currently working with Indians in schools.

One of the major findings of the Indian Education Subcommittee was that teachers of Indians were not attuned to the traditions and culture of the Indian child. They were not, in effect, culturally sensitive. This title approaches this problem through specialized preservice and in-service programs for teachers of Indian children. The bill authorizes $25 million for grants under this title in fiscal 1972, and $35 million for each of the succeeding years.

Part C provides special programs for educating American Indian adults. This title also provides programs for planning, pilot, and demonstration projects designed to improve employment and educational opportunities for Indian adults. The bill authorizes $5 million for this effort for fiscal 1972, and $8 million for each of the 4 succeeding years.

Part D establishes a National Board of Indian Education and a Bureau of Indian Education within the Office of Education. It will be the function of the OE Bureau of Indian Education to administer the provisions of this legislation. That Bureau will be headed by a Deputy Commissioner of Education appointed by the President from nominees submitted by the National Board. I will discuss this National Board in more detail later.

Finally, part E makes funds available for the expansion and development of community colleges educating American Indians, and amends the Higher Education Act so as to encourage the development of Indian teachers.

There are two elements of this bill which I believe are of special significance and, for that reason, deserve elaboration. One is that funds in both the formula entitlement and grant programs will go toward the education of Indians in urban as well as Federal reservation schools. The other is that all programs and projects must be planned, operated, and evaluated by tribal communities and parents of the Indian children affected.

For years, the Bureau of Indian Affairs has refused to recognize the growing population of Indians in urban areas. It has maintained that it must concern itself almost exclusively with Indians living on or near reservations. As a result, Indian children living in urban areas have attended public schools which received no assistance from the BIA in providing for the special needs of educating Indian children.

Today there are almost as many Indians in the cities as on the reservations. In Minneapolis alone there are about 15,000 Indians. Many of the urban Indian students need special materials and special help if the 50-percent-plus Indian dropout rates so common in these cities is to be improved. We would provide per student payments to these school districts for programs aimed at meeting these special needs—as they are defined by the parents of the Indian children. The bill would also make available to these districts grants for funding special projects and programs to better meet the unique needs of Indians in our cities.

The second major feature of this comprehensive bill is that it puts Indian education into the hands of not Indian experts, but expert Indians. Local control has been the foundation of public education in this country from its inception, yet we continue to permit a Washington-based bureaucracy to control the education of thousands of Indian children. Every project authorized by this legislation is conditioned upon the approval of the parents of the Indian children affected. In the language of the bill:

> The Commissioner shall not approve an application for a grant . . . unless he is satisfied that there has been participation by tribal communities and parents of the children to be served in the planning and development of the project, and that there will be such participation in the operation and evaluation of the project.

Besides giving Indians basic control over special programs and projects, the bill creates a National Board of Indian Education which is authorized to establish local school districts and locally selected school boards for Federal Indian schools. Since 1968 when President Johnson told the Bureau of Indian Affairs to establish Indian school boards, we have been waiting for the BIA to respond to the President's order. Since that date, only three Federal schools have been turned over to the local communities. At that rate, it will be the year 2044 before the Bureau's 223 schools are locally controlled.

In the meantime, Indian people must be content with advisory boards, which have to sit idly by and watch their children being taught by civil service appointees, many of whom are totally ignorant of Indian language, customs of traditions.

The National Board established by this bill is a 15-man board selected by the President from a list of nominees furnished him by Indian tribes and organizations. This Board would take over the education functions presently handled by the Bureau of Indian Affairs. It would appoint a superintendent for the Federal Indian schools. Among its responsibilities would be to investigate reservation boarding schools and determine which should be converted to therapeutic treatment centers and how the placement of students in boarding schools can be improved. This was a subcommittee recommendation. But most importantly, the Board would be charged with the responsibility of establishing local school boards—a responsibility which the BIA has failed to meet but which a board of Indian parents is sure to accept more seriously.

The Congress now holds in its hands the hopes of thousands of Indians—and the future of thousands of their children.

We cannot have an America where Indian students are punished for speaking their native languages.

We cannot have an America where Indian teenagers commit suicide to escape a life they dread.

And in a very real sense, Mr. President, this bill is more than a responsibility for the American Indian. It is a living tribute—and a debt we owe—to the late Robert Kennedy, whose compassion and courage and foresight ignited the conscience of the Nation on this issue. Robert Kennedy summoned us to national action on behalf of Indian children. The passage of this bill will be a fitting honor to his memory.

Mr. KENNEDY. I thank the Senator from Minnesota for his comments. He has indicated what we have attempted to do in the introduction of this legislation in which he played such an important and vital role—and that is to reflect the sentiments of the Indians themselves and to propose an educational program which is really their program.

As the Senator pointed out, time and time again throughout the history of the relationship of the white man to the Indian, and since the founding of our country, the white man always has done what he thought was in the best interests of the Indian rather than letting the Indians develop their own programs.

I feel that as a result of the work of our subcommittee, this legislation reflects the approach to Indian education desired by the Indian people themselves, whose children will be attending public schools and federally supported schools. The chairman of the Senate Education Subcommittee is present in the Chamber, and knowing of his interest in this very important problem and realizing his overall commitment in the field of education, I am hopeful that he will assure us that we will be able to have early hearings on this legislation. I know we will be able to bring to those hearings a thorough documentation of the problems involved in Indian education that had been accumulated over 2 years of extensive hearings held by the Special Indian Education Subcommittee.

I doubt that there has been any piece of legislation introduced in recent times where the underlying problems have been so thoroughly studied as this measure that we are introducing today. It has broad support in terms of membership on both sides of the aisle. It has broad support in terms of geographical representation from different parts of our country. I think it is a reasonable reflection of the desire of Congress to provide a solution to a pressing problem. So I welcome the fact that the chairman of the education subcommittee is on his feet. I would welcome any remarks he might have at this time.

Mr. PELL. I thank the Senator. As one with an especial interest in the Indians, as well as a general interest in education, I would congratulate the Senator from Massachusetts and the Senator from Minnesota for their work in this field.

I know the Senator from Massachusetts has a deep sense of commitment in this regard. I realize he does this in a very altruistic sense because the number of Indians in his Commonwealth is in the same proportion that we have in our State of Rhode Island, but his interest in the lot of the oppressed is real, no matter where they are.

I think those of us who live in the country today tend to accept the fact that we are God's chosen people, who have come to this country and brought Christianity and education to it; and we forget there were some of God's chosen people who were here originally, whose interests we have always run roughshod over.

When we talk about the sanctity of international agreements, sometimes critically of other nations in this regard, I think our own record with regard to God's chosen people who were here prior to us bears examination. I shall look forward to our soon holding hearings on this legislation.

Mr. KENNEDY. As the Senator knows, this would be an amendment to his higher education proposal, so I would hope that we might be able to have some hearings and get the appropriate responses from the administration as well as from Indian tribes, groups, and interested educators. I know the Senator has planned an extensive set of education hearings, but I would hope that we might be able to find some time during the course of those hearings to devote some attention to this proposal, so that we might be able to move ahead on it.

Mr. PELL. As the Senator knows, I would like to be of help in this matter in any way that I can, and look forward to working closely with him in scheduling hearings. I shall do everything I can to help.

SECTION-BY-SECTION ANALYSIS OF THE INDIAN EDUCATION AMENDMENT TO S. 659

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

Section 501—Amends P.L. 874 by redesignating Title III as Title IV and adding the following new Title III:

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

Section 301—This title may be cited as the "Indian Elementary and Secondary School Assistance Act."

Section 302—Declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs to meet the special educational needs of Indian students in the United States.

Directs the Commissioner of Education to carry out this policy through a program of grants to eligible, local educational agency applicants beginning July 1, 1972 and ending June 30, 1977.

Grants to local educational agencies

Section 303—To compute a local educational agency's yearly entitlement, the Commissioner is to determine the number of Indian children enrolled for whom free public education is provided in the agency's schools in that fiscal year. An agency is not entitled to a grant unless there are at least ten such children.

The amount of the entitlement shall be equal to the agency's average per pupil expenditure multiplied by the number of Indian children enrolled.

The agency's average per pupil expenditure for any fiscal year is computed as follows: the total current expenditures of all agencies in the State two fiscal years ago, plus any direct current State expenditures for agency operation, divided by the total number of children in average daily enrollment who received free public education from such agencies two fiscal years ago.

In addition to sums appropriated for local educational agencies, an amount not in ex-

cess of one percent of the amount so appropriated is authorized for assistance to schools on or near reservations which are not or have not been local educational agencies for more than three years.

Uses of Federal funds

Section 304—Grants may be used for: planning, including pilot projects to test the effectiveness of plans developed; and the establishment, maintenance and operation of specially designed programs, including minor remodeling and acquisition of specially designed equipment, to meet the special educational needs of Indian children.

Applications for grants; conditions for approval

Section 305—Grants may be made only to applying local educational agencies. Applications shall:

Provide that the activities for which assistance is sought will be administered or supervised by the applicant;

Set forth a program for meeting the special educational needs of Indian children, including proper and efficient methods of program administration;

In the case of planning applications, provide that planning is directly related to projects to be carried out under this title, and that such funds are needed either because of the innovative nature of the program or because the agency lacks the necessary resources for adequate program planning;

Provide that effective annual evaluation procedures, including objective measurement of educational achievement will be adopted;

Assure that Federal funds will supplement, and in no case supplant, the funds that the applicant would make available for the education of Indian children in the absence of Federal funds;

Provide for the necessary fiscal control and accounting procedures; for making an annual report and other reports required by the Commissioner to determine the effectiveness of these funds in improving Indian educational opportunities; and for keeping accessible records verifying these reports.

Applications which meet the above requirements must also:

Provide for the utilization of the best available talent and resources (including persons from the Indian community) and substantially increase Indian educational opportunity;

Have been developed (1) in open, informative consultation, including public hearings, with parents, teachers, and, if applicable, secondary school students, who shall have an opportunity to offer recommendations, and (2) with the participation and approval of a committee (half of which shall be parents and half persons of minority groups) composed of parents of children served, teachers, and, if applicable, secondary school students;

Set forth policies and procedures to insure the continuing participation of parents and representatives of the area, and the committee approving the program, in the program's operation; and

Be submitted to the appropriate State educational agency for its comments and recommendations.

Amendments of application shall also be subject to these provisions, except as otherwise provided by the Commissioner.

Payments

Section 306—Directs the Commissioner to pay to each approved applicant an amount equal to its expenditures for activities under this title, but no payments shall be made if the State has taken these payments into consideration in determining the agency's eligibility for State aid. Nor shall payments be made if the combined State and local educational agencies' fiscal effort is less than that of two fiscal years ago.

Adjustments where necessitated by appropriations

Section 307—If insufficient funds are appropriated to pay the local educational agencies' full entitlement, the entitlements of all such agencies shall be ratably reduced. If additional amounts become available, entitlements shall be increased in the same manner.

If entitlements have been reduced and additional funds are not available, local educational agencies shall report their estimated expenditures to the Commissioner by certain dates. Any unused funds shall then be available for reallocation to agencies which need additional funds, but no agency shall receive an amount which exceeds its entitlement.

Section 308—In this title 'Indian' means any enrolled member of a tribe, band or other organized group of Indians, or his descendant, or anyone considered by the Secretary of Interior to be an Indian.

Sec. 103(a)(1) of the Elementary and Secondary Education Act is amended by deleting references to Indian children and allotments to the Department of the Interior in subparagraph (A) and striking out subparagraph (B), referring to Department of Interior payments to local educational agencies with out-of-State Indian children.

Sec. 303(1) of P.L. 874 is amended by removing Indian property from the definition of Federal property.

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

Section 521—Amends Title VIII of the Elementary and Secondary Education Act of 1965 by adding the following new section:

Improvement of educational opportunities for American Indian children

Section 810—Directs the Commissioner to carry out a program to improve Indian education by:

Making grants to State and local educational agencies and other public and private organizations (including federally supported elementary and secondary Indian schools) for planning pilot, and demonstration projects including (1) innovative programs for the educationally deprived, (2) bilingual and bicultural education, (3) activities to meet the special health, nutrition, social and psychological problems of Indian children, and (4) coordination with other related Federal programs;

Making grants to State and local educational agencies and the National Board of Indian Education to assist and stimulate programs to provide educational services not available in sufficient quality or quantity for Indian children (including compensatory instruction and other services to encourage them to enter, remain in, or reenter school; comprehensive academic and vocational instruction; instructional materials and equipment; guidance, counseling and testing; programs for handicapped and preschool children; bilingual and bicultural education and other services), and to establish and operate exemplary and innovative programs and centers to enrich Indian education;

Making grants to institutions of higher education, and to State and local educational agencies in combination with such institutions, to prepare or improve the qualifications of educational personnel and social workers serving Indian children. Preference shall be given to the training of Indians. Grants may be used for fellowships, institutes, and for other purposes which are part of a continuing program;

Making grants to and contracts with other public and private nonprofit organizations for disseminating information on Indian education and evaluating the effectiveness of federally assisted programs.

Grant applications shall describe the activities planned. Program grant applications will provide for: the use of available funds and the coordination of other resources to insure a comprehensive program; the training of participating personnel; and evaluation.

Parent and tribal community participation in project planning, development, and evaluation is required for approval.

For grants under this section, $25,000,000 is authorized for fiscal 1972 and $35,000,000 for each of the four succeeding fiscal years.

Effective June 30, 1972, amends Titles II and III of the Elementary and Secondary Education Act (relating to school library resources and supplementary educational centers and services) and the Education of the Handicapped Act to eliminate allotments to the Department of the Interior for Indian children in the Department's schools.

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR AMERICAN INDIANS

Section 541—Amends Title III (the Adult Education Act) of the Elementary and Secondary Education Amendments of 1966 by redesignating sections 314 and 315 as sections 315 and 316 and adding the following new section:

IMPROVEMENT OF EDUCATION OPPORTUNITIES FOR ADULT AMERICAN INDIANS

Section 314—Authorizes the Commissioner of Education to—

Make grants to State and local educational agencies and other public and private organizations to support planning, pilot, and demonstration projects to test the effectiveness of programs to improve employment and educational opportunities for American Indian adults, including bilingual and bicultural programs, and programs to coordinate the operation of related federally assisted programs;

Assist in the establishment and operation of programs to stimulate opportunities for adult Indians to acquire basic literacy skills and qualify for a high school equivalency certificate; support a major research and development effort to find better ways of meeting these goals; and determine the extent of illiteracy and lack of high school completion on Indian reservations;

Make grants to and contracts with public and nonprofit private organizations to disseminate information on Indian adult educational programs and to evaluate the effectiveness of such federally assisted programs.

Grant applications shall describe the activities to be funded, provide for program evaluation, and shall not be approved unless the Commissioner is satisfied that there has been and will be participation by tribal communities and the individuals to be served in the planning, operation and evaluation of the project. Applications from non-Indian educational groups shall not be approved until all approvable applications from Indian groups have been approved. $5,000,000 is authorized for fiscal 1972 and $8,000,000 for each of the four succeeding fiscal years.

PART D—NATIONAL BOARD OF INDIAN EDUCATION; BUREAU OF INDIAN EDUCATION; MISCELLANEOUS

National Board of Indian Education

Section 561—Establishes a fifteen-member National Board of Indian education, appointed by the President, with the advice and consent of the Senate, from nominees furnished by Indian tribes and organizations, representing diverse geographic areas.

Members shall be appointed for three years, but the terms of the first appointees shall expire as follows: five at the end of one year, five at the end of two years, and five at the end of three years. No member shall serve more than two consecutive terms. Vacancies filled prior to the expiration of a term shall be filled for the term's remainder. The President shall designate one member as Chairman and another as Vice Chairman. Members shall be compensated at the rate prescribed for grade GS–18.

Staff of national board

Section 562—Authorizes the National Board to appoint and fix the compensation of an Executive Director, a Superintendent of Indian Education, and additional staff without regard to provisions of the United States Code governing appointments in the competitive service, classifications and General Schedule pay rates, but rates must not exceed the maximum rate for a GS–18. The Chairman may also procure temporary and intermittent services at rates not to exceed $100 a day per person.

Powers and duties of national board

Section 563—Vests the National Board with these powers and duties: carrying out the former functions of all other executive agencies (except the Office of Education and the Office of Economic Opportunity) relating to Indian education; establishing local school districts of Federal Indian schools; establishing, at its discretion, and supporting local school boards selected at the local level in accord with National Board regulations having administrative control over Federal Indian schools in such districts; advising the Commissioner on the administration of any program in which Indian children participate, including Title III of P.L. 874 and Title VII of the Elementary and Secondary Education Act, as added by this Act; and submitting to the Congress annually a report on its activities which includes recommendations on Federal programming involving Indian children.

Functions of National Board

Section 564—Vests in the National Board all functions which were formerly carried out by other executive agencies (except the Department of Health, Education and Welfare and the Office of Economic Opportunity) relating to Indian education at all levels.

Transfers all these functions, except for those of the Office of Education, and the Office of Economic Opportunity, to the National Board.

All outstanding orders, rules, contracts and the like shall continue until changed by the National Board, the courts, or the operation of the law.

All personnel, property, records and the like which are primarily concerned with the functions transferred shall also be transferred to the National Board.

Directs the National Board to: investigate off-reservation boarding schools to determine which should be converted to therapeutic treatment centers and to cooperate with the Public Health Service in their conversion; examine distribution, location, and student placement in Federal boarding schools with a view to change; and report to the Congress on these studies by January 1, 1973.

Bureau of Indian Education

Section 405—Establishes a Bureau of Indian Education in the Office of Education, with responsibility for administering the provisions added by this Act to P.L. 874 and the Elementary and Secondary Education Act. The Bureau shall be headed by a Deputy Commissioner of Education to be appointed by the President from nominees submitted by the National Board. The Deputy Commissioner of Education shall be compensated at the rate of a GS–17 and shall perform such duties as are assigned to him by the Commissioner.

PART E—MISCELLANEOUS PROVISIONS

Section 581—Amends the following sections of Title V (the Education Professions Development Act) of the Higher Education Act of 1965:

Section 503, relating to the appraisal of education personnel needs, is amended to include a consideration of the educational needs of Indians;

Section 504, designed to attract qualified persons to the field of education, is amended to include Indian children in Department of Interior and other Indian schools in efforts to identify and encourage capable youth in secondary schools who may wish to pursue a career in education;

Section 505, which provides for consultation by the Commissioner of Education with

other agencies to promote coordinated planning of educational personnel training programs, is amended to include the Secretary of the Interior.

Section 552, relating to leadership development awards for vocational educational personnel, is amended to include a consideration of the needs of Indian children in Department of Interior and other Indian schools, for qualified vocational education personnel.

Section 553 is amended to authorize the participation of Department of Interior and other Indian schools in exchange programs, institutes and in-service education for vocational education personnel.

Section 582—Amends Title III of the Higher Education Act—Strengthening Developing Institutions—to authorize the Commissioner of Education to waive certain requirements (relating to admissions policy, educational programs, and accreditation during the five years preceding the year for which assistance is sought) in institutions on or near Indian reservations if this action will increase the availability of higher education for Indians.

National Board of Indian Education

Section 583—Directs the National Board to raise the Institute of American Indian Arts at Santa Fe, New Mexico, to the level of a 4-year college.

Section 584—Directs the National Board to provide support for community colleges in which a substantial number of Indians are enrolled, to conduct a feasibility study of Indian community colleges and work toward their establishment, and to report to the Congress on these matters on or before July 1, 1972.

Section 585—Amends section 706(a) of the Elementary and Secondary Education Act of 1965 to include individuals and organizations from and near, as well as on, reservations.

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Senate

By Mr. MONDALE (for himself, Mr. SAXBE, Mr. BAYH, Mr. CRANSTON, Mr. EAGLETON, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. HUMPHREY, Mr. MCGOVERN, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PROXMIRE, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS.

S. 974. A bill to amend the Foreign Assistance Act of 1961, as amended, to prohibit any involvement of participation of U.S. Armed Forces in an invasion of North Vietnam without prior and explicit congressional authorization. Referred to the Committee on Foreign Relations.

Mr. MONDALE. Mr. President, the Congress faces a crisis of responsibility.

The American people clearly want to get out of the war in Indochina.

They want an end to the killing and devastation.

But regardless of the people, regardless of an act of Congress to limit our involvement, our men are today bleeding and dying at a mounting toll in a wider war.

By one of the most grotesque technicalities ever seized by a government, they have been saved from fighting on the ground in Laos and Cambodia only to be sent out to die in helicopters 30 feet off the ground.

And this could be just the beginning.

The President has put us on notice that he intends to keep our men in the war indefinitely, and that they will fly—and die—all over Indochina, including North Vietnam.

With South Vietnamese forces now risking disaster in Laos, we may well be poised to mount an invasion of North Vietnam.

And this would not be simply another step in the progression that has taken us into Cambodia and Laos. An invasion of North Vietnam by either U.S. forces or South Vietnamese forces with U.S. support, would be tantamount to a declaration of war against North Vietnam.

The President has recently told us he does not intend to order a U.S. ground invasion of North Vietnam. But, the President has changed his policy before.

With events pressing in Laos, he may feel he will have to do so again.

In any event, he has left open the option of U.S. air combat support for a South Vietnamese invasion.

Only this morning we have a clear warning from President Thieu that the South Vietnamese could invade North Vietnam. And we know all too well from Cambodia and Laos that the South Vietnamese do not make these attacks by themselves.

If the United States is to be involved in any way in an invasion of North Vietnam—a totally new and most ominous dimension to our nightmare in Indochina—then it can only be done with explicit congressional authorization.

This is no mere question of consultation between the Executive and Congress—it is a question of constitutional legitimacy.

A step of that gravity cannot be taken in our democracy without the authentic support of the American people and their elected representatives.

It is now clear that the President is widening this war rather than ending it.

If it is to be ended, if limits are to be firmly set, Congress must do so.

That is the crisis of responsibility which confronts us.

We cannot wait the weeks or months it could take for a vote on the Vietnam disengagement amendment.

There is no question that we must pass that amendment to end the war. We must bring our men home by Christmas.

That—and that alone—is the ultimate way out.

But we cannot fail the men who could die in a wider war before a total withdrawal.

I am introducing today a bill to require explicit and prior congressional authority for any U.S. combat forces invading North Vietnam, including U.S. combat air support for South Vietnamese ground forces invading North Vietnam.

If this bill is passed, the Congress will have added its authority to the President's express disavowal of a U.S. invasion of North Vietnam.

If it fails, we will be no worse off than we are now. The President now acts as if he has the sanction of Congress—or as if he does not need it.

At least the country will know where we stand.

Those who would approve an invasion of North Vietnam should have a chance now to record their position for history—and for their constituents.

As for those of us who oppose the war, there has been enough hand-wringing frustration and inertia. The stakes are too horrendous. We must do all we can to draw the line before—as so often in the past—we are too late. Congress did not prevent U.S. forces from invading Cambodia. But I believe that without the Church-Cooper amendment, we might well have American ground troops in Laos and Cambodia today.

There are many who say Congress has failed the Nation and itself by surrendering its constitutional power over the fateful questions of war and peace.

Perhaps we have before.

Perhaps we will again.

But we must face that choice now with regard to a potential invasion of North Vietnam just as squarely and starkly as our men are now facing death all over Indochina.

Mr. President, I ask unanimous consent that the bill and article be printed at this point in the RECORD.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter I of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 620 A. (a) Congress finds and declares that under the Constitution of the United States the President and the Congress share responsibility for establishing, defining the authority for and concluding foreign military commitments; that the United States can in no way participate in or support an invasion of North Vietnam without prior and explicit Congressional authorization.

"(b) On and after the date of enactment of this section, in accordance with public statements of policy by the President, no funds authorized or appropriated under this or any other Act shall be used to carry out an invasion of North Vietnam by United States Armed Forces without prior and explicit authorization of the Congress.

"(c) On and after the date of enactment of this section, no funds authorized or appropriated under this or any other Act shall be used to carry out combat air support activities within the borders of North Vietnam in support of a ground invasion of North Vietnam without prior and explicit authorization of the Congress."

[From the Washington Post, Feb. 25, 1971]

THIEU ASKS WHY NOT ATTACK THE NORTH

(By Lee Lescaze)

SAIGON, February 2.—President Thieu has raised the possibility that South Vietnamese troops will invade North Vietnam.

Thieu declared Monday that a major benefit of the current invasion of Laos is that it surprised the North Vietnamese and kept them off balance. "If we dare to launch operations into neutral Cambodia and Laos," Thieu added, "Why shouldn't we dare to

attack the very origin of aggression?"

The president called the current Laos invasion the most important campaign of the war and also indicated that there will be additional invasions of Laos. "Why should we cease entering Laos," he asked rhetorically.

"When we have entered once, we can go back repeatedly and not let (the North Vietnamese) be undisturbed."

Thieu raised the possibility of an invasion during a speech to a graduation class of policemen and teachers at the coastal resort of Vungtau. Although he spoke Monday, news of his remarks did not circulate in Saigon until today when the government radio station and a leading newspaper reported on the speech.

His comments were the most recent in a series of sometimes conflicting statements from South Vietnamese and American officials on the possibility of a South Vietnamese drive across the Demilitarized Zone.

Vice President Ky advocated such a move early this month as the invasion of Laos was being mounted. U.S. officials threw cold water on speculation about an invasion and the general impression created in Washington and Saigon was that the often glibly hawkish vice president had once again spoken off the top of his head.

However, President Nixon attracted attention to a possible invasion of North Vietnam when he sidestepped a question on the subject at his press conference Feb. 17.

"I would not speculate on what South Vietnam may do in defense of its national security," Mr. Nixon said. "South Vietnam will have to make decisions with regard to its ability to defend itself."

An invasion of North Vietnam, as much if not more than the current invasion of Laos, would need American air support. President Nixon has said that his guideline is to use American air power where North Vietnamese forces threaten American troops.

Throughout recent days, top American officials here have dismissed the possibility of a South Vietnamese thrust into North Vietnam, often pointing out that South Vietnam is already supporting large forces in Laos and Cambodia and has limited combat and supply capabilities.

In addition to keeping North Vietnam uneasy about Saigon's intentions, Thieu said that the current Laos operation is valuable because:

"When we fight pirates outside our house only our mango and guava trees are damaged. But when we fight them inside the house, how can we keep the furniture from being destroyed?"

Thieu said that South Vietnam is ready "to accept a high cost" in the Laos operation in order to destroy the enemy's potential to attack the northern I Corps region of South Vietnam.

The Communists, he predicted, will be "suffocated" within South Vietnam because of operations disrupting their supply lines. To avoid suffocation they will fight and the battles will be fierce, Thieu said.

However, he reassured his audience that the South Vietnamese would win the battles. "If we lose 500 men (in Laos) they will lose two or three thousand men," he said. "If we lose 1,000 soldiers, they will lose nine or ten thousand."

Thieu also spoke about the presidential election next fall and asserted that all South Vietnam's progress of recent years would go down the drain if a president too conciliatory to the Communists were elected.

He denied charges by his political opponents that his trips to the provinces amount to campaign trips. The campaign does not officially begin until August, a month before the election, but it is generally conceded that all candidates will have to be active before that date to stand a chance.

United States Senate
WASHINGTON, D.C. 20510

Walter F. Mondale
U.S.S.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

Vol. 117 WASHINGTON, FRIDAY, FEBRUARY 26, 1971 No. 24

Senate

By Mr. MONDALE (for himself, Mr. BIBLE, Mr. BURDICK, Mr. CANNON, Mr. CHURCH, Mr. CRANSTON, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PERCY, Mr. PROUTY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SPARKMAN, Mr. TUNNEY, Mr. WILLIAMS, and Mr. YOUNG):

S. 1017. A bill to amend the Federal Water Pollution Control Act, as amended, and for other purposes. Referred to the Committee on Public Works.

Mr. MONDALE. Mr. President, the Water Quality Improvement Act, signed into law on April 3, 1970, cleared the way for the enactment of a comprehensive program to improve the deteriorating condition of our waterways. Its passage marked the culmination of a long struggle to strengthen the Federal Water Pollution Control Act.

I was especially pleased by this action because of the enactment of the clean lakes research provision originally introduced by Senator BURDICK and me in 1966. It enables the Federal Government to undertake basic research or to make grants for studies into the cause and prevention of lake pollution.

The Environmental Protection Agency supplemental appropriation, in December, began the funding of this program with $2 million for the last half of this fiscal year. It is my hope that the administration will utilize these minimal funds carefully to stimulate this vital research, and that more adequate funding will be sought and provided in the 1972 appropriations process.

This is an important first step in what I hope will be a concerted campaign to restore the thousands of lakes which are jeopardized by pollution.

But we need to move immediately beyond research and study and begin implementing programs to restore and preserve these lakes.

Many of the Nation's fresh water lakes are deteriorating. Some of these lakes are in such desperate condition that they cannot wait for the processes set up by the recently passed research provision.

It is to this problem that I am addressing my new legislation.

The bill I am introducing today goes beyond the research program approved by the last Congress. It is in line with the conclusion reached by the 1967 House Committee on Government Operation's report "To Save America's Small Lakes" which stated:

> A twin-pronged approach to the problem of accelerated eutrophication would seem desirable—an expanded program of basic research to add to the limited knowledge about the eutrophication processes and their effective and economical control, plus immediate action in the form of demonstration projects utilizing present knowledge and skills.

The new clean lakes bill would establish a coordinated program of increased waste treatment and lake cleansing utilizing the latest technology. It is aimed at rehabilitating the lakes which are in particularly poor condition.

I am concerned about the hundreds of lakes which already have been fouled by man's carelessness; lakes which have been used as a convenient dumping area for municipal, industrial and agricultural wastes, and lakes which have deteriorated because of runoff from careless shoreline development projects.

Municipal sewage is increasing, filled with phosphorous materials from detergents or human wastes. In many instances, it is dumped untreated into nearby lakes. A recent report by the University of Minnesota Limnological Laboratory indicated that it may take up to 35 years for an urban lake to return to natural equilibrium after the influx of sewage is ended.

Industries find it expedient to locate adjacent to lakes where they can pump their chemical-filled discharges.

Lakes also suffer from agricultural runoffs. Overflows contaminated with pesticide, herbicide, and fertilizer residues wash into the lakes. Construction projects on lake shore areas cause increased runoff of soil and vegetation. Siltation adds to the load.

Unlike moving rivers, lakes have very slow flushing systems to purge themselves of these burdens.

The unrelieved surge of nutrients into these lakes causes the waters to be enriched past their capacity. The problem becomes one of eutrophication—the aging of lakes.

The element added to the lakes by sewage and runoffs act as fertilizers of aquatic growth causing a veritable population explosion of algae. These plants have a self-generating cycle and create an increasing demand on the oxygen in the water, thus killing desirable bacteria which work naturally to cleanse the water.

Meanwhile, lakebeds fill with sludge and debris, and the marine life chokes and dies.

A recent survey by the University of Minnesota indicated that the State's once-sparkling lakes are gradually taking on a new color-green. The study identifies sewage seeping from inadequate disposal systems of lakeshore homes as the main source of pollution. In the West, one of the world's clearest bodies of water, Lake Tahoe, which lies over 600,000 feet high in the mountains, may turn green within 15 years.

This is largely a result of population increase and the boom in water recreation. The population on the shore of Minnesota's recreational lakes is doubling every 20 years. The population on the shores of Lake Minnetonka, outside the Twin Cities, increased by 50,000 in 10 years, and will reach 200,000 by 1980. In 1 year, more than 100,000 pounds of nitrogen entered that lake from seven sewage plants. The University of Minnesota study showed that municipal sewage is dumped directly into the water of 34 major recreational lakes studied.

Runoff of fertilizers from farmland and nutrients from cattle feedlots reduce the quality of many lakes.

The problems are not endemic to the 11,500 lakes in Minnesota which are in excess of 10 acres. Many of the more than 100,000 fresh water community lakes in the Nation are being victimized by the same problems.

Our lakes have too often been forgotten in the rush to improve our environment. Since lakes are so essential to our way of life and represent such an irreplaceable resource, it is obvious that they cannot be neglected.

Yet, unless restorative measures are taken soon, many of our priceless lakes will be irretrievably lost.

The bill I am introducing today recognizes the desperate plight of these lakes and provides for a plan to reclaim these waterways.

There are four major points covered in this new Clean Lakes Act.

First, the bill authorizes an increase in the Federal grant now available under section 8(b) of the Water Pollution Control Act for treatment works which are located near or adjacent to a lake and which discharge treated wastes into the lake or tributary waters. The increase would be to a maximum of 65 percent of the costs, if the State pays at least 20 percent of the costs. To be eligible for this increase, enforceable water quality standards must be established and the works be consistent with the plan for the implementation, maintenance, and enforcement included in the standards. These works must discharge only treated water, and industries hooking up to the municipal system must provide pretreatment of their wastes. The bill authorizes an annual appropriation of $150 million for fiscal years 1972, 1973, 1974, and 1975 for the purpose of funding these increased grants.

Second, the bill directs the administrator to provide technical and financial assistance to the States and municipalities in carrying out a comprehensive program of pollution control. This would include the use of harmless chemicals to destroy unwanted supplies of algae that accelerate the aging process of lakes, the dredging of lake bottoms to remove decaying sludge and other noxious pollutants, the recovery of overgrowth of algae and trash from the surface, and the improvement of lake shores. The bill authorizes up to 80-percent Federal grants for this program from a total appropriation of $900 million over a 4-year period beginning in fiscal year 1972.

Third, the bill authorizes the use of experienced Federal water resource agencies such as the Bureau of Reclamation and the Corps of Engineers, to help carry out this program under agreements with the States.

Fourth, the bill provides measures to enforce water quality standards for lakes subject to this program. These measures include penalties and injunctive relief.

I believe we must take these steps if we are to save these troubled waters.

There are several techniques which can be employed to clean the lakes.

Obviously, we can move to upgrade the waste treatment facilities to cut back the flow of nutrients into their waters. This kind of preventive procedures can sometimes result in rapid improvement, as happily occurred, for example, on Lake Washington in Seattle.

There are other direct measures to be used to rid the lakes of pollution.

Chemicals are being developed which attack algae forms, but do not harm the fish life of the lake. Copper sulfate has been used in the past to control algal bloom for a short period of time. Experiments are also being conducted with alum, which sinks surface sediments, and with lime, which attacks the acidity in some "bog lakes." Research efforts at the Cincinnati Water Research Laboratory resulted in the discovery of a virus which is parasitic, specifically to blue-green algae.

Dredging and surface screening operations have proven successful in clearing lakes of sludge, weeds, and other undesirable contents.

A special treatment developed for the Snake Lake in Wisconsin was less costly than dredging or screening. This consisted of literally flushing the lake's waters into a nearby earth area. There the foul water was strained through a natural filter of sand to seep back into the lake bed. The project, administered by the University of Wisconsin and the Wisconsin Department of Natural Re-

sources through a grant from the Upper Great Lakes Regional Commission, has apparently been a success. The cost was $10,000 to pump the lake's 21 million gallons.

I am hopeful that we can extend our support of such efforts, for the benefit of future generations. Lakes provide not only a source of water but offer recreational outlets, wildlife habitat, and they are a basic part of the beauty of the earth landscape. Clean lakes are basic to the life balances on which our existence depends.

Our lakes are a priceless commodity. To delay action in cleaning our lakes is to risk losing them. We cannot afford this.

Mr. President, I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

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

S. 1017

A bill to amend the Federal Water Pollution Control Act, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Clean Lakes Act of 1971".

Sections 22 through 27 of the Federal Water Pollution Control Act, as amended, are redesignated as sections 23 through 27 and there is added after section 21 a new section 22 to read as follows:

"LAKE POLLUTION ABATEMENT AND QUALITY ENHANCEMENT

"SEC. 22. (a) The Congress finds and declares that—

"(1) the public fresh water lakes of the United States are irreplaceable resources for meeting many of man's public water supply, recreational, esthetic, industrial, agricultural, navigational, and other needs;

"(2) some such lakes, both urban and rural, are carpeted with green scum and formations of slime, their waters grossly turbid and unpleasant in taste and odor, and have been thoughtlessly pillaged by man's technological advances;

"(3) many of America's lakes are suffering from manmade pollution caused by the continuing discharge of untreated or inadequately treated industrial and municipal wastes, from agricultural and urban runoff, including siltation due to soil erosion, and from manufactured products containing harmful pollutants discharged into municipal treatment systems which greatly accelerate the natural eutrophication resulting from the normal aging process of the lakes;

"(4) because a lake has relatively little motion, it has less capacity than a flowing stream to rid itself of wastes;

"(5) while there has been a great deal of publicity about the deterioration of some of our larger lakes, many small community lakes are losing the same battle;

"(6) destruction of water quality in our Nation's navigable lakes cuts deeply into their recreational uses: swimming beaches and picnic areas close; fishing and boating activities decline sharply; shoreline property values fall off; the water supplies of nearby communities and industries are adversely affected and economic disaster can result for the towns and cities whose economic well-being is dependent upon good quality water;

"(7) the restoration or rehabilitation of a navigable lake involves more than the control and abatement of water pollution, since even though the wastes entering these lakes are made less harmful, the discharge of cleaner water into a still degraded lake would solve only part of the problem; and

"(8) It is therefore the purpose of this section to provide a comprehensive and coordinated action program, using the latest technology and available resources, to enhance the quality of public fresh water navigable lakes in urban and rural areas of the United States, with particular attention given to small community lakes.

"(b)(1) THhe Administrator of the Environmental Protection Agency is authorized to increase the grant percentage for treatment works under section 8(b) of this Act to a maximum of 65 per centum if he finds that the State agrees to pay not less than 20 per centum of the estimated costs of such works and that, in addition to complying with the requirements for treatment works eligible for 30 per centum grants under said section, such works:

"(A) are located in an area near or adjacent to any fresh water navigable lake and discharge treated wastes into such lake or into waters tributary to such lake;

"(B) are located in an area where enforcible water quality standards have been approved by the Administrator for such lake and the waters into which the treatment works discharge wastes, and are constructed or reconstructed in accordance with the plan for the implementation, maintenance, and enforcement included in such water quality standards;

"(C) are planned, constructed, or reconstructed, and equipped, operated, and maintained in a manner that utilizes available up-to-date treatment technology and trained personnel; and

"(D) discharge only treated wastes into such waters and provide for the pretreatment, when necessary, of industrial wastes before entering such treatment works.

"(2) There is authorized to be appropriated annually the sum of $150,000,000 for such increased grants for the fiscal years ending June 30, 1972, through June 30, 1975.

"(c) (1) The Administrator shall provide technical and financial assistance, in accordance with an application approved of all or part of any public fresh water navigable lake located in such States. In addition to controlling effluent discharges, the program should include a description of means and measures to be employed to improve water quality using all available technology including, but not limited to, the use of safe chemical process, the dredging of lake bottoms near shore to remove decaying sludge and other pollutants; the recovery of overgrowths of algae, the recovery of trash and other materials from the waters and shorelines, and the grading of shorelines and planting of grass, trees, and shrubs to protect banks and improve the scenic beauty.

"(2) The Administrator shall annually approve any application submitted under this subsection by a State which—

"(A) sets forth the programs, policies, and methods to be followed, consistent with water quality standards established for such lake, in carrying out such programs;

"(B) provides that such State or political subdivision thereof has, or will have within eighteen months after the effective date of this subsection, adopted enforcible laws to control industrial, agricultural, and municipal sources of effluents discharged into such lakes and to require persons developing land areas near or adjacent to such lakes or waters tributary thereto for commercial purposes to control soil erosion;

"(C) provides such fiscal control and fund accounting procedures as may be appropriate to grants to the States under this subsection;

"(D) contains assurances that such grants will supplement, not supplant, existing water pollution control programs of a State;

"(E) provides that such State will make reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

"(F) meets such additional conditions as the Administrator deems appropriate to effectuate the purpose of this section.

"(3) The amount granted to any State for a fiscal year under this subsection shall not exceed 80 per centum of the amounts expended by such State in such year for carrying out such a program. There is authorized to be appropriated $150,000,000 for fiscal year 1972; $200,000,000 for fiscal year 1973; $250,000,000 for fiscal year 1974 and $300,000,000 for fiscal year 1975, for grants to States under this subsection which sums shall remain available until expended. The Administrator shall provide for an equitable distribution of sums appropriated for such grants to the States where there is an approved application. Applications for grants under this subsection shall be filed at least sixty days prior to the beginning of such fiscal years.

"(4) In addition to such technical and financial assistance, the Administrator may, at the request of a State, enter into agreements with the Secretary of Agriculture and the Secretary of the Army to provide personnel, services, and facilities to the State in carrying out such a program including the constructing of water impoundments or other facilities designed primarily to improve water quality or control pollution for any fresh water navigable lake for which the Administrator has approved an application under this subsection, or the Administrator may provide such personnel, services, and assistance, may enter into contracts with public or private agencies, organizations, and individuals and may acquire by purchase, lease, donation, or exchange lands or interest therein and transfer such acquired lands to such State as part of any grant made to a State for any fiscal year.

"(d)(1) In case of any public fresh water navigable lake for which an application for a grant is approved under subsection (c) of this section in any fiscal year, no person shall thereafter discharge waters from any public, commercial, or industrial facility of any kind into such lake or waters tributary thereto in violation of established water quality standard or in violation of any other applicable provision of this Act.

"(2) In addition to any other provision of this Act or other law providing for the enforcement of water quality standards for such lake, any person who knowingly violates paragraph (1) of this subsection shall, upon conviction, be fined not more than $10,000 for each violation, or imprisoned for not more than one year, or both, and one-third of said fine shall be paid to the person giving information which leads to a conviction. Each occurrence of a violation may constitute a separate offense.

"(3) The Administrator may also institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a person subject to the provisions of paragraph (1) of this subsection is located or resides or is doing business whenever such person violates the provision of said paragraph. Each court shall have jurisdiction to provide such relief as may be appropriate, except that such court shall have jurisdiction only with regard to the issue of relief being sought pursuant to this paragraph. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. In actions under this section, subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28 of the United States Code, attorneys appointed by the Administrator may appear for and represent him."

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

Vol. 117 WASHINGTON, TUESDAY, MARCH 9, 1971 No. 31

Senate

By Mr. MONDALE:

S. 1161. A bill to assist in removing the financial barriers to the acquisition of a postsecondary education by all those capable of benefiting from it. Referred to the Committee on Labor and Public Welfare.

Mr. MONDALE. Mr. President, it will come as no surprise to students, parents, and educators to hear that the cost of college education continues to skyrocket. Our country has increasingly recognized the benefits which come to the Nation and its citizens where higher education is broadly based. We have not been content to let postsecondary education remain a privilege of the wealthy few. We have sought to make college education available to young Americans willing and able to gain from the experience, but we have failed.

Mr. President, it is for that reason that I today introduce the Student Assistant Act of 1971.

Clark Kerr, who headed the Carnegie Foundation's inquiry into higher education has said:

> Today ayoung man or woman whose family's income is in the top half of the national income range has three times the chance to get a college education as one whose family is in the bottom half.

It is more than mere coincidence that students coming from families with a high socioeconomic status are far more likely to attend college than students from families of low socioeconomic status. The tragedy is that this is true regardless of the student's ability.

Mr. President, I ask unanimous consent to have printed in the RECORD several tables to illustrate this situation.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—DEGREE CREDIT COLLEGE ATTENDANCE BY FEBRUARY 1967 OF OCTOBER 1965 HIGH SCHOOL SENIORS WHO GRADUATED FROM HIGH SCHOOL BY FAMILY INCOME

[In percent]

Family income	Attended college	Did not attend
Under $3,000	19.8	80.2
$3,000 to $3,999	32.3	67.7
$4,000 to $5,999	36.9	63.1
$6,000 to $7,499	41.1	58.9
$7,500 to $9,999	51.0	49.0
$10,000 to $14,999	61.3	38.7
$15,000 and over	86.7	13.3
Total entrance rate	46.9	53.1

This table indicates the differences in entrance rates between students coming from low- and high-income families. Assuming that entrance rates are to be equalized between students coming from families with incomes below $10,000 and students with family incomes in the $10,000 to $15,000 range, the following gap in entrance rates would have to be closed:

TABLE II.—*Gap in college entrance rates—Degree-credit students*

Family income:	Percent
Under $3,000	41.5
$3,000 to $3,999	29.0
$4,000 to $5,999	24.4
$6,000 to $7,499	20.2
$7,500 to $9,999	10.3
$10,000 to $14,999	[1] 0

[1] Equals base.

Source: Factor's Related to High School Graduation and College Attendance 1967, U.S. Census Bureau.

It should be noted that this study includes only those students attending degree-credit programs in institutions of higher education. If the students attending vocational programs in colleges and universities were included, the entrance rates shown would be higher (approximately 6%).

COLLEGE ENTRANCE RATES

The following table shows the college entrance rates by SES quartiles and ability halves for full- and part-time students in 2- and 4-year institutions offering degree credit programs. It should be noted that vocational programs are also offered by such institutions and that students taking vocational programs in degree credit institutions are reflected in the entrance rates.

TABLE III.—ENTRANCE RATES, BY ABILITY AND SOCIOECONOMIC STATUS TO 2-YEAR AND 4-YEAR INSTITUTIONS—FULL-TIME AND PART-TIME STUDENTS

[In percent]

	SES quartiles				Total enrollment rates
Ability	Low 1st	2d	3d	High 4th	
Top half	58.0	66.3	78.3	87.8	74.5
Bottom half	31.2	33.9	44.4	59.4	39.5
Total entrance rates	44.0	51.8	66.3	81.1	60.7

Source: "Growth Study" conducted by Educational Testing Service, 1967.

Mr. MONDALE. Mr. President, the information in these tables simply puts numbers on what most of us know intuitively, that high school seniors coming from families with a low income are far less likely to go to college than those coming from families with middle to high income. The tables show that the factor which is most likely to determine whether or not an individual attends college is not his or her ability, but rather his or her family's economic status.

Once again those at the bottom of the scale suffer the most. They are the people described as disadvantaged because they have so little going for them. An inordinate number of them are members of minority groups—Negroes, Indians, Mexican Americans, Asians, and Puerto Ricans. Many come from rural areas or pockets of poverty in remote areas and urban ghettos. The chance to go to college is no more than a pipedream without the necessary support from their family, friends, and educational system.

By allowing these disadvantages to continue; by allowing the cycle of poverty to repeat itself without interruption; by allowing talent to go unused, we are squandering our Nation's most precious resource. But the problem does not stop with the lowest socioeconomic classes. A large number of working class Americans are finding it more and more difficult to finance a college education for their children. Although they work hard their salaries are not high.

The meager savings they manage to set aside are quickly eaten up by health and employment emergencies. Pay increases generally just keep them abreast of the rapidly rising cost of living. Keeping this in mind, we can understand their plight when we see that the cost of college education has risen even more rapidly than the cost of living.

Mr. President, I ask unanimous consent to have printed in the RECORD a table illustrating this point.

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

TABLE IV.—INCREASE IN THE COST OF ATTENDING PUBLIC AND NONPUBLIC 4-YEAR UNIVERSITIES FOR 1 YEAR COMPARED WITH THE INCREASE IN THE CONSUMER PRICE INDEX, 1960-70

	1960	1970	Percent increase
Consumer Price Index (1967=100)	88.7	116.1	31
Public university	$881	$1,390	58
Nonpublic university	$1,701	$2,993	76

Note: The Office of Education tells us that on the average, it costs $1,248 to attend a public institution of higher learning for 1 year, which includes 4-year universities, 4-year colleges, and 2-year institutions. For all private institutions the average is $2,722. Next year the costs will be greater.

Sources: U.S. Statistical Abstract, table 192 and Department of Labor, Bureau of Labor Statistics.

Mr. MONDALE. Mr. President, the fact is that more and more Americans are not able to pay these prices. It is estimated that over a million young people must forgo college today, not because they lack ability or desire, but because they lack the necessary money. Unless we do something now to eliminate these inequities and end this waste of manpower, higher education may once again become the privilege of the wealthy few.

If a growing number of students and parents cannot stand the rising costs of education, who can? The findings of the recently published Carnegie Commission report, "The New Depression in Higher Education," make it clear that the schools are unable to avoid the pinch of increasing costs and decreasing incomes.

After visiting a substantial mix of 41 different colleges and universities across the Nation, the study concluded that 71 percent were either in financial trouble or headed for it. The author is understandably loath to make the sweeping generalization that this 71-percent figure would hold true for all 2,729 institutions of higher education in the country. Nonetheless, it is sobering to find listed among those headed for financial trouble such distinguished schools as the University of Minnesota, the University of Michigan, the University of Chicago, and Harvard University. Among those determined already to be in financial trouble are Stanford University and the University of California at Berkeley. Our Nation's colleges and universities are clearly up against a financial wall.

A large part of the problem is that tuition covers only a part of the total expense of educating any given student. In 1968–69 students bore only 34 percent of the total cost of higher education. For private institutions, tuition and fees covered 64 percent of the cost of education, while in public institutions it came to only 19 percent.

The problem will not be solved simply by giving needy students the money they require for tuition and sending them off to school, because the schools cannot afford to take them if there is no other money coming in to meet the additional expenses. In short, the schools need nearly as much assistance as the students to meet the crush of rising costs. Clearly, we cannot expect the colleges to solve the problem unassisted.

Nor can we reasonably expect the States will step into the breach. Many observers have noted a decline in State support of higher education in the wake of student unrest during the past few years. However, a longer perspective shows that this is just part of a continuing trend. In 1957–58, State and local government support of higher education amounted to 33 percent of costs. By 1967–68, before a number of critical disturbances, the figure had dropped to 25 percent.

There are many reasons for declining support from State and local government, but one of the most important is simple financial capacity. The demands on State and local resources are constantly expanding in both scope and magnitude. As result, even where there is willingness to increase, or at least to maintain the existing level of support, other requirements often make that impossible.

One further point is worth noting. Individuals with college training are among the most mobile elements of our society. Investing money in the education of a person who then moves to another State, may be viewed from the

perspective of an individual State as a bad investment and a loss to the State economy. Certainly such a view is unreasonably narrow, but it can affect the national manpower pool and individual lives.

What I am discussing is a problem with national dimensions and national importance. The State and local governments cannot provide the solution, nor can the colleges or individuals involved. Therefore, I am proposing legislation that will provide: First, grants to undergraduate and graduate students based solely on need, up to the national average cost of attendance for the type school they are attending, either public or private; second, assistance to institutions where these students enroll, to help offset the cost of education beyond tuition and fees; third, fellowships for graduate and professional students in their third and fourth years of graduate study; fourth, a private nonprofit bank to increase the flexibility and assure the availability of student loans; fifth, outreach to identify and encourage high school students who otherwise might not seek further education; and sixth, and interagency coordinating committee to improve the administration of the various student aid programs.

I am not asking any of those who cosponsor this proposal to support all of its specific and detailed provisions. My purpose is to find the best possible legislation for dealing with the problems of providing assistance to college students and institutions of higher education.

Before explaining the particular provisions of this legislation, I think it is approprate to discuss the wisdom of this type of investment. The most important gain is also the most difficult to measure. How can we calculate what it means to a person when a blank wall is replaced with a broad horizon and when frustration is replaced with fulfillment? However, that might be measured, we know we can multiply it a million times just to get started. In human terms there is no question about the importance of the legislation I am proposing today.

In economic terms, this legislation is a bargain. The Department of Health, Education, and Welfare reports that in a lifetime of working, a college graduate will make $213,000 more than a high school graduate. What that means to a family's buying power and how it affects the next generation's capacity to go to college are obvious.

For the economy as a whole, additional skills are put to use. More money is pumped into the economy, acting to spur the growth of still more goods and services.

With regard to the Government's economic interest, according to the Internal Revenue Service, approximately two-thirds of all taxpayers pay 15 percent or more of their income in Federal personal income taxes. At this rate the minimum tax return on the additional $213,000 made possible by a college education would be $31,950.

Another way of predicting the likely impact of this program on tax revenue is to look at the GI bill, one of the most successful education programs ever undertaken by the Federal Government. The educational benefits available through this law made it possible for millions to return from war duty and complete their education; 7,800,000 World War II veterans and 2,391,000 Korean conflict veterans participated in the first two GI bills. Among these, according to the count of the Veterans' Administration, in the last Congress there were 11 U.S. Senators and 116 U.S. Representatives. I am one of these who was fortunate enough to qualify for this assistance. The total cost of these programs was $19 billion. The benefits of the first two GI bills ended in 1965 after approximately 20 years of operation. At that time, the Veterans' Administration concluded:

> An analysis of incomes of veterans and nonveterans in the same age groups, made with the help of the Department of Labor and the Department of Commerce, shows that incomes of veterans who received G.I. bill help in education averaged from $1000 to $1500 a year more than of those who did not. On this basis, we estimate that the trained and educated veterans paid additional income taxes in excess of $1 billion a year. The G.I. Bill provisions for education covered a period of 20 years; the estimate of $1 billion annually in added taxes totals a $20 billion return in taxes alone on the $19 billion cost of the program.

One billion dollars in added tax revenue per year. And this is continuing. By the time the generations who participated in the first two GI bill programs complete their work life the added tax return will more than double that of each tax dollar originally spent for the program.

The millions who have been fortunate enough to qualify for education assistance under the provisions of the GI bill have proved—in concrete ways—for all to see, what a national commitment to education can mean. We have seen how a Federal program which provides assistance directly to students has worked. This task before us now is to extend this successful approach.

WHAT THE BILL WILL DO

First. Student opportunity grants will be provided solely on the basis of need, directly to students who are pursuing postsecondary education at least half time. Eligibility will continue for 4 years—or its part-time equivalent—of postsecondary vocational or undergraduate study, unless the student is enrolled in a program that requires longer than 4 academic years for the baccalaureate degree. The longest period of eligibility is 5 academic years or its part-time equivalent.

Graduate and professional students will also be eligible for these grants for a period not to exceed 4 academic years, or its part-time equivalent enrollment beyond the baccalaureate degree.

The only requirement for eligibility in applying is enrollment in or presumed admission to a postsecondary—including vocational—or higher education institution. The student will attend the school of his or her choice, with the grant being dispensed through the institution.

Students will be able to apply for a grant as early as the 11th grade of high school. Although grants made at that time will be reviewed when the student graduates from high school, it is necessary that the student have an early indication of the amount available for postsecondary education. In a report to the President entitled, "Toward a Long-Range Plan for Federal Financial Support for Higher Education," the Department of Health, Education, and Welfare suggests that:

> There is some evidence that changes in the cost of college have a greater impact on college attendance if these chanegs are made known to students early in their high school careers. If there were a fundamental improvement in the method of financing student's education, it is likely that the long range impact of this change would be to remove some of the barriers to college attendance which we identify as motivational in the short run.

The provision for part-time study is included to increase the flexibility of this program as it responds to the needs of students. There are some students whose families require that they engage in heavy part-time work loads in order to attend school. With part-time work, plus the aid available through this program, a student who otherwise could not, will be able to attend college.

The reason for giving money to the individual student is to provide the most assistance where it is most needed. An equivalent amount of money spent on aiding institutions of higher education—as opposed to students—would not have the same impact of easing the financial burden of college attendance on families or reducing this obstacle to college attendance. That kind of aid would help institutions meet their mounting costs. It would ease the pressures for increases in tuition. But it would not provide specific assistance for those who would not decide to attend college without assurance of financial aid. The prospects for raising the money they need for attending college would be as hopeless as ever.

The amount of the grant will be determined by the amount the student will be able to contribute toward his or her own education and what it will actually cost to attend the school of his or her choice. The expected family contribution and student savings, as determned by the Commissoner, will comprise what the student is expected to pay. The cost of attendance will be the actual cost of tuition, fees, room and board at the school the student chooses. If the student is eligible for the full amount of the grant, he or she can receive 100 percent of the cost of attendance up to the first $1,400. This is more than the national average cost of attendance at public 4-year universities, which means the cost of attending most public institutions will be fully covered by the grant.

The maximum amount of any grant will be equal to the national average cost of attendance at nonpublic 4-year universities, which right now is around $3,200. As the cost of attendance rises above $1,400 the grant is increased by a percentage of the additional amount. The higher the cost, the smaller the percentage will be. One effect of this graduated scale, of course, is to provide a measure of cost control, because increasing costs are not fully reimbursed. More important though, is the fact that the doors of private institutions will finally be opened to all who have been denied simply because they did not have enough money.

If we are sincerely dedicated to the goal of equal opportunity for all students we cannot allow private institutions to remain forever beyond the reach of low income students. In addition, we cannot expect public schools to absorb all the new students this bill would create. Private schools throughout the Nation currently have vacancies which can be and should be filled by any expansion of the student population.

The student opportunity grants provided by this bill will guarantee every student with the interest and ability the chance to attend the school of his choice. These grants will be a giant step toward making higher education a right not a privilege.

Second. A cost of education allowance will provide the additional money schools will need to educate the students assisted with grants. I have already noted that student charges do not nearly cover the cost of providing a student's education, and that we can come nowhere near solving the total problem unless we provide assistance to the schools as well as the students. Categorical grant programs offer some relief, but unfortunately they also tend unduly to alter the priorities set by individual institutions. The schools are encouraged to engage in activities which do not coincide with their greatest needs.

Therefore, institutions attended by recipients of student opportunity grants will be paid a direct cost of education allowance for each grant recipient, based on a graduated scale. For an undergraduate freshman, it would be 50 percent of the first $200 of the student's grant and 25 percent of everything over that. Because it costs more to educate students as they progress toward their degree. The 25 percent rises to 30 percent for sophomores, 35 percent for juniors, 40 percent for seniors, and 50 percent for graduate students.

The result of providing these individual and institutional grants will be to give students the money they need to go to school, and give schools the money they need to maintain high standards of instruction.

Third. A Federal Fellowship program will provide awards to assist graduate students of exceptional ability, who also demonstrate financial need, to complete their final two years of study toward the Doctor of Philosophy, or equivalent degree. These fellowships, 15,000 the first year, will be awarded directly to the student, to study in the institution of his choice.

The amount of the stipend will be determined by the Commissioner of Education in accordance with prevailing practices under comparable federally supported programs, except that the stipend will not be less than $2,800 nor more than $3,500 for each academic year of study, not to exceed 2 years. An allowance of $300 per dependent, not to exceed $1,500, will be paid to the student if he has dependents.

A cost-of-education allowance will be paid to the institution in which the student is pursuing his study. This amount will be one and one-half times the grant to the student—not including the allowance for dependents—less any amount charged the student for tuition.

They will be based solely on ability and need rather than on the student's field of study.

The rationale for extending eligibility for the student opportunity grants to graduate and professional degree students is the same for making this aid available to postsecondary vocational and undergraduate students: to remove the financial barrier to higher education.

The cost of attending graduate or professional school is often higher than that of attending undergraduate school. The student, moreover, often cannot count upon family support for graduate school. Students from high-income families are more likely than students of equal ability from low-income families to attend graduate school. This bill will seek to remove this inequality.

The new fellowships are provided for several reasons. First, graduate enrollments are increasing at a faster pace than undergraduate enrollments. This is putting an increasing strain upon present sources of graduate support, many of which are supplied by State governments, private endowments, and foundations. We must assure that the flow of this highly trained talent will continue.

Second, most of the present aid provided by the Federal Government for graduate education is tied to the field of study or the type of research a given graduate student undertakes. The effect of this has been to encourage graduate education in some areas while discouraging it in others.

Third, many of the present federally aided graduate benefits are available only through specific universities which have received the authority to grant these aids. This means that the student must be registered in an institution which participates in a program that dispenses graduate aid.

This bill will eliminate many of these deficiencies. It will not replace present federally aided graduate assistance. Many of these programs have performed successfully and will no doubt continue to do so. But this bill will make eligibility dependent upon ability and need, rather than the field of study or the particular institution in which a student is registered.

Fourth, a higher education loan bank will be chartered as a private, nonprofit corporation. Its purpose will be to provide loans to postsecondary vocational, undergraduate, graduate, and professional students for a period of up to 5 years of graduate or professional study. The amount of the loan will not exceed the cost of attendance less any other Federal aid received.

Loans will be guaranteed against default, death, and disability by the Federal Government. Interest payments and repayments of the principal will be deferred until a student has completed his schooling and for a period of time up to 3 years after that time for such services as the Peace Corps, VISTA, or the armed services. There will be no forgiveness features similar to those of the national defense student loan program. The bank, however, will be eligible to establish for each year a low earnings cancellation provision providing for canceling, in whole or in part, or annual repayment in any year in which repayment constitutes a hardship. This will encourage persons who might be reluctant to undertake these loans, because of their fear of failure in college work, or because of their hesitation to undertake the obligation of large sums, to do so. Then if their income is very low, part of their loan will be canceled.

This bank would be an improvement on the present system in several ways. A student can now go to a local bank for a guaranteed loan. However, there is often no money available for such loans. Even when there is money, the student is usually considered in relation to his or her family's credit rating with local lending institutions. Consequently some students with academic promise fail to receive these loans because of their family's credit rating. Another common problem is that loans are denied because the students' family has not had a long established account with the bank. The result, however, is the same, the student does not get the loan.

In addition, this bank will be able to tap larger pools of money than does the present guaranteed loan program. Pension funds, insurance investment funds, and other large pools of money may be available to a higher education loan bank. The managers of these funds, however, are unwilling to make this money available on a loan-by-loan basis to students at the present time. This bank will provide a structure whereby these funds may be channeled to students.

Finally, loans made by this bank should be somewhat cheaper than present loans. The provisions for the bank isolate its loans from the private market to some extent. The Federal guarantee of the securities sold by the bank and the Government guarantee of the loan itself will reduce the costs of these loans. The use of the Internal Revenue Service to collect these debts will substantially reduce collection costs.

Fifth. A student outreach program will supplement existing efforts. The present student outreach programs, Upward Bound and Talent Search, have identified and helped to motivate thousands of students during the last few years. Without the effort of these programs, thousands of students who are now in postsecondary education programs would not be there.

Nevertheless, I believe that additional efforts are needed. The number of able students who are not yet in postsecondary education programs indicates a large field that has yet to be tapped. In addition, the massive Federal effort envisioned by this bill must make its full impact felt by providing new efforts to identify and motivate students to attend college. I think that this can be done by striking out in several new directions.

We can involve high school teachers and students in these efforts more than we do now. We can do this by providing Federal training courses for high school teachers and counselors and for members of student councils. These courses can provide new ways that these trained persons can keep high school students up to date on postsecondary financial aid, study programs, and career possibilities. Many students need assistance in making their future educational plans. We must make certain that they have adequate information on which to base these plans.

We must also provide aid to the colleges for their recruitment efforts. Many sensitive educators have long remarked that if the colleges of this country would emphasize academic recruitment of students from low-income families as much as they emphasize the recruitment of athletes, the opportunity disparities between rich and poor students would be much less today. We should take advantage of the skill and know-how of universities in recruitment efforts. This bill will provide Federal assistance for this purpose to colleges which develop especially effective efforts at recruitment.

When students and their parents are making postsecondary educational plans they need ready access to information about financial aid, career, and college possibilities. This bill will establish higher education opportunity centers throughout the country for this purpose. Most can use existing Federal facilities. Some can use roving recruiters. All can make printed information available at all times.

The paucity of information about those who do not attend college is truly amazing. We know little about how to identify these people or how to orient them positively toward postsecondary education. We know little about the mix of factors, such as motivation, finances, and ability, which determine who does and who does not go to college. As a result I think it would be well to establish a special Council on College Opportunities within the Office of Education which would have independent responsibility for examining and recommending improvements in this area.

With the advice of this Council the Commissioner of Education would first fund research projects—either institutional or individual—designed to develop better ways to identify and motivate students who might potentially benefit from postsecondary education; and, second, develop measures designed to monitor the change in the postsecondary and higher education opportunity structure. This structure should be defined broadly, but it should include measures of the improvement we are making in assuring a college education for all who can benefit from it. We know, for example, that the percentage of high school graduates who attend college each year is increasing. But we do not know whether it is improving as fast—or improving at all—for the poor and lower income groups as it is for the upper income groups, whether it is increasing as fast for our rural youth as for our city youth, and others.

Sixth. An interagency coordinating committee consisting of representatives from agencies administering student aid programs will be established.

We need a structure through which these agencies can regularly exchange information. I think they should have the opportunity to discuss their programs with each other. The committee should explore possible ways that they can identify individuals potentially able to benefit from further education and encourage them in this direction.

Mr. President, we have come a long way from higher education which was a privilege for the few who could afford it to higher education for all the talented who need and want it. Unfortunately, however, we still have a long way to go. And unless we act soon, much of the progress we have made will be lost to rapidly increasing costs. Both the students and the schools need money. This bill will make that money available. Graduate students need help and the student loan system needs to be improved. This will make substantial improvements in those areas. Outreach and program coordination efforts need to be significantly increased. This bill will increase those efforts.

In short, the legislation I am introducing is a comprehensive attack on both the problems and inequities in our system of higher education. We can afford to wait no longer, and I urge the Congress to act now.

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