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THE 1974 BILINGUAL EDUCATION AMENDMENTS:

REVOLUTION, REACTION OR REFORM

by
Susan Gilbert Schneider

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ABSTRACT

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or Reform

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Purpose

The study examined in detail the legislative history of the 1974 Bilingual Education Act, Section 105 of the Education Amendments of 1974, Public Law 93-380. The study examined the roles of Representatives, Senators, lobbyists, judicial decisions, minority groups and Administration officials in developing the 1974 Bilingual Education Act.

Research Questions

A series of research questions were explored. How did the 1974 Act define the appropriate Federal role in meeting the needs of linguistic minorities? Did the 1974 Act commit the Federal government to provide direct bilingual-bicultural educational services or did it limit the Federal role to secondary support? Did the 1974 Act continue the transitional approach of the 1968 Bilingual Education Act or did it also permit maintenance models? What future direction did the 1974 Act chart for bilingual-bicultural education? Was the 1974 Act revolutionary, reactionary or reformist?

Procedure

The researcher examined literature in the field of bilingual-bicultural education legislation. Congressional and Administration documents were analyzed in this case study. Interviews were conducted with Representatives and Senators, Congressional staff, Administration officials, lobbyists and educators involved in the legislative process. Material also included personal files permitting an understanding of the diverse strategies affecting the legislative process.

The document was organized as follows:

- Chapter One: Introduction
 - Chapter Two: Review of Literature
 - Chapter Three: History and Legislative Background of Bilingual-Bicultural Education
 - Chapter Four: Development of the Senate Position
 - Chapter Five: Development of the House Position
 - Chapter Six: Development of the Administration Position and its Affect on the Legislative Process in the Senate and House.
 - Chapter Seven: The Conference and Passage
 - Chapter Eight: Summary, Analysis and Implications of the 1974 Bilingual Education Amendments
- Selected Bibliography
- Appendices A - P

Research Findings

Senators and Congressmen with large numbers of limited English-speaking constituents echoed their constituents' support for bilingual-bicultural education. Congressional staff responsibility encompassed all aspects of the legislative process. Congressional courtesy and the personal relationships of legislators with their colleagues had a major impact on the legislative process, promoting the integration of different views of the Federal role in bilingual-bicultural education. House and Senate Committees responsible for education legislation were more liberal than the House or

Senate as a whole, therefore, more receptive to equal educational opportunity and to active Federal support of bilingual-bicultural programs.

The division of a Republican President and a Democratic Congress significantly affected the final legislation. The Administration itself was divided over the value of bilingual-bicultural education and the appropriate Federal role.

The Supreme Court decision of Lau v. Nichols, while merely supporting the Senate determination to produce an expansion of bilingual-bicultural education, substantially influenced the House and Administration positions. Public opinion had minimal influence on the legislative outcome.

Federal support for bilingual-bicultural education related to Congressional acceptance of the goal of equal educational opportunity. Federal support for bilingual-bicultural education also rested in part on its similarity to Federal compensatory education programs.

Neither revolutionary nor reactionary, the 1974 Bilingual Education Act represented a reform of existing law and practice in bilingual-bicultural education. It emphasized the bilingual-bicultural aspects of Federal programs, authorized funds for personnel preparation and for the curricula development, and extended the bilingual-bicultural approach to adult and vocational education. The law also gave greater priority to the bilingual program within the Office of Education.

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TABLE OF CONTENTS

Chapter	Page
ACKNOWLEDGEMENTS	ii
I. INTRODUCTION	1
The Scope of the Dissertation	1
Bilingual-Bicultural Education Defined	4
Limitations of the Dissertation	6
Sources of Data and Information	7
The Purpose of the Dissertation	7
Chapter One Interview Notes	9
Chapter One Notes	9
II. REVIEW OF LITERATURE	10
Introduction	10
The History of Linguistic Minorities in the United States and the Response of Public Schools	11
Development of the Concept of Bilingual- Bicultural Education: The Different Approaches	20
Studies Supporting a Rational for Bilingual- Bicultural Education	26
Bilingual-Bicultural Education: A World Movement	33
Summary and Conclusions	33
Chapter Two Interview Notes	34
Chapter Two Notes	35
III. HISTORY AND LEGISLATIVE BACKGROUND OF BILINGUAL-BICULTURAL EDUCATION	41
Introduction	41

Chapter	Page
The Federal Role in Education: 1958-1966	42
Examination of the Federal Role in Bilingual-Bicultural Education Legis- lation Prior to the 1974 Act	44
Federal Regulations Governing Bilingual- Bicultural Programs to 1973: Conflicts Over Philosophy and Goals	70
Summary and Conclusions	75
Chapter Three Interview Notes	77
Chapter Three Notes	77
 IV. DEVELOPMENT OF THE SENATE POSITION	 88
Introduction	88
Development of Initial Legislation: Senate Staff Preparation July 1972 to October 1973	91
Senate Bills S. 2552 and S. 2553 Introduced: October 1973	96
Senate Hearings: October 1973	103
Development of a Common Bilingual-Bicul- tural Legislative Proposal: Committee Action October 1973 to March 1974	112
The Senate Committee Report: March 1974	128
Senate Adoption of Education Amendments: May 1974	134
Lobbyists and Other Influences on the Senate Legislative Process	137
Summary and Conclusions	152
Chapter Four Interview Notes	154
Chapter Four Notes	156
 V. DEVELOPMENT OF THE HOUSE POSITION	 172
Introduction	172
Initiation of House Position	173

Chapter	Page
House Bills H.R. 11464, H.R. 1085 and H.R. 2490 Introduced: October 1973 to January 1974	174
Committee Action on Bilingual-Bicultural Education: August 1973 to December 1973 . .	179
The House Committee Report: February 1974 . .	187
House Adoption of Education Amendments: March 1974	200
Lobbyists and Other Influences on the House Legislative Process	203
Summary and Conclusions	207
Chapter Five Interview Notes	208
Chapter Five Notes	210

VI. DEVELOPMENT OF THE ADMINISTRATION POSITION AND ITS AFFECT ON THE LEGISLATIVE PROCESS IN THE SENATE AND HOUSE	221
Introduction	221
Acronyms Used in Chapter Six	222
The Administration of Title VII Prior to 1973: Phase-Out or Consolidate?	222
The Administration Position: 1973	228
The Administration Position: 1974	234
Administration Position on the House Bill . .	246
Administration Position on the Senate Bill .	246
Lobbyists and Other Influences on the Administration Position	252
Summary and Conclusions	255
Chapter Six Interview Notes	256
Chapter Six Notes	259

Chapter	Page
VII. THE CONFERENCE AND PASSAGE	270
Introduction	270
The House - Senate Education Conference: A General Description	271
Distinguishing Characteristics of the 1974 Education Conference	274
Conference Chronology: Resolution of Differences	282
Lobbyists and Other Groups During the Conference	311
Congressional Adoption of Conference Report .	315
Presidential Action on H.R. 69	321
Results of the Bilingual Education Act of 1974	325
Summary and Conclusions	327
Chapter Seven Interview Notes	331
Chapter Seven Notes	334
 VIII. SUMMARY, ANALYSIS AND IMPLICATIONS OF THE 1974 BILINGUAL EDUCATION AMENDMENTS	 351
Summary	351
Conclusions: Bilingual Education and the Legislative Process	355
Revolution, Reaction, Reform: An Analysis .	362
Implications for Future Research	367
Chapter Eight Interview Notes	370
Chapter Eight Notes	370
 APPENDIX A: <u>LAU V. NICHOLS</u> SUPREME COURT DECISION . .	371
APPENDIX B: BILINGUAL EDUCATION ACT OF 1968: TITLE VII ESEA	382
APPENDIX C: AUTHORIZATIONS AND APPROPRIATIONS: FY 1968 - 1976. TITLE VII PROGRAMS: FY 1969 - 1976	388

Chapter	Page
APPENDIX D: EDUCATION AMENDMENTS OF 1974: SENATE REPORT 93-763	391
APPENDIX E: ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974: HOUSE REPORT 93-805	399
APPENDIX F: HOUSE COLLOQUY: REPRESENTATIVES HERMAN BADILLO AND CARL PERKINS	404
APPENDIX G: EXECUTIVE BRANCH REFERENCE CHARTS: 1974 .	407
APPENDIX H: STATEMENT OF MANAGERS: SENATE CONFERENCE REPORT 1026, HOUSE CONFERENCE REPORT 1211	414
APPENDIX I: SUMMARY OF DIFFERENCES BETWEEN H.R. 69 AND S. 1539 ON TITLE VII BILINGUAL EDUCATION ACT	424
APPENDIX J: BILINGUAL EDUCATION ACT OF 1974: TITLE VII ESEA	434
APPENDIX K: LETTER REQUEST AND INTERVIEW FORM: SENATORS	445
APPENDIX L: INTERVIEW FORM: SENATE STAFF	448
APPENDIX M: LETTER REQUEST AND INTERVIEW FORM: REPRESENTATIVES	453
APPENDIX N: INTERVIEW FORM: HOUSE OF REPRES- ENTATIVES STAFF	456
APPENDIX O: INTERVIEW FORM: LOBBYISTS AND OTHER GROUPS	460
APPENDIX P: INTERVIEW FORM: ADMINISTRATION	465
SELECTED BIBLIOGRAPHY	469

CHAPTER ONE

INTRODUCTION

The Scope of the Dissertation

On 21 August, the Education Amendments of 1974 were signed into law. The law extended and amended the Elementary and Secondary Education Act of 1965. Section 105, dealing with bilingual-bicultural education, was the first major amendment to Title VII since the enactment of the Bilingual Education Act of 1968.

This dissertation is an exploration of the development of the 1974 Bilingual Education Act and the differing philosophies which are melded by that Act into the current view of bilingual-bicultural education. The dissertation asks whether this 1974 law represents a reaction against the experience of the past, a reform of the Federal program, or a revolutionary change in the character of the Federal view of bilingual-bicultural education.

The increase in Federal attention to bilingual-bicultural education has paralleled an increased concern of educators, legislators and jurists with the responsibility of the American public school system for insuring equality of educational opportunity. The public school system has

been conceived of as an equalizing factor in American society.¹ It is the medium by which generations of new immigrants are integrated into a new culture and society. During the 1960s and 1970s linguistic minority groups have begun asserting new demands for the educational institutions to recognize and respond to their differences, demands which the legal institutions to some degree have supported.

As a nation pledged to educational equality, the contrast between the numbers of limited English-speaking children who need special language programs and the limited number of educational programs designed to fulfill that need raises fundamental questions of social equality. Therefore, it is important to understand the direction chartered by the 1974 Act. Is it a reaction against the rising pressures of numerically small minority groups? Is it a modest reform and an improvement of an existing trend of increased Federal concern? Or, is it a revolution that marks a sharp break with our past educational practice?

In order to answer these questions the dissertation includes the following areas. Chapter One presents the scope of the dissertation, a definition of terms, a review of the limitations of the study, the sources of data and the purpose of the dissertation.

Chapter Two describes the need for bilingual-bicultural programs, the history of linguistic minorities in the United States and the response of public schools to those

groups, including the major approaches now used for teaching those minorities. The chapter also reviews the literature in the field of bilingual-bicultural education particularly as it relates to Federal involvement.

Chapter Three examines the legislative history and the philosophy and breadth of Federal bilingual-bicultural education legislation through 1973.

Chapter Four, Five and Six, respectively, describe the development of the Senate, House and Administration positions on the key issues pertaining to the 1974 Act. The roles of key legislators, staff aides, lobbyists, Administration officials and court decisions are noted.

Chapter Seven examines the resolution of issues in the Conference between the House and Senate on the 1974 Act and examines Presidential action on the law. The chapter also outlines the changes contained in the 1974 law and the results of passage.

Chapter Eight presents a summary and analysis of the 1974 Act and lists the research questions and findings. The chapter analyzes the implications of the changes contained within the 1974 Act to demonstrate whether they represent a revolution, a reaction or a reform of the Federal role in bilingual-bicultural education legislation. Finally, implications for future research are noted.

Bilingual-Bicultural Education Defined

To facilitate the discussion of the legislative history, a basic requirement is an understanding of the standard definition of bilingual-bicultural education. Since the initial proposal of Federal legislation in 1967, bilingual-bicultural education has become an increasingly emotion-charged issue. Much of the controversy has stemmed from definitional ambiguity and disagreement over goals. The term "bilingual education" is found generally in the literature prior to 1973. After 1973, however, the term "bilingual-bicultural education" is used more frequently. For the purposes of this dissertation, the term "bilingual-bicultural education" is used.

Bilingual education is explicitly defined in the Project Manual accompanying Title VII of the Elementary and Secondary Education Amendments (ESEA). The Project Manual of the Office of Education which established guidelines for the implementation of bilingual programs states that "Bilingual education is the use of two languages, one of which is English, as mediums of instruction for the same pupil population in a well-organized program. . . ."²

A distinction between "bilingual education" and "bilingual-bicultural education" is made by the U.S. Commission on Civil Rights. The director of the U.S. Commission on Civil Rights declared:

. . . Bilingual education is an instructional program in which two languages--English and the native tongue--are used as mediums of instruction and in which the cultural background of the students is incorporated into the curriculum. This is distinguished from a program, which may be bilingual, but which fails to incorporate the cultural backgrounds of students and, thus, cannot be considered bicultural.³

Bilingual-bicultural education is defined in another source as:

A process which uses a pupil's primary language as the principal source of instruction while at the same time systematically and sequentially teaching him the language of the predominant culture. This teaching process will provide a cultural environment within which pupils can foster their cultural heritage as well as enrich their cognitive and verbal processes. The purpose of such a bicultural environment is to make the pupil bilingual through conceptualizing in the language best known to him, and by this approach to become a bilingual-bicultural citizen.⁴

It was the discussion preceding the 1967 law which focussed attention on the necessity and the Federal responsibility to meet the needs of limited-English speakers within the schools. In its declaration of policy, Title VII states that:

In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs.⁵

Note must be made of the difference between a "limited English-speaking" and "non-English-speaking" child.

Children of limited English-speaking ability are defined as "children who speak a language other than English in their home environment and who are less capable of performing school work in English than in the primary language."⁶ A non-English-speaking child is defined as "a child who communicates in his or her home language only. Such a child is unable to conduct basic conversations in English or take advantage of classroom instruction in English."⁷

Limitations of the Dissertation

This dissertation examines the legislative history of the 1974 Bilingual Education Amendments with a review of pertinent prior Federal legislation. It does not evaluate current Federally-funded bilingual-bicultural programs nor does it review bilingual-bicultural programs at the state or community level. It does not examine the political controversy and conflicting opinions relating to bilingual-bicultural education which exist among different linguistic and ethnic groups. It does not evaluate current studies of alternative classroom methodology used in bilingual-bicultural education. It does not analyze the effects of positions on bilingual-bicultural education on Congressional candidates or on electoral outcomes. Not all participants responded to interview requests, therefore interviews are limited to those who agreed to participate. The review of

literature is limited to those works completed since 1962 with emphasis on the current literature to 1975.

Sources of Data and Information

This dissertation reviews the literature in the field of bilingual-bicultural education as it relates to the legislation. It also relies directly on Administration studies, reports and memoranda, Congressional hearings, Congressional Committee Reports and memoranda as well as pertinent court decisions. Key and available Congressional leaders and staff, Administration officials and staff, and lobbyists and educators who played a leading role in the 1974 law are interviewed. The letters requesting interviews and interview forms are shown in Appendices K through P. The importance of other legislative history models is noted.

The Purpose of the Dissertation

A legislative history of the bilingual-bicultural provisions of the Education Amendments of 1974, Public Law 93-380, and an understanding of the implications of the new statute are essential in analyzing how this nation is coping with a major educational challenge: the education of five million limited English-speaking children.⁸ This legislative history documents the differing views, including contrasting educational philosophies concerning the teaching of limited English-

speaking children, as they are presented by Senators, Congressmen, interest groups and the respective Federal agencies. In so doing, this dissertation traces the formation of the consensus represented by the bilingual-bicultural provisions of Public Law 93-380. That consensus already has altered significantly the Federal role in bilingual-bicultural education. It is likely to continue doing so in the future. At the same time, the legislative history of the bilingual-bicultural provisions illuminates the recesses of the legislative process where ideals, traditions, private interests, personalities, and partisan politics interacted to produce this public law containing a new public policy toward bilingual-bicultural education.

In addition, an understanding of legislative history can help others who seek to explore new legislative areas--the problems to be faced and the strategies needed to cope with and solve these problems. An examination of prior legislative histories shows that the fundamental technique used is the case study. Case studies focus on one policy issue or governmental action and provide the basis for generalizations about the political process.⁹ Marmor's legislative history of Medicare shows that a case study aids in the analysis and interpretation of the policy-making process.¹⁰ Bailey's legislative history of the Employment Act of 1946 presents a picture of the formulation of a public policy in Congress from its inception to passage into law.¹¹

CHAPTER ONE INTERVIEW NOTES

Joshua Fishman, Institute for Advanced Studies,
Princeton University, New Jersey.

CHAPTER ONE NOTES

¹Horace Mann, "Twelfth Annual Report on Education (1848)," in Theory and Practice in the History of American Education, ed. James W. Hillesheim and George D. Merrill (Pacific Palisades, California: Goodyear Publishing Company, 1971), p. 154.

²U.S., Department of Health, Education and Welfare, Office of Education, Manual for Project Applicants and Grantees: Programs Under Bilingual Education Act, Title VII, ESEA-Draft, March 30, 1970, p. 1.

³U.S., Congress, Senate, Committee on Labor and Public Welfare, Education Legislation of 1973, Hearings Before a Subcommittee on Education of the Senate Committee on Labor and Public Welfare on S. 1539, 93rd Cong., 1st sess., 1973, p. 2600.

⁴State Department of Education, California Bilingual-Bicultural Task Force, "Master Plan for Bilingual-Bicultural Education," Sacramento, California, 17 July 1972, p. 2. (Mimeographed.)

⁵Elementary and Secondary Education Act, Statutes at Large 81, sec. 702, 806, (1968).

⁶Hannah N. Geffert et al., The Current Status of U.S. Bilingual Education Legislation: Bilingual Education Series, no. 4, (Arlington, Virginia: Center for Applied Linguistics, May 1975), p. 44.

⁷Ibid.

⁸ Interview with Joshua Fishman, Institute for Advanced Studies, Princeton University, New Jersey.

⁹ Theodore R. Marmor, The Politics of Medicare (Chicago, Illinois: Aldine Publishing Company, 1970, p. v.

¹⁰ Ibid., p. vii.

¹¹ Stephen Bailey, Congress Makes a Law: The Story Behind the Employment Act of 1946 (New York: Columbia University Press, 1950), p. ix.

CHAPTER TWO

REVIEW OF LITERATURE

Introduction

To understand the developing forces that preceded the 1974 bilingual-bicultural provisions, Chapter Two reviews the following aspects of the literature: first, the literature describing the history of linguistic minorities in the United States and the public school response to their needs; second, the literature describing the historical development of the concept of bilingual-bicultural education; third, the literature encompassing recent academic research and studies as well as government documents; and fourth, the literature describing bilingual-bicultural education as a world movement.

The History of Linguistic Minorities in the United States and the Response of Public Schools

The United States always has had minority groups with different languages and culture. Our history shows that we are a nation of immigrants. The nation has changed and minority groups' perception of their own needs and their

own goals has changed as well. Originally, immigrants not only sought a better life for their children but they too sought to become part of the melting pot, and they had little choice. The Irish, the Italians, the Jews--all went through years of combatting discrimination. They were forced to enter the assimilation process as much as they themselves desired to be part of it. In their private lives, some maintained their heritage, culture and, in fewer cases, their native language; but it was maintained more often against the mores of society rather than with the aid of its institutions.¹

The scars of that struggle rarely have been acknowledged either by society or by the second and third generation ethnic groups. More often than not, they ask, "We and our fathers managed without any special assistance. Why can't limited-English speakers, ethnic minorities and immigrants of today do the same?"² But times have changed.

Along with the traditional dominant concern of ethnic groups to be accepted by their adopted homeland, a new concern for the expression of ethnicity has been exhibited in recent years. Those changes, noted by Gaarder, in an interview, corresponded to a growing recognition that the failure of linguistic minorities to obtain equal education also limited their capacity to contribute to the nation's growth.³ Various reports documented the resulting state of human resources as well as the individual pain and

suffering. One of the manifestations of these changes has been a new appreciation of the value of bilingual-bicultural education.⁴

However, the response of the public schools to linguistic minorities as outlined by von Maltitz, evolved without a firm commitment to bilingual-bicultural education. From the Irish, German and Southern European immigrants of the nineteenth century to the Russian, Latin American, Korean and Vietnamese immigrants of the twentieth century, ethnic minorities have moved through the public system with relatively little recognition of their language needs by the educational institutions. Among certain ethnic minorities, the traditional goal of transition from the ethnic culture through the public school system into the majority culture has been less compelling than it was previously.⁵

The Spanish American Minority As Catalyst

For these groups, particularly native Spanish-speakers, the lack of response from the educational institution has meant frequent social and economic failure.⁶ For census purposes, these ethnic minorities were categorized as Spanish-surnames or Spanish American, Indian American and Asian American as late as 1970. Since then, this census responding to complaints from Mexican American and Puerto Rican groups, has developed further subdivisions. According to the 1970 Survey of Public Elementary and Secondary

schools in Selected Districts done by the Department of Health, Education and Welfare (DHEW), Office for Civil Rights, Indian American, Asian American, and Spanish American students comprised 6 percent of the total enrollment, or 2,509,920 students of a total 41,456,971.⁷ (The term Spanish American includes Mexican American, Cuban, Latin American and Puerto Rican groups.) Spanish Americans represented 5.1 percent of the total enrollment.⁸ They were concentrated primarily in the five Southwestern states of Arizona, California, Colorado, New Mexico and Texas where 1,505,569 of them, or 70 percent attended schools.⁹ Other states having high concentrations of Spanish Americans were New York, Illinois, Florida, New Jersey, Michigan, Connecticut, Ohio, Pennsylvania, Indiana, Massachusetts, and Washington.¹⁰

These figures represented only those children enrolled in schools. The actual number of limited English-speaking and non-English-speaking school-age children is thought to be much higher because of their high dropout rate. The Office of Education, DHEW, in a 1974 Senate Committee Report estimated that approximately five million school-age children need to be served by bilingual-bicultural programs.¹¹

Yet, only a small percentage of the schools today respond to the needs of linguistic minority students. Although the exact number of bilingual-bicultural programs

operating in the United States was not available, research showed that there were approximately 450 to 500 bilingual-bicultural programs in operation, approximately half of which were Federally-funded.¹² While an effort is being made to meet the language needs of limited-English speakers, the gap between need and performance by public schools remains vast. Of the estimated 5,000,000 school-age children needing bilingual-bicultural education, figures showed that only 100,391 school-age children were enrolled in Title VII bilingual-bicultural programs in fiscal year 1972.¹³ (It should be noted that this figure did not include those children who might have been receiving English-as-a-Second-Language (ESL) or remedial instruction.)

Although state efforts to provide bilingual-bicultural instruction have increased since Title VII was enacted in 1968, progress has remained limited. Statistics compiled by the U.S. Commission on Civil Rights cited in a Senate Committee Report found that only 6.5 percent of five hundred school districts in the Southwest had bilingual-bicultural programs. Moreover, in five states surveyed, bilingual-bicultural programs barely served 5 percent of the Mexican American children classified as of limited English-speaking ability.¹⁴

According to Gonzalez, the personnel responsible for the education of linguistic minority students have been faced with increasingly complex demands. Among the most

encompassing of these demands is the concept of bilingual-bicultural education. It was first promoted by Spanish-speakers and was not sought by other linguistic minority groups such as French, Portuguese, Chinese, Polish, Greek, Japanese and several Indian American tribes.¹⁵ However, as some state educational institutions and the Federal government have begun to respond to the pressures of the Spanish-speaking, certain of these groups--especially the Chinese, Portuguese and Indian Americans--have expressed similar requests.¹⁶

Because the concept of bilingual-bicultural education challenged some fundamental tenets of American public school education regarding the use of a language other than English as a medium of instruction, there has been much controversy within the educational establishment and within the larger community as well. Misunderstanding exists as to the goals and the underlying philosophies of bilingual-bicultural education.¹⁷

Bilingual-Bicultural Education:

A Historical Precedent

The history of bilingual-bicultural education in the United States dates to 1840. According to Andersson, a form of bilingual school originated in Cincinnati in that year as a result of pressure from a large German-speaking population. During this period, at least one million American children

received instruction in German as well as English. Owing to World War I hysteria and anti-German feeling, bilingual instruction practically disappeared from public schools from the early 1920s until 1963. Bilingual-bicultural education then reappeared in Dade County, Florida, because of the tremendous influx of Spanish-speaking Cuban refugees.¹⁸

A strong anti-bilingualism sentiment has existed in the United States. An examination of this sentiment shows that there never has been a clear resolution of the issue of the desirability of the melting pot and assimilationist goal versus cultural pluralism and support for the maintenance of diverse ethnic and linguistic minorities within a larger society.¹⁹

This anti-bilingualism sentiment has been manifest in legislation throughout the United States. Prior to 1968, for example, twenty-one states including California, New York, Pennsylvania and Texas had laws requiring English as the language of instruction in the public schools. In seven states, including Texas, a teacher could be subject to criminal penalties or lose his teaching license if he taught bilingually.²⁰

A major stimulant reversing these officially sanctioned anti-bilingual attitudes and altering the response of public schools to linguistic minorities has been the evolution of constitutional doctrines concerning equal educational opportunity. The responsibility for providing

education to American children according to the United States Constitution rests primarily on the individual states.²¹ Each of the fifty state constitutions authorize or require the state legislatures to provide free public schooling.²² It is that free public education and its implied access to skills and training necessary to compete equally in society, regardless of one's background, that has led the public school system to be viewed by many as the major equalizing force in American society.²³

History of Equal Educational Opportunity

In recent years, the Supreme Court has limited state discretion in formulating educational policy when it conflicts with that equalizing role of the public schools.²⁴ Thus, the Supreme Court established a constitutional mandate of equal educational opportunity twenty years ago when it declared in Brown v. Board of Education (1954) that the opportunity to an education is a right which must be made available to all races on equal terms.²⁵ In a more recent case, Swann v. Board of Education (1971), the Supreme Court reiterated that segregation based on race was a denial of the equal protection clause under the Fourteenth Amendment.²⁶

The Lau v. Nichols decision of the Supreme Court in January 1974, represented a key change in constitutional doctrine and is shown in Appendix A. The Court declared that school districts receiving Federal money were in

violation of Title VI of the Civil Rights Act of 1964 if they did not offer some form of special instruction and provide an equal educational opportunity to students with limited English-speaking ability. The Court did not indicate what specific kind of instruction should be provided, nor did it indicate that there was any Federal obligation to provide such instruction. The Court continued by stating that Federally-funded schools must provide special training for limited-English speakers. This special training, however, was not to represent permanent tracking or an educational dead-end. In effect, the Court now had extended interpretation of Federal civil rights laws prohibiting discrimination on the basis of race or religion to encompass Federally-funded schools which had failed to meet the needs of linguistic minorities. In the Lau v. Nichols decision, the Court declared that simply providing limited-English speakers with the same facilities, textbooks, teachers and curriculum as the majority language students did not represent equality in treatment.²⁷

Given the controversy surrounding bilingual-bicultural education, the estimated five million limited English-speaking children who need special language programs and the Supreme Court's recent decisions, it is essential to understand the most commonly used approaches to the education of these students.

Development of the Concept of Bilingual-Bicultural
Education: The Different Approaches

Bilingual-bicultural education competes with other approaches in meeting the needs of limited English-speaking students. In recent years, the bilingual-bicultural approach has developed in response to dissatisfaction with the limitations of other approaches. The U.S. Commission on Civil Rights stated that the three basic approaches generally used to teach limited and non-native speakers of English in the primary grades are the remedial, the English-as-a-Second-Language (ESL) and the bilingual-bicultural approach.²⁸

The Remedial Approach

The remedial approach is defined as "special instruction intended to overcome in part or in whole any particular deficiency of a pupil not due to inferior general ability, for example, remedial reading instruction for pupils with reading difficulties."²⁹ The remedial approach was used widely prior to the adoption of ESL and bilingual-bicultural programs, and it still is being implemented today. Remedial programs generally have been associated with the tracking system and educational programs devised for slow learners.³⁰ Remedial programs contain few positive aspects. The remedial approach often assumed that the educational gap between native and non-native speakers can be closed by placing the limited English-speaking child in classes for

slow learners where English is still the medium of instruction. The remedial approach does not utilize the native language nor does it seek to utilize cultural characteristics of linguistic minorities.³¹

According to current research, in some remedial programs, linguistic minority children are removed from the regular school program and placed in programs designated for low-intelligence children.³² The U.S. Commission on Civil Rights found that, in some cases, these minority children were placed in classes for the mentally retarded solely because of their inability to speak English. In the primary schools, the children were placed in slow groups while at the secondary level they were channeled into vocational education courses.³³

The ESL Approach

The English-as-a-Second-Language (ESL) approach is defined as a program designed to teach English to non-native speakers without the use of the native language as a medium of instruction.³⁴ In the 1960s, there was an increased realization that linguistic minority children needed more than remedial programs if they were to have an equal opportunity for success in school.³⁵ Moreover, the 1967 Bilingual Education Act provided funds and a Federal stimulus to support ESL and bilingual-bicultural programs which incorporated the children's native language and culture as an

integral part of the daily instruction.³⁶

In the late 1950s and early 1960s, the increase in popular usage of the ESL approach was seen. This was due to the much publicized success of the audio-lingual method used first by the Army Language Schools and then adapted to the public school classroom by foreign language teachers. The audio-lingual ESL method was based on the hypothesis that oral language skills must precede formal instruction in reading and writing.³⁷

A closer look at the ESL approach shows that "in a typical ESL program, children receive all subject area instruction in English but are 'pulled out' of class for special English language skills training."³⁸ ESL programs emphasize the formal learning of the oral language skills of speaking and listening comprehension. The goal of ESL training is to accelerate the learning of English by reducing the time needed as well as to focus training on the language elements causing the greatest difficulty.³⁹ Most important, according to a footnote in the U.S. Commission on Civil Rights Report:

Because the term ESL is used to describe a course designed to teach English skills, it is also a component of all bilingual-bicultural programs. The term "ESL approach" is used to indicate the use of ESL instruction within a monolingual English curriculum. The methodology used for both can be identical, but the content of instruction will differ depending on the amount and type of English learning which takes place outside the ESL class.⁴⁰

The U.S. Commission on Civil Rights concluded in 1975 that the ESL approach is useful only in communities where children receive substantial exposure to English outside the classroom. In addition, the ESL approach can be beneficial only in communities where the child can develop a positive attitude toward learning English while maintaining pride in the native language and culture.⁴¹ The results of learning a second language through a total immersion approach were observed by Lambert and Tucker in a study conducted of English-speaking youngsters who, although a linguistic minority in their French-speaking community in Montreal, represented the local economic elite as well as Canada's majority culture. Lambert and Tucker found that total immersion in French produced no retardation in English comprehension and these students performed as well as their French-speaking counterparts on reading tests in French. In addition, Tucker stated in an interview that the English-speaking children had the added advantage of being able to function in two languages and cultures.⁴²

The Bilingual-Bicultural Approach

Growing out of the dissatisfaction with the other approaches, bilingual-bicultural education contains different cultural and educational components. The U.S. Commission on Civil Rights defines bilingual-bicultural education as a comprehensive approach which goes beyond the mere

imparting of English skills.⁴³ Thus, the third approach, bilingual-bicultural education uses the native language as part of the instructional program while English is being introduced. While there are many models of bilingual-bicultural programs, a major component of all is the "inclusion in the curriculum of the child's historical, literary, and cultural traditions for the purposes of strengthening identity and sense of belonging and for making the instructional program easier to grasp."⁴⁴ The programs vary according to the time the native language is maintained as an integral part of the curriculum. Moreover, researchers in bilingual-bicultural education such as Saville and Troike argue that bilingual-bicultural education fosters development of a positive self-concept which is essential to a successful school experience for any child.⁴⁵

In addition, in the bilingual-bicultural approach, content areas are studied in two languages, the native language and English. The program may include part or all of the subjects in a school curriculum which are usually taught at each grade level. Programs also may include study of the history and culture associated with the native language to develop and maintain children's self-esteem and cultural pride. The basic goal of bilingual-bicultural programs is to enable children from a limited English-speaking environment to progress at the same rate and at as high a level of academic achievement as children from

an English-speaking environment. This is particularly true for foreign students who enter schools in the United States at a later age. Bilingual-bicultural education allows the student to increase skills through native language instruction and to transfer the content areas to English without a long period elapsing while the student learns English.⁴⁶

Even within the bilingual-bicultural approach there are a variety of different program models. According to Gonzalez, the most common exposition of differences has been to describe a dichotomy between the transitional and maintenance approaches. The transitional approach means the sole program objective is to achieve English language competency, and the method of special instruction continues only to that point. The object of the maintenance approach is to maintain the native language and native culture beyond the point of English language competence.⁴⁷

Gonzalez also distinguished additional subdivisions in approaches used, an analysis which illustrates the complexity of the current policy debate. The models Gonzalez examined were labeled: the "ESL/Bilingual Transitional Program," the "Bilingual Maintenance Program," the Bilingual/Bicultural Maintenance Program," the Bilingual/Bicultural Restorative Program" used in those cases where native language proficiency has been lost, and the "Culturally Pluralistic Program" for both native and non-native English speakers.⁴⁸

These differing program models reflect the range of opinion concerning the use and implementation of bilingual-bicultural education. The models also reflect the narrowest and broadest interpretation of bilingual-bicultural education. In the narrowest interpretation, bilingual-bicultural education is designed merely to allow the limited-English speaker the opportunity to gain English language skills. The broadest interpretation manifests the belief that bilingual-bicultural education should be for everyone, that all can benefit from bilingual-bicultural training and that the goal is the creation of a bilingual-bicultural society. There has been substantial disagreement over the proper approach in educating linguistic minorities. Negative views have been expressed by educators and taxpayers on the issue of the costs of bilingual-bicultural education.⁴⁹

Studies Supporting a Rationale for
Bilingual-Bicultural Education

The most recent literature analyzes the various programs implementing the bilingual-bicultural approach and continues to document the need for bilingual-bicultural education.

According to a study conducted by the U.S. Commission on Civil Rights, the 1970 census showed that 33.2 million Americans, or about fifteen percent of the population

spoke a language other than English as a native tongue.⁵⁰ In addition, according to a 1975 Bureau of the Census Report, persons of Spanish origin numbered approximately 11.2 million nationwide and constituted the second largest minority group in the United States or roughly five percent of the total population, making it the fifth largest Spanish-speaking country in the world.⁵¹ In general, the Census Bureau found that the Spanish origin population is a young population with the greatest proportion of persons of Spanish origin under five years of age.⁵²

As a result of these large numbers, the U.S. Commission on Civil Rights stated that there is a greater value in the bilingual-bicultural approach than the ESL approach for many young limited-English speakers. The ESL approach is designed to be strictly a transitional language program containing no culture content. The theory behind the sole use of ESL is that the linguistic minority child can gain English language proficiency through a brief period of training in English and then be prepared to use English to do course work in the content areas.⁵³ The U.S. Commission on Civil Rights challenged the ESL approach for Spanish-speaking children because it neglects Spanish language proficiency and requires that the child learn English immediately to be able to function for the majority of the school day. While the U.S. Commission on Civil Rights stated that ESL can be effectively used as a component of bilingual-

bicultural education, it concluded that it is inadequate as the sole method for teaching Spanish-speaking children. The U.S. Commission on Civil Rights considered research in the field of bilingual-bicultural education and cited studies sponsored by the Center for Applied Linguistics, a non-profit research and consulting firm in support of the use of the native language as a medium of instruction.⁵⁴

According to Molina, Director of the Office of Bilingual Education, Office of Education, Department of Health, Education and Welfare (DHEW), bilingual-bicultural education does more than simply teach a child English so that he can be assimilated into the "Anglo" school. Rather, it attempts to preserve the student's native culture as well as to introduce him to the English language and its culture.⁵⁵

Noted researchers in linguistics and the language learning process have considered the benefits of both bilingual-bicultural education and allowing the child to learn first in the native language with the gradual introduction of English. Saville and Troike stated that an "axiom of bilingual education is that the best medium for teaching is the mother tongue of the students."⁵⁶ Using the mother tongue allows the child to progress naturally from the home to the school instead of delaying development until a new language has been mastered.⁵⁷

One of the greatest benefits of bilingual-bicultural education, according to John and Horner, is that it

allows the young child to use the native language for problem-solving. Application of knowledge learned in the native language can be transferred to English once the child has realized the value of words in the thought process.⁵⁸

Bilingual-Bicultural Education:
The Need Defined

Various reports have found school districts classifying limited English-speaking children as retarded and ridiculing their cultural backgrounds. Silberman, in Crisis in the Classroom, for example, described how schools in the Southwest punished students for using their native language.⁵⁹ John and Horner stated that a child's language is carried from the home to the school. It is a link to familiar surroundings and to the love of his family. When his language is rejected at school, which is usually one of the first exposures to life outside the neighborhood, his whole character and self-concept may be damaged.⁶⁰

Kobrick concluded that expecting a child to learn and read in a language he does not speak or understand can doom his academic progress from the outset. Initial failure may eventually lead to his dropping out of school which places a greater burden on society in the form of welfare than offering proper instruction.⁶¹

While these previously mentioned programs have aided limited English-speaking students, the failure to provide

proper linguistic instruction for the vast majority of limited English-speaking children has led to multiple problems. As Wright emphasized, among native-born minority groups the dropout rate from school is abnormally high, especially for the Spanish-speaking. Forty percent of the Mexican American student population in the Southwest do not finish high school, and in Boston, ninety percent of the Puerto Rican students drop out before they even enter high school.⁶² Those students who do stay in school are frequently behind in their classes in reading ability and were receiving little, if any, special instruction. According to a study published in 1972 by the U.S. Commission on Civil Rights, sixty-four percent of the Mexican American students in the Southwest were six months behind their expected grade level in reading; yet, only nineteen percent were receiving special reading instruction.⁶³ A number of studies have been completed showing the relationship between poor reading ability and the dropout rate.⁶⁴

Positive Results of Bilingual-Bicultural Programs

Education research by Modiano has borne out the necessity for instruction in the native language and inclusion of the native language and culture in any child's intellectual development. Modiano stated that learning through the native language and culture is especially critical as the child first learns concepts and develops basic skills.

The native language also facilitates the development of reading skills, since the child is better able to learn to read in a language that is familiar and understood.⁶⁵

Moreover, findings reported by Lambert comparing bilingual and monolingual children showed a correlation between bilingualism and the development of cognitive skills. Lambert observed that bilingual students did at least as well on intelligence tests and showed the added advantage of knowing two languages.⁶⁶ Additional research findings by Peal and Lambert showed that a positive relationship exists between bilingualism and intelligence. When groups of bilingual and monolingual children from similar socio-economic backgrounds were compared, the bilingual children performed as well on intelligence tests and had the added advantage of knowing another language.⁶⁷

In the "Arriba" program, reviewed by the U.S. Commission on Civil Rights in 1973, bilingual-bicultural programs were provided for pupils in grades three to twelve in several schools in Philadelphia, Pennsylvania. The study showed that the dropout rate of language minority pupils could be greatly reduced as a side-effect of bilingual-bicultural education. Of the Spanish-dominant pupils graduating in 1973 who had been in the program since the tenth grade, participating students were four times as likely to graduate as were non-participating Spanish-dominant pupils in the same school. City-wide, Spanish-dominant pupils in

the program were nearly twice as likely to graduate as were non-participating Spanish-dominant pupils.⁶⁸

The U.S. Commission on Civil Rights has made similar findings of the benefits of bilingual-bicultural education programs with regard to other ethnic groups as well. In San Francisco, California, for example, 135 Chinese American children enrolled in a bilingual-bicultural program for grades one to three (many of whom are recent immigrants) scored 1 1/2 years ahead of students in the district ESL program in reading and mathematics. In addition, they scored one year ahead of all students in the district and five months ahead of the national norm for third graders.⁶⁹

The U.S. Commission on Civil Rights also issued the findings of an evaluation of the Rock Point Arizona Bilingual Program for Navajo students conducted by the Chinle Agency Bureau of Indian Affairs. The 1973 Report stated that at the end of second grade, students taught to read in Navajo and English showed an average level of achievement on the Stanford Achievement Test two months higher than the average student in the Chinle Agency schools. These students also passed a Navajo reading comprehension test with ninety-eight percent accuracy, indicating that the Rock Point children can operate English as well as children in predominantly monolingual English programs. In addition, these children learned to read and write in Navajo as well. Bilingual Navajo first graders at the end of the first grade were already working with second grade arithmetic materials.⁷⁰

Bilingual-Bicultural Education:
A World Movement

Bilingual-bicultural education programs are of increasing concern not only in the United States but world-wide, according to Fishman. Fishman studied secondary bilingual-bicultural education programs over a five-year period in 103 countries and concluded that bilingual-bicultural education is a significant world movement. Although 1,200 secondary bilingual-bicultural education units were isolated around the world, Fishman estimates there are ten times as many.⁷¹ Moreover, bilingual-bicultural education is not only numerically significant but highly varied and programs vary according to intensity, goals and mother-tongue status.⁷² Fishman declared during an interview that while his study could not show a correlation between the types of programs, the distribution of the languages and the countries implementing bilingual-bicultural programs, his study shows that bilingual-bicultural education is an increasing phenomenon world-wide.⁷³ The growing importance of bilingual-bicultural education as a world-wide movement also is shown by a November 1974 Inter-American Conference on Bilingual Education held in Mexico City which was sponsored by the Center for Applied Linguistics and the Council on Anthropology and Education.⁷⁴

Summary and Conclusions

The review of literature presented in Chapter Two examined the history of linguistic minorities and the response of the public schools and the courts. The historical development of the concept of bilingual-bicultural education including the examination of three approaches, and recent studies on the implementation of bilingual-bicultural programs were noted.

The review of the literature showed that bilingual-bicultural education is increasing as a world-wide movement. In the United States, bilingual-bicultural education has achieved growing national interest in recent years. And, there can be noted an emerging national policy encouraging bilingual-bicultural programs in the public schools.

CHAPTER TWO INTERVIEW NOTES

Joshua Fishman, Institute for Advanced Studies,
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Bruce Gaarder, Special Analyst to Division Director,
Division of Educational Systems Development, Bureau for
Occupational and Adult Education, Office of Education, DHEW.

John Molina, Director, Office of Bilingual Education,
Office of Education, DHEW.

Rudolph Troike, Director, Center for Applied Lin-
guistics, Arlington, Virginia.

G. Richard Tucker, Professor, McGill University,
Montreal, Canada.

CHAPTER TWO NOTES

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CHAPTER THREE

HISTORY AND LEGISLATIVE BACKGROUND OF BILINGUAL-BICULTURAL EDUCATION

Introduction

At the same time as academic studies and Civil Rights Reports began to demonstrate the lack of educational opportunity available to limited English-speaking students, the Federal role in education was undergoing a major change and expansion. The landmark Elementary and Secondary Education Act (ESEA) of 1965 was the first direct Federal assistance program for elementary and secondary schools. Its key focus was assisting in the education of the disadvantaged. Then in 1968, the first categorical program of assistance to limited English-speaking children was enacted at the Federal level. Expanded through administrative regulations in the early 1970s and given impetus by court decisions, the expansionary trend of assistance to the limited English-speaking culminated in the 1974 Bilingual Education Amendments.

Chapter Three gives an overview of the history and legislative background of bilingual-bicultural education legislation prior to the 1974 Act.

The Federal Role in Education: 1958 to 1966

Although Federal assistance to education prior to 1958 was not unknown, it was of a minimal nature. The land grant college assistance program begun by President Lincoln in 1863, the Smith-Hughes Act to stimulate vocational training and the GI bill, all involved Federal assistance; but they were modest and narrowly conceived. The launching of the first satellite into space by the Soviet Union triggered a major reassessment of the Federal role in education.¹

Sputnik generated a national concern for educational excellence, particularly in the sciences, but also in higher education programs concerned with international relations. Beginning with the National Defense Education Act of 1958 (NDEA), Public Law 85-864, millions of dollars were appropriated by Congress for student loans, fellowships, research and experimentation, science and math programs, and programs to strengthen modern foreign language instruction and establish language institutes.² In 1963, the Higher Education Facilities Act, Public Law 88-204, was passed which authorized funds to public and private nonprofit institutions of higher learning to improve undergraduate and graduate facilities. The Higher Education Act of 1965, Public Law 89-329, also established new financial assistance programs to aid post-secondary students with limited incomes.³

The new Federal focus on education carried over to vocational education as well. As a result of a commission

established under President John Kennedy to investigate the status of vocational education, the Vocational Education Act of 1963, Public Law 88-210, was passed.⁴ The purpose of the Act was to authorize Federal grants to states to assist them in improving and developing new vocational education programs for persons of all ages, including those in high school. The Vocational Education Act was the first major revision in forty-six years of the original vocational education legislation passed under the Smith-Hughes Act of 1917, Public Law 64-347.⁵

However, the debate over general Federal aid to elementary and secondary education continued until the passage of ESEA in 1965, Public Law 89-10. It also marked the first attempt by Congress to pledge money for children from low-income families.⁶ Before ESEA, Congress had failed many times to pass major aid to education because of conflicts in Congress over desegregation, aid to parochial schools and Federal control of education. The passage of ESEA and other subsequent Federal aid statutes, marked an end to the impasse over the legitimacy of Federal intervention in the public schools. School aid fights continued over the issue of how much Federal aid to offer; but the legitimacy of the Federal role in elementary and secondary education was resolved. Title I of ESEA focused on the disadvantaged and helped, along with the Civil Rights Act of 1964 and the Headstart "War on Poverty" program, to

focus national attention on the issue of expanding educational opportunities for those with special educational problems.⁷ The handicapped were provided limited assistance under ESEA emphasizing the role of the Federal government as provider of last resort for those who were excluded by the operation of the educational system. It was a short step from there to consideration of the needs of the limited English-speaking. Thus, ESEA was an important milestone in the history of American education legislation. It set in motion a series of fiscal, political, and administrative forces that have had profound consequences for American education, and it confirmed the Federal commitment to education.

Examination of the Federal Role in Bilingual-
Bicultural Education Legislation
Prior to the 1974 Act

While the history of bilingual-bicultural education in the United States goes back more than one hundred years, an examination of the Federal role and legislation in the area of bilingual-bicultural education shows a clear lack of any national policy. Prior to 1968, the law is silent on the specific needs of limited-English speakers, and no categorical programs of bilingual-bicultural education existed at the Federal level. There were some programs, however, under which funds could have been used to provide educational assistance for limited or non-English speakers.

One of the Acts providing this assistance was the Migration and Refugee Assistance Act of 1962, Public Law 87-510, which allocated funds for Dade County schools in Florida to assist them with special educational programs.⁸ These programs were transitional and concentrated on an ESL approach to help Cuban refugees become proficient in English so they could attend regular classes and follow the normal Dade County curriculum. There was also a summer school program funded by the Migration and Refugee Assistance Act to provide English instruction for Cuban refugee children.⁹

Other Acts were the Snyder Act of 1921 and the Johnson O'Malley Act of 1934. The Snyder Act of 1921, Public Law 67-167, authorized the Secretary of the Interior to arrange with states or territories for the education, medical attention and social welfare of Indians.¹⁰ The Johnson O'Malley Act of 1934, Public Law 73-85, authorized appropriations and expenditures for the administration of Indian affairs.¹¹ Both Acts authorized funds to provide an effective education for Indians. It is conceivable that funds could have been used from both Acts to assist schools in teaching English to limited English-speaking Indians, since the Acts did not contain restrictions on the educational programs funded. However, research shows that bilingual-bicultural education was not provided under these Acts.¹²

Thus, prior to 1968, there were no Federally-funded bilingual-bicultural programs. There were a few private schools, however, during the 1960s which offered bilingual-bicultural instruction such as the International School in Washington, D.C. and a Russian school in New York City.¹³ In some Franco American, Polish, and parochial schools, especially in New England, bilingual-bicultural instruction had been offered before World War I. Also, prior to World War I, some public schools in the Midwest had offered instruction in German. After World War I, the teaching of German was forbidden in all public as well as most private schools.¹⁴

In the early 1960s, there were twenty-five hundred to three thousand private ethnic-group schools in the United States which offered language instruction on a whole-day, weekend or after-school basis.¹⁵ An estimated one thousand to twelve hundred of these schools attempted instruction in the native language of the students. This figure included the previously mentioned New England parochial schools where French Canadian children were taught in French, and special schools in San Francisco where Chinese students were instructed in their native language. In general, these three thousand ethnic-group schools tended to teach the particular native language, but did not offer classes using the native language as the medium of instruction in the content area, which is a distinguishing feature of bilingual-bicultural education.¹⁶

In addition, there were several state and locally-funded programs that attempted to meet the needs of limited and non-English speakers. The first programs were begun in Dade County in 1963 for Cuban refugees. One year later, because of the increasing number of Mexican Americans in the schools, two programs were initiated in Texas. Fifty-six locally-initiated bilingual-bicultural programs were started during the next five years, primarily in the districts of those southwestern states where such programs were not prohibited by state or local laws.¹⁷

In 1967, prior to the enactment of Title VII, Gaarder estimated that there were as many as twenty-five "little beginnings" of Federally-funded programs operating under Title I, Compensatory Education Programs, and Title III, Supplementary Educational Centers and Services, of ESEA of 1965. They were pilots, none approaching the comprehensive bilingual-bicultural program models that would soon appear.¹⁸

ESEA Title VII 1968: The Watershed

ESEA Title VII, shown in Appendix B, not only was the first categorical Federal law authorizing bilingual-bicultural educational programs; but it also represented the opening burst of Federal debate over the philosophy and goals of bilingual-bicultural education, a debate which continues in the barrios of East Los Angeles, the school yard of Crystal City, Texas, and the hearing rooms in Congress.

A new educational age began in 1968 with the enactment of Title VII. In 1969, one year after Title VII was signed into law, there were 76 Federally-funded bilingual-bicultural programs operating in the United States. Five years later, there were 305 Federally-funded programs in 41 states.¹⁹

Several factors contributed to the Federal decision to authorize funds specifically for the education of linguistic minorities. One factor influencing the Federal view was the arrival of hundreds of thousands of Cuban refugees following the Castro revolution in Cuba. These refugees brought the issue of bilingual-bicultural education to the forefront since they had no intention of giving up their native culture or language. Another factor was the growing realization by educators of the special needs of the large numbers of limited and non-English speaking children in the public schools such as the Puerto Ricans in New York and the Mexican Americans in the Southwest. Still another factor was the Civil Rights movement of the 1960s which raised the concept of equal-educational opportunity in a way that began to inspire first questions and later demands from Spanish-surnamed and Indian American minorities. Finally, as the Federal government accepted a responsibility to help disadvantaged children bridge the awareness gap caused by poverty backgrounds, it became apparent that linguistic gaps could no longer be ignored either.²⁰

These factors, coupled with research findings on the positive effects of bilingualism by Peal, Lambert and others helped to give impetus to the rebirth of bilingual-bicultural education in the United States and a positive Federal view of its responsibility to support those programs.²¹

The Bilingual Education Act, or Title VII of Public Law 90-247, authorized grants for the development and operation of new and imaginative bilingual-bicultural programs. The Act was designed to meet the needs of children three to eight years of age who had limited English-speaking ability and who came from low-income homes, earning \$3,000 or less, where English was not the dominant language. The programs in bilingual-bicultural education were to be directed to full and part-time pupils, potential dropouts and dropouts from the regular school program. Title VII was designed to fund demonstration projects only and did not support a philosophy of entitlement in which the Federal government established by statute a right for all limited English-speaking students to receive bilingual-bicultural instruction.²²

The Bilingual Education Act, S. 428, was introduced in the Senate on 17 January 1967 by Senator Ralph Yarborough, Democrat of Texas, with seventeen co-sponsors. Congress now had before it legislation which admitted that Mexican American children had been neglected by American schools. S. 428

proposed: the creation of bilingual-bicultural programs, the teaching of Spanish as the native language, the teaching of English-as-a-second-language, programs designed to impart to Spanish-speaking students a knowledge and pride in their culture, efforts to attract and retain as teachers promising individuals of Mexican or Puerto Rican descent, and efforts to establish closer cooperation between the school and the home.²³

In a statement to the Senate, Senator Yarborough expressed concern for the plight of "3,465,000 limited-English speakers" who comprised twelve percent of the population of the Southwest, and for whom equality of economic opportunity was a myth. In his introduction to S. 428, Senator Yarborough stated:

This is not a general aid bill to all schools with Mexican American students. Rather it is a bill which will enable many schools to make the large expenditures required to substantially re-vamp their courses. These schools will be able to experiment, try new things, blaze new trails, and demonstrate to other schools what might be done. Compared to the minor shot in the arm which most schools are receiving from Title I of the Elementary-Secondary Education Act, the Bilingual American Education Act will be a major transfusion of new blood. Schools which are selected for the program will receive the resources they need to do a real job. And I hope that the example they set will influence other schools to follow their lead.²⁴

In an interview, Senator Yarborough discussed the reasons why he sponsored the first Federal bilingual-bicultural legislation. Senator Yarborough said in 1967 Texas was one of the wealthiest states in the union in terms of

natural resources but ranked only thirty-fourth in education because of the high dropout rates of Spanish-speakers. This condition prompted Senator Yarborough to propose S. 428, the Bilingual Education Act of 1967.²⁵

Senator Yarborough's bill was referred to the Special Subcommittee on Bilingual Education of the Committee on Labor and Public Welfare. In hearings held on the Senate bill, extensive testimony was taken on all aspects of the question of bilingual-bicultural education. Senate Committee Report 90-726, issued to accompany H.R. 7819, stated that "the purpose of this new title is to provide a solution to the problems of those children who are educationally disadvantaged because of their inability to speak English."²⁶ However, in the Senate Committee Report, there was an unwillingness to prescribe specific educational solutions. The Senate Committee Report declared:

Because of the need for extensive research, pilot projects and demonstrations, the proposed legislation does not intend to prescribe the types of programs or projects that are needed. Such matters are left to the discretions or judgments of the local school districts to encourage both varied approaches to the problem and also special solutions for a particular problem of a given school. The legislation enumerates types of programs as being illustrative of possible solutions.²⁷

The Committee did urge, however, that the bilingual-bicultural approach be used in cases where limited English-speaking children had difficulty in school.

In the supplemental views accompanying the Senate Committee Report, concern was expressed by some Senators as

to the validity of additional appropriations without better monitoring and evaluation of those programs for the educationally deprived presently in operation. In the minority statement, Senator Jacob Javits, Republican of New York, along with four others stated:

We supported H.R. 7819 and have offered many provisions to strengthen it, which have been accepted. But we feel that we would be shortchanging our responsibilities if our support of this bill and other education measures was given unmindful of shortcomings and defects which are capable of correction. In this, we feel we have the concurrences of the education community, parents, and the public.²⁸

On 8 August 1967, the Senate Special Subcommittee on Bilingual Education reported S. 428 to the Full Committee. S. 428 was adopted as an amendment to H.R. 7819, the Elementary and Secondary Education Amendments of 1967, by the Committee on Labor and Public Welfare on 2 November 1967.²⁹

The Senate bill amended ESEA of 1965 by adding a new Title VII to authorize a four-year program of grants to local educational agencies to assist them in establishing special programs for limited-English speakers. The Senate amendments authorized \$15 million for the fiscal year ending 30 June 1968, \$30 million for fiscal year ending 30 June 1969, and \$40 million each for the fiscal years ending June 30 1970 and 1971.

Prior to passage, the Senate resumed consideration of H.R. 7819. While there was not much debate on the Senate floor over the bilingual-bicultural provisions of the bill, Senator Yarborough stated, "The education bill is landmark

legislation. . . . This is the first bilingual education bill in the history of the United States."³¹

During the debate, Senator Edward Bartlett, Democrat of Alaska, questioned whether the bill was general in its application or designed specifically for Spanish-speakers. Senator Yarborough responded that Title VII would be available to support "programs for Alaskan natives whose first language is a native dialect. . . that this program is available wherever there are substantial numbers of non-English speaking children."³²

Senator Yarborough recalled that there was concern from several other Senators as well that the Federal legislation was directed to help only Spanish-speakers. In addition, there was concern over the bicultural aspects of the Federal legislation. Some legislators, according to Yarborough, felt that the inclusion of a cultural factor would lead to pressures for cultural autonomy such as that possessed by French-speaking Canadians in the province of Quebec.³³

Other Senators fully supported and spoke in favor of the new bill. Senator Edward M. Kennedy, Democrat of Massachusetts, also commented on the bilingual-bicultural provisions of the pending legislation when he stated, "the Bilingual Education Act will make a long overdue contribution toward the development of learning in our country." At the conclusion of the debate, the Senate bill passed on 11 December 1967.³⁴

While thirty-seven bills similar to that of Senator Yarborough were introduced in the House of Representatives, the House Committee on Labor and Education first passed H.R. 7819, an expansion of the 1965 ESEA, without any bilingual-bicultural provisions. H.R. 7819 passed the House on 24 May 1967. Only after it became evident that Senate action would include such provisions did new hearings in the House begin on the issue of whether the Federal government should be a principal supporter and financier of these programs.³⁵

A bilingual-bicultural bill H.R. 9840, was introduced into the House by Representative James Scheuer, Democrat of New York, on 10 May 1967. This proposal became H.R. 13103 on 25 September 1967, and a modification of it was passed as an amendment to the Elementary and Secondary Education Amendments, H.R. 7819, which provided assistance in bilingual-bicultural education.³⁶

On 28 June 1967, United States Commissioner of Education, Harold Howe II, made a statement before a hearing of the General House Subcommittee on Education. Commissioner Howe reacted with mild disfavor to the prospect of a categorical program authorizing funds for bilingual-bicultural education per se. The Administration felt existing Title I of ESEA could be interpreted broadly enough to cover the need.³⁷

However, a poll contained in House Committee Report 90-915 of five western states in the Spring of 1967 tended to discredit the Administration's claim as to the viability of Title I since the poll revealed that only \$7 million was spent in fiscal year 1967 to teach ESL under Title I. It was further estimated that not more than \$10 million was spent for this purpose in the entire United States in 1967, roughly one percent of the money appropriated for Title I programs in fiscal year 1967. The House Committee Report estimated that these ESL programs probably served only 142,000 of the three million children in need of special help. And, furthermore, the House Committee Report noted that none of the money appropriated was used to establish bilingual-bicultural programs of instruction which increasingly constituted the more efficacious method recommended by many spokesmen in resolving the language problems of limited and non-English-speaking children.³⁸

In addition to official testimony from members of Congress and the Administration, testimony was heard from linguistic experts across the United States. Entered in the Congressional Record, for example, was a report by Joshua Fishman supporting the bilingual-bicultural education bill.³⁹

The bilingual-bicultural education bills of 1967 also were endorsed by the following groups: Affiliated Teachers' Organizations of Los Angeles, Los Angeles Board

of Supervisors, Texas Convention of the Political Associations of Spanish-Speaking Organizations, School Board Magazine, Young Democrats, Texas State Convention of the American GI Forum.⁴⁰

The General Subcommittee favorably reported H.R. 13103 containing bilingual-bicultural provisions.⁴¹ On 1 November 1967, the Full House Committee on Education approved the bill and issued the accompanying House Committee Report 90-915.⁴²

The bill incorporated provisions similar to the Yarborough bill with two substantive changes and a number of technical amendments. The first significant change in the House bill required maintenance of effort under Title I of ESEA in establishing bilingual-bicultural programs. The other major change required the Commissioner of Education to cooperate with state educational agencies in establishing criteria for state allocations of each state's allotment under the program. These changes later were agreed to in Conference.⁴³

House Committee Report 90-915 reflected a majority viewpoint, as did the Senate Committee Report, that the schools had failed in the past to develop programs to meet the needs of the limited English-speaking. However, as in the Senate, minority views signed by five Congressmen were expressed that "existing legislation should be sufficient to establish any needed bilingual-bicultural programs."⁴⁴

A floor statement by Representative Scheuer when H.R. 13103 was reported to the House showed the growing concern in Congress for a bilingual-bicultural provision.

Representative Scheuer stated:

The need for bilingual education programs is widespread, and not limited to one region or to one American subculture. Thus, H.R. 13103 applies to all children of limited English-speaking ability not just to those from a particular linguistic or ethnic background.⁴⁵

Debate within the Senate, House and Administration centered on both the cost of bilingual-bicultural programs as well as the justification for Federal categorical support for such programs. In public, an absence of questions of the need for special programs for the limited English-speaking or support for "English-only" policies in the public schools was noted. One explanation, according to Charles Lee, Executive Director of the Committee for Full Funding, was that elected officials were reluctant to express negative views in floor debates toward special programs for limited-English speakers as they felt this could be interpreted as a stand against equal educational opportunities, a public position generally viewed as not in keeping with national values.⁴⁶ Another reason was that prior to 1975 members of Congress could make their impact on legislation in closed Executive Sessions now prohibited by the 1975 Government in the Sunshine Act.⁴⁷

In December, a closed Conference between the Senate and the House was held. The Conferees accepted the Senate

provisions with the two substantive changes made by the House.⁴⁸ On 15 December 1967, H.R. 7819 was reported out of Conference and passed by the House. Similarly, on 15 December, the Senate considered and agreed to the Conference Report on H.R. 7819.⁴⁹ In the discussion prior to the passage of the Conference Report, Senator Yarborough made the following statement regarding the Bilingual Education Act:

The concept of the bill is really very simple-- so simple that it is amazing that in all of our years of striving for improved education the problem has never been given much attention. The problem is that many of our school-age children in this Nation come from homes where the mother tongue is not English. As a result, these children enter schools not speaking English and not able to understand the instruction that is all conducted in English.⁵⁰

Finally, on 2 January 1968, H.R. 7819, with revised Title VII, was signed into law by President Lyndon Johnson as Public Law 90-247.⁵¹

Statements by members of Congress, the Administration and the press acknowledged the controversy which Public Law 90-247 had spurred over the issue of Federal funding of bilingual-bicultural programs. President Johnson made the following statement upon signing the Elementary and Secondary Education Amendments into law:

Federal aid to education has been argued for 20 years. It has divided some good friends into hostile, opposing factions. . . .

This bill authorizes a new effort to prevent dropouts, new programs for handicapped children, new planning help for rural schools. It also contains a special provision establishing bilingual education programs for children whose first language is not English. Thousands of children of

Latin descent, young Indians, and others will get a better start--a better chance--in school. . . .

What this law means is that we are now giving every child in America a better chance to touch his outermost limits--to reach the farthest edge of his talents and his dreams. We have begun a campaign to unlock the full potential of every boy and girl--regardless of his race or his religion or his father's income.⁵²

Congressional statements supported the new law and discussed the possible results of the legislation. Senator Yarborough stated, "With the assistance provided under this law, schools across the Nation will be able to take important steps to assure that their students of limited English-speaking ability will obtain the best possible education."⁵³ Representative Edward Roybal, Democrat of California, stated that "there has been a most encouraging increase in scholarly attention being focused on the question of improving education and economic opportunity for the Nation's millions of citizens with limited English-speaking ability."⁵⁴

However, Title VII was not intended to provide bilingual-bicultural services to every child in need. Instead, it was intended to provide Federally-funded model programs to develop curriculum, to train teachers, and to stimulate state and local educational agencies to follow the Federal lead.

An issue that for generations had been virtually unnoted by the public now received wide press coverage in major newspapers across the United States such as the New York Times, the Washington Post and the Los Angeles Times.⁵⁵

The front page news article in the Washington Post declared that Public Law 90-247 "establishes bilingual education programs for children of Indian, Puerto Rican and Mexican descent."⁵⁶

With the passage of the first Federal bilingual-bicultural legislation, debate arose in Congress and the Administration over the philosophy and goals of bilingual-bicultural education, the need for additional legislation, the levels of Federal funding and Federal Regulations. Thus, the original Title VII legislation was the watershed. The law created a new dialogue in the Federal arena over governmental responsibility to limited and non-English speakers. The new law was amended twice by the Education Amendments of 1969 and 1972.

Elementary and Secondary Education Amendments of 1969

The Elementary and Secondary Education Amendments of 1969, Public Law 91-230, contained the first amendment to the original Title VII legislation. Its legislative history again reflected the debate in Congress over the issue of bilingual-bicultural education. H.R. 514, The Elementary and Secondary Education Amendments of 1969 were introduced 3 January 1969 by Representative Carl Perkins, Democrat of Kentucky, to "extend programs of assistance for elementary and secondary education."⁵⁷ The bill was referred

to the Senate and went to Conference in March 1970. The Senate and House passed the Conference versions of H.R. 514 in April 1970.⁵⁸ President Richard Nixon signed H.R. 514 into law on 13 April 1970.⁵⁹

Public Law 91-230 extended the Bilingual Education Act two years through fiscal year 1973. The ESEA Amendments of 1969 also increased the authorization for bilingual-bicultural programs to \$80 million for fiscal year 1971, \$100 million for fiscal year 1972, and \$135 million for fiscal year 1973.⁶⁰ The 1969 Amendments included a new provision concerning bilingual-bicultural programs for Indian American children in schools or reservations.⁶¹ The law also increased the membership of the National Advisory Committee on the Education of Bilingual Children from nine to fifteen members.⁶²

The Bureau of the Budget requested funding of only \$5 million in fiscal year 1969, the first full fiscal year after Title VII was enacted. Senator Yarborough proposed full funding of the \$30 million authorization for bilingual-bicultural programs for fiscal year 1969.⁶³ Due to low funding levels, Senator Yarborough stated that bilingual-bicultural programs were in danger of becoming mere "token programs." Senator Yarborough also noted that bilingual-bicultural programs had been started in only seventy-six school districts in twenty-two states and would serve only 25,000 children of the more than 3,000,000 estimated needing special programs in the 1969-1970 school year.⁶⁴

Education Amendments of 1972

Although Title VII of ESEA was the major bilingual-bicultural Federal legislation, another source of funds to meet the needs of limited-English speakers was the Emergency School Aid Act, which was included in the Education Amendments of 1972, Public Law 92-318. The primary intent of this Act was to aid school districts undergoing the process of school desegregation.⁶⁵ The Act reserved a minimum of four percent of future appropriations for bilingual-bicultural education, on the assumption that national origin segregation required desegregation remedies; bilingual-bicultural education would be one of the essential tools in carrying out a desegregation plan involving national origin students.⁶⁶ For fiscal year 1973, the appropriation amounted to \$9,117,000 which was used to support thirty-nine bilingual-bicultural education projects.⁶⁷ The Emergency School Aid Act unlike Title VII did not require that children in the projects being funded come from low-income families earning under \$3,000 annually. In addition, one percent of the total appropriation was reserved for evaluation of programs which resulted in much closer Congressional scrutiny than that undergone under Title VII programs.⁶⁸

Reflecting increased Federal concern over the education of minorities and disadvantaged, Public Law 92-318 contained changes and additions to ESEA in five major areas; migrant, Indian American, occupational, consumer and Ethnic

Heritage education.⁶⁹ All of these major changes and additions to ESEA with the exception of the occupational education sections, originated in the Senate amendments.⁷⁰

The legislative history of Public Law 92-318 showed, once again, the debate over the Federal philosophy and goals of bilingual-bicultural education. Discussion revolved around the issues of the poverty clause of Title VII, disproportionate and inadequate Federal funding, mandatory bilingual programs and segregation of limited-English speakers.

Representative Sidney Yates, Democrat of Illinois, made the following introductory statement on the House floor in 1971 regarding the issue of the poverty clause and Federal funding:

I introduced yesterday a bill to eliminate the poverty test from the Bilingual Education Act.

The bill will strike from the present legislation the requirement that the families of the children eligible for bilingual programs must have incomes below \$3,000 or be receiving public assistance.

The law as it is presently written is surely an unfair one. The fact is that the difficulties which face children of limited English-speaking ability are by no means limited to the very poor or to those who are on welfare. Language difficulties inhibit the social progress and earning power of thousands of Chicagoans, young and old. Nobody should be excluded from receiving help in overcoming those difficulties whatever their income might be. . . .

The Bilingual Education Act has never been adequately funded. For instance, though the Act has an authorized spending level of \$100 million for fiscal year 1972, only \$35 million has been appropriated. Last year not even half of the programs which qualified for support under the present restrictive legislation were funded. Some 40 programs involving thousands of students were not started due to lack of funds.⁷¹

At a hearing held before the House Committee on the Judiciary in 1972, the issue of disproportionate funding was discussed. A witness from the Office of Civil Rights, Department of Health, Education and Welfare (DHEW) charged that only five thousand students in New York City were reached by ESEA Title VII and that disproportionate amounts had in the past gone to Texas and California. The witness recommended that an accurate census of Spanish-speaking groups in the United States be conducted.⁷² Representative Charles Wiggins, Republican of California, questioned whether "non-Spanish-students should be compelled to attend unnecessary bilingual-bicultural classes," which initiated a general discussion of the question of classroom segregation of limited-English-speakers for educational purposes.⁷³

At additional hearings in 1972, the House Committee on the Judiciary heard testimony from Stanley Pottinger, Director of the Office of Civil Rights, DHEW, Pottinger explained that his office began in September 1969 to conduct a review of discrimination against national minority group children. Findings showed that Mexican American children were, in many districts, being excluded from full and effective participation in the educational process. Pottinger also stated that, "classroom separation of limited English-speaking students for educational purposes is not a violation of equal rights as long as it aims at eventual integration into the regular program and does not last a full day."⁷⁴

Congress also received reports from special interest groups concerned with the funding of bilingual-bicultural programs. A spokesman for the Puerto Rican Association for National Affairs (PANA), for example, charged that only 31 out of 179 Federally-funded programs served Puerto Rican children and that the average unit allocated per child was proportionally lower in Puerto Rican programs when compared to other projects in the country.⁷⁵

In the Senate, there was similar discussion of the past experience with bilingual-bicultural education programs. S. 659, the Education Amendments of 1971, were introduced in February 1972 by Senator Claiborne Pell, Democrat of Rhode Island, and the bill was referred to the Committee on Labor and Public Welfare.⁷⁶ The Committee reported a bill to the Senate which included alterations in Title VII. These alterations included a requirement that committees composed of parents, teachers, school officials and minority community members be established to work with local educational agencies to develop and implement curricula for limited-English speakers in the public schools.⁷⁷

On the Senate floor there was little debate on these issues with most of the discussion centering on the higher education provisions of the legislation and on anti-busing amendments.⁷⁸ The bill was passed by the Senate, and after a lengthy Conference, again centering on higher education and busing, the Senate agreed to the Conference Report in May

1972. The House agreed to the Conference Report in June 1972. 1972.⁷⁹ On 23 June 1972, the bill was signed into law as Public Law 92-318.⁸⁰

Additional Sources of Federal Bilingual-Bicultural Funding

While Title VII ESEA and the Emergency School Aid Act were the best known sources of funding for bilingual-bicultural education programs, other Acts and programs administered by the Office of Education, DHEW, provided limited additional funding sources for bilingual-bicultural education. For example:

--Under the Adult Education Act, Public Law 91-230, Title III, funds were available for experimental demonstration projects for adults of limited English-speaking ability and for the training of teachers to work in those programs.⁸¹

--Under the Education Professions Development Act, Public Law 92-318, funds were available to colleges and universities to train educational personnel and to improve the quality of bilingual-bicultural training programs.⁸²

--Under the Vocational Education Act, Public Law 92-318, money was authorized for bilingual-bicultural vocational training.⁸³

--Under Title III of the Education Amendments of 1972, funds were provided for bilingual-bicultural curriculum development to meet the specific needs of non-English speaking students and their teachers.⁸⁴

--Under the Indian Education Act of 1972, Public Law 92-318, bilingual-bicultural projects were funded to improve educational opportunities for Indian American children.⁸⁵

--Under the Education of the Handicapped Act, Public Law 91-230, funds were available for bilingual-bicultural education projects and research in the area of bilingual-bicultural education for the handicapped.⁸⁶

--Under the Economic Opportunity Amendments of 1972, Public Law 92-424, the Follow Through Program provided for the development of bilingual-bicultural programs and materials for kindergarten or elementary school children.⁸⁷

--Under the Migrant Education Act, Title I ESEA, Public Law 90-247, funds were provided for projects stressing bilingual-bicultural education since seventy-five percent of the children served under the programs were of Spanish American origin.⁸⁸

--Under the Bilingual Manpower Training Act, part of the Comprehensive Employment and Training Act of 1973, Public Law 93-203, funds were allocated for manpower training to increase vocational opportunities and job placement services for limited-English speakers.⁸⁹

--Under Right-to-Read, originally funded by the Cooperative Research Act of 1954, Public Law 83-531, an effort was made to make all reading programs more effective and increase functional literacy throughout the United States.⁹⁰

From its fiscal year 1973 budget, Right-to-Read funded several community and statewide projects using a bilingual-bicultural and/or ESL approach.⁹¹

--Under the Education Amendments of 1972, Public Law 92-388, the National Institute of Education (NIE) was established and funds were allocated for bilingual-bicultural research and curriculum development.⁹² And the Office of Child Development, another agency of DHEW, funded additional projects relating to bilingual-bicultural education.⁹³

Thus, while Title VII was the best known source of funding for bilingual-bicultural education projects, other Acts and DHEW sources provided additional limited funding for a variety of projects. DHEW estimated that its total expenditures for bilingual-bicultural education programs and/or ESL projects amounted to nearly \$67 million in fiscal year 1974.⁹⁴ While no exact figure was obtainable, Congressional reports and studies estimated the total expenditures for bilingual-bicultural education projects to be considerably lower than the DHEW figure.⁹⁵

Bilingual-Bicultural Funding Disputes

The issue of Federal funding created much friction between Congress and the Administration. Federal expenditures for Title VII bilingual-bicultural programs rose steadily only after Congress overruled the Administration's budget requests limiting the growth of Title VII.

In addition, there is a difference between authorizations and appropriations. In a report to the states, the Education Commission explained:

Authorizations are funds the Congress may provide for various parts of a law; appropriations are funds actually provided. The authorization figures included in an act are influenced primarily by members of the education committees of the Congress; appropriations are influenced by the President's budget request and members of the appropriations committees.

There is almost always a decided gap between what might be spent--authorizations and what is actually available to spend--appropriations. Some authorized programs never receive appropriations.⁹⁶

Listed in Appendix C are Congressional authorizations, the President's initial budget requests, the Senate approved appropriation levels, and the final appropriations for activities authorized by the Bilingual Education Act from its inception through fiscal year 1976.⁹⁷ It should be noted that practical political considerations rather than the need for, or the capacity of, the educational system to use additional funds limited bilingual-bicultural appropriations. The Congress during this period was faced with several vetoes of appropriations bills for education and thus, to go very far over the President's recommendations, was tantamount to inviting another veto. Thus, in the Senate, there was support for even higher levels of appropriations; but these levels each year were reduced in Conference with the House because of the threat of a veto.⁹⁸

Federal Regulations Governing Bilingual-
Bicultural Programs to 1973: Conflicts
Over Philosophy and Goals

Federal Regulations governing Title VII ESEA authorized the Office of Education, DHEW, to fund bilingual-bicultural programs operated by local school districts. The school districts were encouraged to design programs that were new and imaginative. Bilingual-bicultural programs could be combined with other Federal programs such as Follow Through and Head Start. In addition to instruction in English and Spanish, Title VII provided program funding for planning, development and operation of bilingual-bicultural programs. These programs were also to include: inservice teacher training, adult education programs, bicultural instruction in the history and culture associated with the mother tongue of the students, programs to establish closer cooperation between the school and the home, and development of teaching materials specific to those bilingual-bicultural programs.⁹⁹

The application procedure required the school district to submit a preliminary proposal to the Office of Education, DHEW, which was to select the most promising proposals and asked the school district to prepare a final proposal containing statistical data and program objectives.¹⁰⁰ The grants for bilingual-bicultural programs were for one year with project funding renewed annually for up to five years assuming sufficient funds were appropriated by Congress.¹⁰¹

The entire Bilingual Education Act of 1968 was called "masterfully ambiguous" by Bruce Gaarder.¹⁰² This ambiguity appeared, however, to have provided the flexible framework necessary to accommodate differing approaches, definitions and goals of bilingual-bicultural education. Controversy in Congress, in the Administration and among linguists focused on the divergent goals found within the bilingual-bicultural education movement and were reflected in the Federal regulations.¹⁰³

Supporters of bilingual-bicultural education disagreed on the benefits of the maintenance versus the transitional model of bilingual-bicultural education.¹⁰⁴ Proponents of the transitional model stated that bilingual-bicultural programs should be remedial in nature, limited solely to transitional instruction designed to promote the fastest possible assimilation of the limited or non-English-speaking child into the larger English-speaking society.¹⁰⁵ Advocates of the maintenance model, conversely, stated that programs should be designed to maintain the linguistic and cultural identity of the limited or non-English-speaking minority.¹⁰⁶

It also was evident that disagreement among those concerned with the education of linguistic minorities had included the issue of whether the native language as well as English should be used in the classroom. However, since the passage of Title VII, disagreement largely centered on the issue of how much, for how long and for what purpose the

native language should be used as well as the sequencing of English and the native language within the curricula of the school day.¹⁰⁷

The controversy between transition versus maintenance was reflected in the language of the Federal Regulations. In the Project Manual, the Office of Education, DHEW, interpreted the original language of ESEA Title VII to mean that "Title VII was designed for the special benefit of children with limited English-speaking ability in places where English is the exclusive or dominant language of instruction."¹⁰⁸ The Project Manual also indicated that although the Title VII ESEA program affirmed the primary importance of English, it also recognized that the use of the child's native language could help prevent retardation in school performance until sufficient command of English was attained.¹⁰⁹

This statement seemed to imply that the official stance of the government agencies toward the primacy of English was left unchanged. However, the importance of the native language to the child's intellectual growth was at least acknowledged in the Federal Regulations.¹¹⁰

Other areas considered in the Federal Regulations proposed by the Office of Education, DHEW, were the distribution of languages, the issue of community involvement and the selection of participants. Decisions concerning the distribution of instructional languages during the school day had important ramifications. The Project Manual suggested three basic

alternatives: equal time for both languages, instruction based on the child's dominant language and a strong ESL program. The Project Manual suggested that language distribution would be based on the age of the children and their proficiency in both languages.¹¹¹

The selection of participants also was considered in the Project Manual. Since official guidelines contained a poverty criterion, one-way schools (one group learning in two languages) were inevitably more frequent than two-way schools (two groups, each learning its own and the other's language).¹¹² Although the Project Manual stipulates that all-day separate instruction of the minority language children was not permitted, critics charged that one way bilingual-bicultural schools were just another way of segregating children.¹¹³

Another problem of one-way schools was the one of language prestige. The Director of the Office of Bilingual Education, Office of Education, DHEW, noted in an interview that the poverty clause limited language prestige by keeping programs out of middle-class areas, where the value of dual language ability might be developed.¹¹⁴

Previously, DHEW had presented a different view to members of Congress in a statement regarding the distribution of instructional languages and the importance of the bicultural component. The Acting Director of the Division of Bilingual Education, Office of Education, DHEW, stated:

Bilingual education projects are designed to use the child's first language as the medium of instruction until his competence in English permits the use of both languages in a balanced instructional program. An essential ingredient in all projects is the concurrent effort to develop and maintain the child's self esteem and a legitimate pride in both cultures.¹¹⁵

In this freer interpretation of the purpose of the Bilingual Education Act, the balance between language and culture was emphasized, and a concern for the individual's psychological adjustment was evidenced.

The question of compliance with Federal Regulations was also an area of concern. Although ESEA Title VII was signed into law in 1968, the first specific Federal Regulations defining DHEW policy with regard to discrimination against national origin minorities was not issued until 1970. A DHEW memorandum was distributed to more than one thousand school districts with five percent or more national origin minority enrollments. Robert Finch, Secretary of DHEW, declared that "where language barriers discriminate against Spanish surnames and other national origin minorities that such barriers must be removed."¹¹⁶ DHEW policy further stated that school districts must not assign these students to classes for the mentally retarded as had occurred in the past. School districts also would have to notify the national-origin minority group parents of school activities in a language other than English if needed.¹¹⁷

Thus, the Federal Regulations showed an increasing determination to require that the needs of the limited English-speaking students be met on penalty of loss of Federal assistance.

Summary and Conclusions

Chapter Three traced the significant movements over the past decade-and-a-half which produced the first Federal targeting of educational assistance on the limited English-speaking--the Bilingual Education Act of 1968, Title VII of Public Law 90-247.

First, there was a national concentration on educational excellence in the aftermath of Sputnik. Then there came the direct Federal aid to elementary and secondary education, the Elementary and Secondary Education Act of 1965. Finally, with the concentration of the Federal gaze on the disadvantaged, the distinct needs of the limited English-speaking were recognized and a categorical Federal educational program was crafted.

The Title VII program had a narrowly defined purpose, to provide grants to local educational agencies for the development and operation of bilingual-bicultural education programs. Although there were complaints voiced as to the cost of the program and the need for a separate program, the basic concept of the special need of the limited English-speaking for distinctive educational programs in

order to provide them with equal educational opportunities was not substantially questioned. Nevertheless, the law was vague on the character of that assistance, on the duration of bilingual-bicultural programs and on the educational objectives being pursued.

In the years following its initial passage, the Bilingual Education Act was amended twice with relatively minor changes. The growing legitimacy of the general concept was witnessed in its inclusion as a separate authority within the Emergency School Aid Act of 1972.

However, the level of priority assigned to the program, first by the outgoing Democratic Administration and then by the Republican Administration which took office in 1969, was reflected in minimal budget requests submitted to the Congress each year. In Congress, there was a greater willingness to raise the level of funding. Each year, appropriations greater than the Administration budget were enacted as shown in Appendix C.

The dispute over the philosophy and content of the program remained and the growing controversy surfaced first in the Federal Regulations governing the implementation of the program. That dispute continued beneath the surface in academic studies and reports of independent observers, in Congressional staff monitoring and in the Administration evaluations. It formed a major focus for the development of differing positions on the need for and the character

of a revision of the Federal role in bilingual-bicultural education in 1974.

CHAPTER THREE INTERVIEW NOTES

Charles Lee, Executive Director, Committee for Full Funding, formerly Professional Staff Member to Senator Wayne Morse, Senate Labor and Public Welfare Committee.

John Molina, Director, Office of Bilingual Education, Office of Education, DHEW.

Ralph Yarborough, Attorney, Brown Building, Austin, Texas, formerly Senator from Texas.

CHAPTER THREE NOTES

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CHAPTER FOUR

DEVELOPMENT OF THE SENATE POSITION

Introduction

Public Law 93-380, the Education Amendments of 1974, was an omnibus measure designed to affect virtually every aspect of elementary and secondary education in the United States. The Act extended through fiscal year 1978 the Elementary and Secondary Education Act, and the Adult Education laws. The Education of the Handicapped Act was extended through fiscal year 1977 and the Emergency School Aid Act was extended through fiscal year 1976. While the primary focus of Public Law 93-380 was on the extension and amendment of existing elementary and secondary school programs administered by the Office of Education, the Act also created several new programs and called for a number of significant reforms and innovations.

The Education Amendments of 1974, which originated in the House as H.R. 69, was introduced by Representative Carl Perkins, Democrat of Kentucky, in January 1973. The Senate bill, S. 1539, was introduced by Senator Claiborne Pell, Democrat of Rhode Island in April 1973. The bilingual-

bicultural education bills were introduced by Senators Edward M. Kennedy, Democrat of Massachusetts, and Alan Cranston, Democrat of California in October 1973. Both bills were co-sponsored by Senator Joseph Montoya, Democrat of New Mexico. In the House, separate bills dealing with bilingual-bicultural education also were introduced. Both bodies considered these measures as part of the overall review of elementary and secondary education legislation.

In the two years prior to the enactment of Public Law 93-380, certain overriding issues relating to the Federal role in bilingual-bicultural education were under debate. The debate continued through the hearing process in the Senate, the longer process of combining the separate bilingual-bicultural bills into a single provision of the bill that was adopted by the Senate and the even more difficult process of obtaining a consensus in the Conference with the House of Representatives.

The issues under debate included basic philosophical divergences over how to educate limited English-speaking children. Should it be remedial in nature, as it had in the past, limited solely to transitional instruction designed to maintain the linguistic and cultural identity of the limited or non-English-speaking minority? Should Federal programs be limited in duration and focus only in the elementary school, appropriate to the transitional model, or should

they be unlimited, extending through high school, supportive of a maintenance approach? A second issue revolved around the appropriate Federal role. Should the law, as it had in the past, be program-oriented, funding local classroom bilingual-bicultural projects, or should it be capacity-building, providing funds for research for curriculum development, and for the training of bilingual-bicultural teachers, counselors, administrators and paraprofessionals? Also, should that Federal role be limited to supporting model demonstration projects, or should the Federal role be more permanent and service-oriented, accepting a Federal responsibility to serve all limited English-speaking students? A third issue was the degree of bilingual and bicultural content required of the Federal program. Should English-as-a-Second-Language be accepted as a legitimate approach, or should Federal support only go to bilingual-bicultural programs?

Chapter Four describes the development of the Senate position on the 1974 bilingual-bicultural education legislation and notes the role of key Senators, the influence of Senate staff, Administration officials, lobbyists and court decisions. Chapters Five and Six describe similar developments in the House and the Administration.

Development of Initial Legislation:

Senate Staff Preparation July

1972 to October 1973

In the Senate, several elements precipitated a movement to expand and modernize the Federal Bilingual Education Amendments of 1967 by Senators Kennedy and Cranston with a supportive role played by Senator Montoya. One element was the philosophical commitment to bilingual-bicultural education shared by the three Senators.

Senator Kennedy stated in an interview that he had been a member of the Education Subcommittee since 1966, had followed the development of the Yarborough bill in 1967 and had been active in the efforts to increase the bilingual-bicultural appropriations each year. Moreover, Senator Kennedy had participated in hearings of the Select Education Committee on Equal Educational Opportunity in 1969 and felt the Federal government had a responsibility to fill the vacuum produced by the failure of local and state educational institutions to meet the needs of the limited English-speaking.¹ During an interview, Senator Cranston also stated that in the past he had witnessed the same ignorance of the educational requirements of these students in California.²

In the case of Senator Montoya, the only Mexican American in the Senate, and bilingual himself, there was a personal awareness of the advantages of bilingualism and of the denial of equal educational opportunities to the limited

English-speaking. Senator Montoya had worked closely with Senator Yarborough on the original Title VII legislation and felt a responsibility to take up the burden after Senator Yarborough's defeat.³

Moreover, the three Senators realized the political implications of the issues of bilingual-bicultural education. Both New Mexico and California have large Spanish-speaking constituencies. In Massachusetts, the percentage of speakers-of-other-languages is smaller; however, Senator Kennedy had a national political legacy involving minority constituencies including the Spanish-speaking.⁴

Another element precipitating action on bilingual-bicultural education legislation was the third Report issued by the U.S. Commission on Civil Rights in May 1972 which demonstrated that Mexican American children in the Southwest were denied equal educational opportunities. The Report also found that children had been placed in classes for the mentally retarded because of their limited English-speaking ability. The 1972 Report was read by Kennedy and Cranston staff and memoranda were sent to the Senators summarizing the findings.⁵

Another cause for the initiation of new legislation was the findings of the General Accounting Office (GAO) in a study commissioned by Senator Kennedy in July 1972. The GAO study found a wide disparity between the amount of bilingual-instruction present in current programs. In the

six-month evaluation of twenty-eight projects, the GAO study found:

In at least one project reviewed, students who were found to learn best in Spanish received only 28 percent of their instruction in academic subjects in Spanish. The vast majority of their classroom time was spent sitting in classes where subjects were taught in English.⁶

A further reason for Senator Cranston's prominent role in the debate was a hearing he had held in Los Angeles in February 1973 which spotlighted bilingual-bicultural problems and potential. Witnesses testified to the need for additional bilingual-bicultural programs, trained teachers and the inclusion of culture as an integral part of the bilingual program. The director of a Title VII ESEA program in Los Angeles stated the following:

. . . In spite of the needs exemplified by students with a different language and cultural orientation, many schools have not fully recognized the implications of the responsibility and have continued to offer only a traditional curriculum. Low achievement scores on standardized tests and high dropout rates of these indicate their needs are not being met and accentuate the urgency for reform.

The goals of bilingual-bicultural education express the same aspirations that are held for all youth experiencing public education in the United States. However, the concept of bilingual-bicultural education must emphasize and reflect a philosophy of cultural pluralism.

Specifically, the bilingual-bicultural program must seek and pursue goals and objectives that clearly promote a deeper understanding between sub and majority cultures. It must also be understood that English-as-a-second-language (ESL) programs, as well as programs for the dominant speakers of English to learn a second language, are integral parts of a well organized bilingual-bicultural program.⁷

Another catalyst for the expansion of the bilingual-bicultural programs was the mounting intensity of the demand for greater services of Mexican American, Puerto Rican, Indian American, Asian American and other linguistic minority groups. Their insistence on more attention to their needs increasingly was taking the form of school walkouts, lawsuits, and school board challenges.⁸

A final element for the expansion of legislation was the knowledge that individual states, such as Massachusetts and California, were beginning to develop their own programs for the limited English-speaking student and were communicating to their own Senators the need for Federal assistance.⁹

Thus, in meetings held between the Kennedy, Cranston and Montoya staff in 1972 and 1973, the idea and direction for new bilingual-bicultural legislation began to develop. The Senators realized that funding under Title VII had been extended only through fiscal year 1973 and immediate action was necessary simply to keep Federally-supported bilingual-bicultural programs alive.¹⁰

Leadership for the development of new legislation came from Senators Kennedy and Cranston who were members of the Subcommittee on Education of the Committee on Labor and Public Welfare. Senator Montoya, a member of the Committee on Appropriations, would play a greater role later when appropriations for bilingual-bicultural education programs were considered.¹¹

The discussions and negotiations between the offices of Senators Kennedy and Cranston had taken place intermittently through the spring and summer of 1973. The staff of both Senators agreed there were several major reasons for the introduction of separate bills. First, there was a recognition that each had slightly different emphases. Senator Kennedy's interests focused on preparing educational personnel capable of providing full bilingual-bicultural instruction and on insuring that the programs themselves were fully bilingual-bicultural. Senator Cranston's interests were for greater research, for state involvement and for obtaining data as a base for determining whether there should be a full service program of bilingual-bicultural education funded on an entitlement basis in the same manner as the Title I compensatory education programs. A second factor was the shared desire to have a political impact in their own states and with the national constituency by introducing a specific bill on bilingual-bicultural education. A third motive was the individual staff desire to have "their own" product based on their separate research and exertion.¹²

Senate Bills S. 2552 and S. 2553

Introduced: October 1973

The staff oversight review of the Federal bilingual-bicultural education program, both through the Committee hearing process and through the special studies Senator Kennedy commissioned by the GAO, indicated a series of areas of possible reform. Thus, Senator Kennedy introduced legislation, the Bilingual Education Reform Act of 1973, S. 2552, on 9 October 1973 co-sponsored by Senators Cranston and Montoya.¹³ Senator Cranston introduced a separate bill on the same day, the Comprehensive Bilingual Education Amendments of 1973, S. 2553, with Senators Kennedy and Montoya as co-sponsors.¹⁴

The Kennedy and Cranston bills proposed to expand the existing Federal bilingual-bicultural education programs and both aimed at reasserting a Federal commitment to improve the quality of those programs. While there were different points of emphasis in the two bills, both represented major initiatives to place a new Federal priority on bilingual-bicultural education.¹⁵

The two bills emphasized the importance of bilingual-bicultural education to assure equal educational opportunity for an estimated five million limited English-speaking children. Both called for the earmarking of funds for bilingual-bicultural educational research within the National Institute of Education (NIE). Both called for establishment of

a National Advisory Council on bilingual-bicultural education to advise the Commissioner of Education in the preparation of general regulations and specific policy matters arising in the administration of bilingual-bicultural programs. Finally, both bills required Federally-funded programs to be fully bilingual as well as bicultural, thereby accepting the value of a bilingual-bicultural heritage.¹⁶

The Kennedy bill emphasized the capacity-building aspect of the Federal role, the need for the preparation of bilingual-bicultural educators, the development of bilingual-bicultural teacher-training programs at the university level, and the preparation of bilingual-bicultural counselors, administrators and paraprofessionals. This emphasis on capacity-building had been expressed by many bilingual-bicultural educators and the U.S. Commission on Civil Rights and research organizations such as the Center for Applied Linguistics, a non-profit consulting firm.¹⁷

In his introductory remarks, Senator Kennedy stated S. 2552 included the following:

First, it extends the bilingual education act for 5 years with increased authorizations.

Second, it responds to the clear need for creating adequate numbers of trained and competent bilingual educators. It earmarks 35 percent of all appropriations in excess of \$35 million for bilingual teacher training programs at junior colleges, community colleges and universities, short-term training institutes for in-service training of teachers and paraprofessionals, and a fellowship program for individuals seeking advanced training in bilingual education.¹⁸

The realization that a critical shortage of bilingual-bicultural teachers existed was supported by Senator Montoya who discussed a survey made of 106 out of 217 Federally-funded Title VII projects. In a Senate floor statement Senator Montoya declared:

In the districts covered there was a need for 35,117 bilingual teachers, but only 9,448 teachers who were actually bilingual. Colleges in the area were only preparing 2,000 bilingual teachers, yet these projects were in areas where 44 percent of the children were bicultural-bilingual children. . . .

Even more discouraging, in the schools studied where a bilingual program was actually in operation, only 1,951 of the 2,772 teachers in bilingual programs were actually bilingual themselves. In other words, almost one-third of the teachers who were trying to teach a bilingual program were not able to speak to the children in their own language or were not able to read and write in both languages. And these, Mr. President, are our best programs--the programs selected for Federal funding under current budget limitations.¹⁹

Two other unique provisions of the Kennedy bill were the requirement that existing Federal programs of vocational education, adult education and library services be responsible to bilingual-bicultural needs and a separate authorization of \$80 million over two years for bilingual-bicultural vocational education.²⁰

In his introductory statement, Senator Kennedy documented a need for new legislation and asserted a lack of support from the Administration for bilingual-bicultural programs in the past. Senator Kennedy stated:

Presidential vetoes of appropriations bills containing increases in bilingual education have stunted the program's development in the past. . . .

For the 5 million school children whom the Office of Education has estimated have come to school with

English-speaking deficiencies, the Federal bilingual education program has been of limited value. . . .

For fiscal year 1973, the Office of Education's 217 bilingual education programs serve only 147,000 children. While the Federal effort has stimulated some 11 States to adopt bilingual programs of their own, the vast majority of the States are doing very little in this area.²¹

The Kennedy bill also would upgrade the Office of Bilingual Education by establishing a Bureau of Bilingual Education with a director having a title of Deputy Commissioner of Education.²²

The Kennedy bill authorized \$135 million for fiscal year 1974, \$150 million for fiscal year 1975, \$175 million for fiscal year 1976, \$200 million for fiscal year 1977 and \$250 million for fiscal year 1978.²³

Thus, Senator Kennedy's bill would encourage Federal support for bilingual-bicultural programs which would include the fullest utilization of multiple language and cultural resources, provide for teacher training and vocational education and create a Bureau of Bilingual Education.

The Cranston bill, S. 2553, had a different area of focus but was considered to be a "companion measure" to the Kennedy bill.²⁴ A Cranston aide, however, called S. 2553 a "more conservative measure" when compared to the Kennedy bill.²⁵

Senator Cranston's bill emphasized the support of programs at the elementary and secondary level rather than on the capacity-building aspects of the Kennedy provisions.

In his introductory remarks on S. 2553, Senator Cranston stated, "My bill concentrates on the elementary and secondary levels of education."²⁶

Senator Cranston also emphasized the support for new initiatives at the state level. Incentive grants and other special programs would be available to those states which would demonstrate--for example, by passing a state bilingual-bicultural education law--a commitment to improving services to limited English-speaking children.²⁷

Senator Cranston continued by summarizing the basic provisions of his bill:

It builds upon the experience gained in the first, fledgling years of the Federal bilingual effort.

It encourages, in other States, the development of bilingual programs along the lines of those in California, Massachusetts, and one or two other States.

It encourages the bilingual activities of the National Institute of Education.

It sets forth new definitions for what is meant by a "bilingual child" and the programs in which he may participate under the act.

It offers new criteria for the development of an acceptable bilingual program application.

It expands the role of community and parent in program development.

And it establishes, within the U.S. Office of Education, an administration structure wherein bilingual education activities cannot slip to bureaucratic inertia.²⁸

Senator Cranston also pointed to the failure of the ESL and remedial reading approach to meet the needs of limited-English speakers. Of the high dropout rate among Spanish-speakers, Senator Cranston declared:

Unfortunately, our educational response to these grim figures has been to apply bandaids when major surgery is required. For bilingual children, our bandaids have included programs in English-as-a-second-language (ESL) and remedial reading. . . .

Of all programs dealing with the bilingual child, remedial reading is the most limited in scope. It requires no change in the school curriculum and the least special training of teachers. Using a strictly monolingual approach, remedial reading has been much more accepted in practice than either ESL or bilingual education. . . .²⁹

As a result of previous failure, Senator Cranston's bill called for a commitment to the bilingual-bicultural approach and a clarification of terms. In his introductory statement, Senator Cranston declared that S. 2553:

More precisely defines the term "children of limited English-speaking ability" as covered under the act; sets an expanded definition for "programs of bilingual education," adding studies in the native language of the child, as well as English, including speaking, reading and writing; mandates bilingual instruction in each course required of the child; directs the study of the history and culture associated with the child's native language, as well as the history and culture of the United States; allows the participation of bilingual children in regular classes--such as art--where English is not necessary to understanding of the subject matter; provides for the voluntary enrollment of children whose language is English; and provides for individualized instruction.³⁰

As had the Kennedy bill, the Cranston bill recommended raising the administrative structure for the bilingual education program, but to the level of a Division within the Office of Education rather than a Bureau.³¹

The Cranston bill also asked for increased funding. The bill authorized a sum of \$135 million for each fiscal year from 1974 to 1977, plus additional sums deemed necessary by Congress. Moreover, the bill earmarked one-third of the amount over \$35 million to be used for teacher training and personnel development.³²

Thus, the Cranston bill would encourage Federal support for bilingual-bicultural programs at the elementary and secondary level, clarify terms, and create a Division of Bilingual Education.

The decision of Senators Kennedy and Cranston to introduce separate bills was combined with a recognition that early action depended on an amendment to the elementary and secondary education bill which was the prime legislative responsibility of the Education Subcommittee in the 93rd Congress. Therefore, both Senators had agreed that, as soon as the bills were introduced, a joint amendment would be developed.³³

The decision for it to be a Cranston-Kennedy amendment was based solely on the fact that Senator Cranston was up for re-election in 1974 and the subject was much more directly relevant to his constituency. There was some hesitation on the part of the Kennedy staff to that agreement; but Senator Kennedy, himself, concurred with the Cranston analysis.³⁴

Senate Hearings: October 1973

The Senate Subcommittee on Education of the Committee on Labor and Public Welfare held one day of hearings on 31 October 1973 on S. 2552 and S. 2553. Present were Senators Cranston and Kennedy as well as other members of the Subcommittee--Senator Walter Mondale, Democrat of Minnesota, Senator Peter Dominick, Republican of Colorado and Senator Jacob Javits, Republican of New York. In the opening statement of the hearings, Senator Cranston stated that the intent of the Senate bills and of the hearing was to "provide Members of the Senate with a strong legislative statement on the need for bilingual-bicultural education."³⁵

In a press release issued during the hearings, Senator Kennedy also described the purpose of the hearings when he stated:

The hearing today will provide an opportunity for those from the different bilingual communities and those with expertise in bilingual education to comment on the legislation and to offer suggestions for its improvement. . . .

We hope that the record of this hearing will enable us to move the nation forward in meeting its responsibilities to provide quality education to all children. . . .³⁶

Senator Kennedy also restated the importance of teacher training in his introductory remarks. In his statement at the hearing, Senator Kennedy declared:

Part of the failure to provide educational services to these children relates to our failure to produce a cadre of experienced and qualified bilingual

professionals and paraprofessionals to staff these programs or bilingual educators to produce adequate curriculums. . . .

Despite the authority of the Bilingual Education Act for teacher training and professional development, virtually no Title VII funds have been spent for this purpose. This bill presents a strong emphasis on teacher training.³⁷

Senator Montoya, although not a member of the Subcommittee on Education, did appear briefly at the hearings. In a press release concerning the hearings, Senator Montoya made the following statement:

The opportunity to learn to read and write and speak two languages instead of one is available to many children in Europe and in other nations of the World. It is offered as a special privilege to American children who attend private and expensive schools. Certainly in a democratic country where multiple cultures and heritages are our pride we should be making every effort to encourage that kind of opportunity for all our children.³⁸

Offering testimony at the hearings were nineteen leaders in the field of bilingual-bicultural education. They were divided among five panels, each of which concentrated on one of the following topics on bilingual-bicultural education: "Dimensions of Need and the Federal Role in Bilingual Education," "Preparation of Bilingual Education Personnel," "The Structure and Direction of Bilingual Education," "Research and Development, Evaluation and Testing for Bilingual Education" and "Federal Directions and Bilingual Education."³⁹

Witnesses included: the former Director of the Division of Bilingual Education in the Office of Education,

Department of Health, Education and Welfare (DHEW); state bilingual-bicultural education directors; bilingual-bicultural education teachers; program directors and teacher trainers; and the Deputy Staff Director of the U.S. Commission on Civil Rights. Attempts were made to include witnesses representing a broad cross-section of the educational community and spanning a range of linguistic, ethnic and racial minority groups.⁴⁰

During the hearings, the most specific recommendations in the proposed legislation came from the U.S. Commission on Civil Rights witnesses. In commenting on S. 2552 and S. 2553, Louis Nunez, the Deputy Staff Director, recommended that adequate Federal funding be stressed in the bills reported out of the Subcommittee. Nunez stated:

First, concerted efforts must be directed toward the authorization and appropriation of adequate funds on the Federal level if the goals of bilingual-bicultural educational programs are to be attained. . . . The Federal Government must authorize and appropriate the full amount called for in the Bilingual Education Reform Act--\$135 million for fiscal year 1974 and increasing amounts each succeeding year to \$250 million by the end of fiscal year 1978. . . .

Moreover, these Federal funds will attest to the Federal Government's commitment to bilingual-bicultural education and will serve to encourage additional funding by State and local governments.⁴¹

Nunez supported the following proposals which had been included in S. 2552 and S. 2553: the establishment of a Bureau of Bilingual Education within the Office of Education, DHEW; allocating separate resources for teacher training, curriculum development and research; community

involvement; the inclusion of specific requirements for state eligibility; bilingual-bicultural programs for limited-English-speaking adults; and the establishment of a National Advisory Council on bilingual-bicultural education. Nunez suggested, however, that the National Advisory Council be established coterminously with the existence of the Bureau.⁴²

The U.S. Commission on Civil Rights also proposed specific changes in the legislative language of the bills. One change related to the importance of the cultural component to bilingual-bicultural education. Nunez stated:

. . . Because of the direction which will be set by the tone of this national legislation, it is important that, in the title and throughout the bill, the term "bilingual-bicultural education" be used instead of "bilingual education." The phrase "bilingual education" can be interpreted as programs which do not incorporate the cultural background of students of limited English-speaking ability. That is not the intent of the legislation.⁴³

Another change suggested by Nunez would be to modify the policy section of S. 2553 to state that "Congress declares it to be Federal policy to encourage and provide funds specifically for bilingual-bicultural education."⁴⁴

Another crucial change in wording suggested by the U.S. Commission on Civil Rights dealt with the definition of bilingual-bicultural education. The U.S. Commission on Civil Rights recommended:

. . . Such a definition should include the idea. . . that culture must be included throughout the program by basing the design of the curriculum on the students' values, interests, and familiar experiences which stem in part from cultural heritage.

The Comprehensive Bilingual Education Amendment does include such wording by stating. . . "Instruction is given both in the native language of the child and in English and with the appreciation for the cultural heritage of the child in all those courses or subjects of study which are required of a child."

We recommend that this concept of cultural inclusion be incorporated into the definition of bilingual-bicultural education given in the legislation.⁴⁵

The debate over the legislative language of the Senate bills continued with discussion of the phrase "limited-English speaker"--a term considered by some to have a negative connotation which implied that these students were deficient and in need of a remedial or compensatory program. Gloria Rodriguez Zamora, former Director of the Title VII Program in San Antonio, Texas, declared that the phrase "limited-English speaker" should be changed to "culturally and linguistically different children." Zamora testified that bilingual-bicultural education was a positive response to the needs of "culturally and linguistically different children" who possessed the potential of becoming bilingual and bicultural.⁴⁶

Senator Montoya also reacted favorably to changing the terminology of the proposed legislation. With respect to the legislative language of Title VII, Senator Montoya stated in a memorandum to Senator Kennedy:

In all places in the bill where the phrase "children of limited English-speaking ability" is used, delete and replace with one of the following: "children whose vernacular is not English" or "children who speak a language other than English" or "children whose primary native language is not English." The reasoning for this change is quite simple: it is wrong to assume that all bicultural children speak English poorly or that they do not need the assistance of this act if they already speak English well or fairly well. The word "limited" implies that bilingual-bicultural education is remedial education. However, the sense of the bill is that bilingual ability is an advantage and that the ability to speak, read and write, in both languages is needed to fully educate these children. 47

Senator Montoya's rationale was explained in the memorandum. The change in the legislative language was considered important for the following reasons:

Spanish-speaking middle-class and upper-middle class families often speak both languages, but the children need education in reading and writing in order to continue to use both languages effectively. It is from this group that bilingual teacher-trainers and bilingual teachers of the future will most likely come. . . .

Learning in two languages is not a handicap but an asset. In order to encourage participation by English-speaking children this program should be considered to be an educational opportunity for all children, not a remedial program for handicapped children. . . .

Financial support for bilingual education will only come in the amounts needed when the white middle-class begins to see these programs as desired opportunities instead of "welfare" programs. 48

While witnesses agreed to the need for additional bilingual-bicultural education legislation, emphasis on the elementary years, teacher training and evaluation, there was a difference of opinion on some aspects of the program and

on some philosophical issues. For example, Francisco Trilla, President of the Puerto Rican Association for National Affairs (PANA), argued that native-English speakers should not be included because of the limited availability of bilingual-bicultural funding. However, opposing this exclusionary approach, Nunez urged that native-English speakers be included in all programs, but agreed that they should not exceed fifty percent of the participants, a provision in both the Cranston and Kennedy bills.⁴⁹

The inclusion of monolingual-English speakers also was stressed by Senator Montoya. In his press release, Senator Montoya stated:

Children who enter school with the ability to speak a language other than English have an educational asset which should be built upon, not discarded or destroyed. In an educational setting this kind of special knowledge can be shared with other children and can mean special advantages for the entire school if allowed to grow properly.

If children learn two languages and cultures thoroughly in elementary and secondary school and are able to continue bilingually in higher education, they quite obviously have an educational and a career advantage over children who know or can work in one language.⁵⁰

The idea that bilingual-bicultural education could also benefit the middle class was examined during the hearing. The criteria for eligibility for Federal funding under Title VII was discussed since a poverty eligibility factor had been omitted from the proposed Senate bills. Another witness from PANA, supported this omission and declared:

I want to commend the committee for doing something I think is essential on the questions of bilingual education, and that is having omitted an income criterion. I think that the whole concept of bilingual education has been somewhat stigmatizing in the sense that it has focused exclusively on children of low economic backgrounds.⁵¹

Debate also dealt with the duration of programs and the question of maintenance versus transitional character for bilingual-bicultural programs. Henry Casso, Executive Secretary of the National Task Force de la Raza, stressed the need for programs to continue beyond high school and through the university level, a proposal which stimulated sharp debate. In his testimony, Casso stated:

. . . If you look at the philosophy of bilingual education, it must permeate from early childhood all the way through the university. The national thrust for the last several years had been chiefly in the preschool programs, . . . there is a need now to concentrate on the followthrough as those children are going into fourth, fifth, sixth, seventh and eighth grades, all the way up, otherwise the children are going to run into frustration as they come out of the bilingual programs and go into the regular system.⁵²

Controversy also stemmed from the question of entitlement. Luis Alvarez, National Executive Director of ASPIRA of America, Inc., advocated that the Federal legislation include the same concept of entitlement--as existed in the ESEA Title I Compensatory Education Program.⁵³

The Subcommittee members were generally supportive of the need for bilingual-bicultural programs. The Senators reacted favorably to the testimony with the exception of Senator Peter Dominick, Republican of Colorado.

Senator Dominick favored an ESL approach. Senator Dominick disagreed with the emphasis on the bilingual-bicultural approach in the proposed bills. Interchange during the hearing between Senators Dominick and Casso illustrated the debate over the bilingual-bicultural versus the ESL approach. The following dialogue occurred:

Senator Dominick: . . . What is being done to properly teach English so that at home and in school they will have a common language with the rest of the people in the country? It seems to me that this is perhaps one of our more difficult problems in the bilingual educational process. . . .

Dr. Casso: Senator, I do not think anyone will take issue that English is the language of the country, nor does anyone want to take away from the fact that a child should learn English.

What we are saying is, many children come into that classroom not knowing English, and it is both pedagogically and psychologically sounder to teach a child through the language known by the child.

Senator Dominick: . . . What is being done to get the people at home to talk something besides Spanish, for example, or one of the Indian languages, or Greek for that matter? . . .

. . . The only thing I did not want us to do was to get into classifications of people where we start talking about Spanish Americans, Greek Americans, Indian Americans, or whatever it may be. We ought to be talking about Americans, and then if they cannot go along in the dominant language, we ought to be able to find some method of reaching out to those people so they can learn this is a cosmopolitan society.

Dr. Casso: Precisely. The thrust of bilingual education is to be able to have a child who is bilingual in not only his native language but also the language of the country. . . .54

The hearings resulted in the buttressing of the effort by Senators Kennedy and Cranston to obtain a substan-

tive expansion and not simply an extension of the existing Title VII program. It also confirmed the need to expand Federal legislation and sensitized Subcommittee members to the intensity with which the limited English-speaking groups desired bilingual-bicultural education. Finally, the hearing produced a set of recommendations for language changes which were considered in the process of turning two separate bills into a single legislative proposal.

Development of a Common Bilingual-Bicultural
Legislative Proposal: Committee Action
October 1973 to March 1974

The process of arriving at a joint amendment involved initially putting the two bills together and accepting from each of those bills the provisions which were not duplicated in the other. Where there was overlap, the process of discussion included some input from outside groups whose views were solicited. The decisions in each case rested with the staff of Senators Kennedy and Cranston. Senator Montoya's staff views were solicited and where possible accepted, although the decision makers were the staff of Senators Kennedy and Cranston.⁵⁵

Most of the actual drafting of the amendment was done by the Cranston office with the technical legislative aid of the staff counsel from the Senate Education Subcommittee and Senate Legislative Counsel's Office.⁵⁶

During the period October to November, following the hearing in which substantial recommendations for legislative language were received, the drafting of a common amendment took place. The U.S. Commission on Civil Rights staff several times were asked to examine current drafts, particularly as they dealt with the issue of the definition of a bilingual-bicultural program.⁵⁷

The draft amendment included Senator Kennedy's provision with regard to the administrative structure of the Bureau of Bilingual Education and the provision with regard to teacher and paraprofessional training, fellowships and the earmarking of funds for that purpose. Senator Cranston's research provisions and the responsibilities for census taking to provide further data were included along with the requirements for parent and community involvement in the application process. The Cranston bill's separate provision absent from the Kennedy bill permitting the establishment of state administrative grants to those states showing initiative in establishing bilingual-bicultural programs also was included. Finally, the joint amendment included from the Kennedy bill the provisions requiring bilingual-bicultural earmarking and special bilingual-bicultural consideration in the area of vocational education, adult education and library services.⁵⁸

The definition of bilingual-bicultural education which was in the joint amendment was drawn from both bills,

with a substantial input from the testimony of the U.S. Commission on Civil Rights.⁵⁹ The authorization levels of the Kennedy bill also were included in the joint amendment.⁶⁰

However, the U.S. Commission on Civil Rights recommendation to use "bilingual-bicultural education" instead of "bilingual education" throughout the bill was rejected.⁶¹ Although the cultural component was integrated into the program requirements and the policy statement, the Cranston and Kennedy staff believed that using the phrase "bilingual-bicultural" would flag a potentially dangerous issue that might defeat the overall measure. The initial staff amendment did include a policy statement of encouragement and provision of funds only for "bilingual education."⁶² Also included was the recommendation that the Advisory Council be established to coincide with the creation of the Bureau. The recommendation to include in the definition of the acceptable program a strong cultural component also was adopted.⁶³

The recommendation from other witnesses at the hearing and from Senator Montoya that "limited-English speakers" should be replaced by "culturally and linguistically different" or a similar phrase was rejected. The staff felt that "limited-English speakers" had become a phrase of "art," understood by all and neutral in its implications.⁶⁴

Proposals made during the hearing for programs to extend beyond high school and to be based on an entitlement concept were rejected by the staff. They felt both proposals represented "radical" departures which the Education Subcommittee and the Full Committee on Labor and Public Welfare would not accept.⁶⁵

Education Subcommittee Action

The draft agreed to by Senators Kennedy, Cranston and Montoya was itself modified before it was included in the Subcommittee print on 19 December 1973.⁶⁶

Two forums existed for the modifications of the amendments. First, there is a general practice in most Subcommittees, and in Senator Pell's Education Subcommittee as well, for staff representing the majority members to meet to consider the amendment their Senators plan to offer and to discuss the issues in the bill on which the staff have specific questions.⁶⁷ The Education Subcommittee had five closed Subcommittee mark-up meetings in November 1973 to consider various aspects of the bill. Throughout that period there were meetings of the majority staff. In late November, one of these staff meetings was the forum for Kennedy and Cranston staff to disclose their composite amendment and discuss its provisions with the majority staff members.⁶⁸

The major points of discussion related to the philosophical debate over the role of the Federal government in promoting educational programs to meet the needs of the limited English-speaking. A matter of dispute was whether the Federal government should define as the only appropriate method a fully bilingual-bicultural program and one in which the native language and culture are maintained throughout the years of schooling.⁶⁹

The major questions were raised by the Chief Counsel of the Subcommittee, Stephen Wexler, who argued that the full bilingual-bicultural approach and the maintenance concept, if explained to the Senators, would not be acceptable. Wexler said they would accept native language instruction only as a means of transition until English competency was attained. Wexler said one assumed the Administration would oppose any and all expansions in the bilingual-bicultural program since the Administration had proposed a simple one-year extension. Beyond that potential opposition, the more immediate issue was whether the Senators would accept--particularly with only very limited studies on comparative approaches--the full bilingual-bicultural approach as the only acceptable program to be funded by the Federal government, as opposed to permitting English-as-a-second-language programs to be funded as well.⁷⁰

Wexler also questioned the designation of the Office of Bilingual Education as a Bureau and the stipulation

that the director should be a Deputy Commissioner of Education. Wexler emphasized as well his concerns regarding probable minority reactions to the administrative structure, to the level of authorizations and to the fellowship programs.⁷¹

However, while some minor technical amendments were suggested, the draft amendment did not undergo major alterations at this time. The Subcommittee Chief Counsel determined to await the reaction of Senators rather than attempt to have his views prevail at the staff level.⁷²

The second forum for the alteration of the amendment involved the full Subcommittee staff meetings, where both majority and minority members were represented. Again, these meetings had progressed during late October and November 1973. While all staff members had copies of the Kennedy and Cranston bills, and were aware a composite amendment would be offered to the omnibus bill, there was no discussion of the specifics until early December 1973.⁷³

Just prior to the Subcommittee mark-up session of 11 December 1973, the proposed Cranston-Kennedy amendment draft was circulated to all staff. However, on 11 December when Senators Cranston and Kennedy proposed the amendment for inclusion, Senator Dominick objected and said "the minority has not seen this amendment."⁷⁴ In that objection, Senator Dominick was referring to the latest draft of the amendment. Rather than argue that, in fact, the minority staff

had seen and briefly discussed the amendment, Senator Cranston suggested delaying the issue for a week and having the staff meet again on the specific language of the amendment being offered.⁷⁵

In the Subcommittee staff meetings which followed, the key issues debated included the upgrading of the administrative position of the Division of Bilingual Education and the designation of the director as a Deputy Commissioner, the establishment of a fellowship program, the earmarking of NIE funds, the philosophy involving the Federal role, the definition of an acceptable bilingual-bicultural program and the question of whether programs should be maintenance as opposed to transitional.⁷⁶

The debate over the non-philosophical issues was relatively short. There was no agreement of minority support for any of them; yet not total opposition either. Generally, the chief conservative Republican on education matters was Senator Dominick. However, Senator Dominick was running for re-election in Colorado, a state with a substantial number of limited-English speakers, where bilingual-bicultural education could be a political weapon against him if he opposed it. Thus, Senator Dominick's opposition was muted. In fact, he disclosed during a Subcommittee session a desire to introduce a separate Dominick bilingual-bicultural amendment in the area of vocational education.⁷⁷

The debate, however, over whether only fully bilingual-bicultural programs were acceptable and whether they should be maintenance or transitional absorbed several meetings. In these sessions, the Chief Counsel for the Subcommittee joined with the minority in opposing the broadened definition. The possibility of substantial opposition on these critical issues resulted in Kennedy and Cranston staff attempting to devise language which would achieve their objectives but still meet the concerns of the other staff--concerns the Kennedy and Cranston staff assumed would be reflected at a Senatorial level.⁷⁸

Several changes were agreed to at the staff level and ultimately incorporated into the composite amendment offered by Senators Cranston and Kennedy on 19 December 1973. The policy statement and findings were altered to provide a shade less emphasis on bilingual-bicultural education as the only acceptable manner of meeting the educational needs of the limited-English speaker.⁷⁹ Thus, whereas the previous statement read, "that the use of a child's language and cultural heritage is the means by which a child learns," the new amendment read, "that a primary means by which a child learns is through the use of such child's language and cultural heritage."⁸⁰

The policy statement of the composite amendment also saw the insertion of such phrases as "where appropriate" to modify the previous statement of "using bilingual

educational practices, techniques, and methods."⁸¹ Similarly, the policy statement was modified to read that Federal funding, in addition to meeting the educational needs of the limited English-speaking students, was "to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language."⁸²

This phrasing contained the words "to demonstrate" which were seen as necessary to avoid an assumption that the program was maintenance in nature and also to insure that English-language competence was a high priority.⁸³

While these concessions were made to the minority and to the Subcommittee Counsel, the overall policy statement adopted by the Subcommittee, as stated in the Senate Committee Report was, "The goal of the program in the Committee bill is to permit a limited English-speaking child to develop the proficiency in English that permits the child to learn as effectively in English as in the child's native language."⁸⁴

Despite the modifications made in the policy statement, the definition of the "bilingual education program" remained intact.⁸⁵ And it was this definition which determined what could and could not be funded ultimately. The definition adopted in the Subcommittee was set out in Senate Committee Report 93-763:

The term "program of bilingual education" means a full-time program of instruction, designed for children of limited-English-speaking ability in elementary or secondary school, in which, with respect to the years of study to which such program is applicable--

- (i) there is instruction given both in the native language of the children of limited English-speaking ability and in English and given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction, shall, to the maximum extent feasible, in all courses or school subjects of study which are required of a child in elementary school by, or pursuant to, the law of the State;
- (ii) both, the native language of the child of limited-English-speaking ability and English are studied, including speaking, reading and writing;
- (iii) there is study of the history and culture of the nation, territory, or geographical area with which the native language of the child of limited-English-speaking ability is associated and of the history and culture of the United States;

• • • 86

Thus, under no circumstances could a program be Federally funded if it were only ESL or remedial reading. The modifications in the policy statement notwithstanding, the operative definition unchanged meant clear support for bilingual-bicultural education as the Federal government's preferred (and the only one it would fund), educational method for providing equal opportunity to the limited English-speaking. No substantive changes were made in other provisions of the joint Cranston-Kennedy amendment.

On 19 December 1973 the amendment was offered and agreed to in Subcommittee without objection. However, it

was clear from the discussion that the minority would, at the Full Committee level, raise again the subject of the administrative upgrading, the NIE earmarking and the National Advisory Counsel. Senator Dominick also stated that he would present his Vocational Education Amendment at the Full Committee level.

Full Committee Action

Not until 13 March 1974 did the Full Senate Committee on Labor and Public Welfare meet on the bilingual-bicultural provisions of the education bill.⁸⁸ In the interim, an event occurred which helped to produce a positive attitude in Full Committee toward the bilingual-bicultural provisions adopted by the Subcommittee. The event was the Lau v. Nichols decision issued by the Supreme Court on 21 January 1974. The following day, Senator Kennedy made a Senate floor statement in which he discussed the implications of the Court's decision:

The decision for the first time states unequivocally the right under the Civil Rights Act of 1964 for non-English-speaking students to receive special educational instruction to meet their language deficiencies. . . .

The evidence seems clear that bilingual education programs containing respect for the recognition of the cultural background of the limited English-speaking students is the best way to meet this problem.

Although the Court did not recommend a specific remedy to the language deficiency of the non-English-speaking students, it is clear that bilingual education will in most cases provide the fullest educational opportunity for those children.⁸⁹

The impact of the Lau v. Nichols decision also was noted by Senator Cranston. In a staff memorandum to Senator Cranston, the implications of the Court's decision on the Full Committee's consideration of the Cranston-Kennedy amendment were set out. The memorandum stated:

On its surface, the decision appears to be a victory for exponents of bilingual education. For the first time, the Court has ruled that English language comprehension is essential to a meaningful education. . . . But the Court made no specific finding as to the appropriate remedy (be it teaching English to the Chinese students, or giving them instruction in Chinese, or providing bilingual instruction in two languages). . . .

The ambiguity of the Court opinion seems to give equal encouragement to contradictory educational forces. Those who back the notion of the crash-course in English (English-as-a-Second-Language or remedial language instruction) can find vindication in the Court's finding that "students who do not understand English are effectively foreclosed from any meaningful education." At the same time, those who view language--the child's own language--as the key to his individuality and his unique spirit can take hope in the Court's observation. . . .

So the experts are divided as to what the Court decision will mean in terms of precise educational change. But the thrust of the opinion is clearly in the direction of paying more attention to the language heritage of the child. . . . Your own bilingual legislation, in that it provides a range of alternatives and resources to getting the minority child and the majority school system making sense to each other, could be an important new resource.⁹⁰

Another event which influenced the members of the Full Committee was the completion of the fifth and final Report of the U.S. Commission on Civil Rights. The Report, issued 4 February 1974, came at the conclusion of a five-year study of Mexican American education in the United States. In a statement on the Senate floor, Senator Cranston

declared, "In this report the Commission finds that the public schools in the Southwest are not providing equal educational opportunity for Chicano children, and makes 51 specific recommendations to remedy the situation."⁹¹

Senator Cranston continued by including in his statement specific recommendations for the expansion of bilingual-bicultural programs. Senator Cranston also noted that a strong impetus for recommendations of the U.S. Commission on Civil Rights' Report "was provided by a unanimous Supreme Court decision on January 21 which held that a school system receiving Federal aid violated Title VI when it fails to meet the needs of non-English-speaking children."⁹²

The importance of the Supreme Court decision and the U.S. Commission on Civil Rights Report were discussed by Senator Montoya and Senator Walter Mondale, Democrat of Minnesota, and a Full Committee member, in a joint address to the Conference on Mexican American Education in Texas in March 1974. In his remarks to the Conference, Senator Montoya compared the impact of Lau v. Nichols to Brown v. Board of Education. Senator Montoya stated:

In 1954 the Supreme Court said that a black child had the right to an equal education in the United States of America. Amazingly, in this country, in this century, it was necessary for a court to point out that the color of a child's skin had nothing at all to do with his rights to equality under the Constitution. . . .

A few weeks ago the Supreme Court handed down another such decision. . . which will cause just as great an upheaval in education at the local level as the 1954 decision did. . . . This time the Court said that a child whose language was different from that of the majority was still entitled to equal educational opportunity under our laws.⁹³

As seen in the actions of the Full Committee, the Supreme Court decision and the U.S. Commission on Civil Rights' Report helped to produce a more favorable attitude by Committee members to the Cranston-Kennedy proposal. During the Full Committee session on 13 March 1974, the Committee Chairman, Senator Harrison Williams, Democrat of New Jersey, offered an amendment providing for guidance and counseling for the limited English-speaking at the post-secondary level. This amendment, which responded to specific requests from Senator Williams' home state was adopted without objection.⁹⁴

The minority then moved to change the administrative structure of the Bureau of Bilingual Education. While the minority stated they would prefer to leave it as an Office, they would go halfway by agreeing to a Bureau but remove the requirement that the director be a Deputy Commissioner, although maintaining the GS-18 grade. The minority also withdrew their objection to a National Advisory Council on Bilingual Education but did modify the Council's authority and some of the requirements for membership.⁹⁵

A discussion of the earmarkings of NIE monies for bilingual-bicultural education, which, if successful, would be the first statutory limitation on NIE discretionary funding, was begun and later continued during the Full Committee session on 20 March 1974. In response to Administration urging, Senator Javits recommended deleting the earmarking of five percent and establishing an added authorization. This would require a separate appropriation for this purpose, and to Senators Cranston and Kennedy it meant less likelihood of insuring NIE action in this area.⁹⁶

In an unusual move, during the 20 March session, the Full Committee requested Charles Cooke, Deputy Assistant Secretary for Legislation (Education) in the Office of the Secretary, DHEW, to comment on the impact on NIE and the Administration's view of the appropriateness of a five percent earmarking. Cooke objected to the earmarking but said a separate authorization of five million dollars was an appropriate level of activity.⁹⁷

Senator Javits then offered his amendment authorizing five million dollars in additional funds for research in bilingual-bicultural education to be authorized separately for NIE. Senators Kennedy and Cranston argued that there was no assurance any funds would be appropriated and urged instead that NIE funds be earmarked. After discussion, Senator Javits agreed to modify his amendment to

provide that, if no funds were directly appropriated, then an earmarking of no less than \$3 million of NIE money nor more than five percent of its funds would be directed to bilingual-bicultural education research. This compromise was adopted.⁹⁸

There was agreement without debate to incorporate the Dominick amendment to authorize \$80 million over two years for bilingual-bicultural vocational training.⁹⁹ That amendment was redrafted with the help of the Cranston and Kennedy staff so that it would not duplicate the Kennedy vocational education provision already in the bill. According to interviews, the Dominick amendment was a manpower training rather than a vocational education amendment since the amendment focused on dropouts and non-education institutions in providing vocational training.¹⁰⁰

During the 20 March meeting of the Full Committee, Senator Pell, in responding to the general objections of the Administration to expanding existing categorical programs or adding new ones, offered an amendment scaling down the authorization figures for many of the various education programs contained in the bill, including adult education, education for the handicapped and special projects such as programs for the gifted and the talented, metric education and career education.¹⁰¹ The scaled down amendment for Title VII was \$135 million for fiscal year 1974, \$145 million for fiscal year 1975, \$155 million for fiscal year

1976, \$175 million for fiscal year 1977, and \$175 million for fiscal year 1978.¹⁰²

Thus, in large measure, the Full Committee ratified what previously had been adopted at the Subcommittee level with minor modifications. Even the reductions in authorization levels were not considered major actions by Senators Kennedy and Cranston since the funding levels remained well above existing appropriation levels.¹⁰³

The Senate Committee Report: March 1974

The Committee on Labor and Public Welfare favorably reported S. 1539, The Education Amendments of 1974, containing the bilingual-bicultural provisions previously agreed to, on 29 March 1974; the amendment was ordered placed on the Senate calendar.¹⁰⁴

The action of the Committee on the bilingual-bicultural provisions of S. 1539 was summarized in the Senate Committee Report 93-735 and is shown in Appendix D. The purpose of the Senate Committee Report was to educate Senators and their staff to the provisions of the proposed legislation before it was considered on the Senate floor. That Report was important both in terms of the discussion of the Federal role in bilingual-bicultural education as well as the actual provisions and language found in the Report. In addition, the Senate Committee Report contained the Committee justification for bilingual-bicultural

programs and the need for the new bilingual-bicultural amendments.¹⁰⁵

Section 105, "Bilingual Education Programs" was divided into three sections: "Legislative Background," "Bilingual Education Program Background" and "Major Bilingual Education Provisions in Reported Bill."¹⁰⁶

In the first section on the legislative history of Title VII, the Senate Committee Report commented on the questionable effectiveness of the ESL and remedial reading approaches. Summarized was testimony received from the U.S. Commission on Civil Rights before the Education Subcommittee citing the continuing high dropout rates of limited-English speakers.¹⁰⁷

In the second section on the background of bilingual-bicultural education programs, the Senate Committee Report described the failure to meet the educational needs of "at least five million children in the United States who await bilingual services."¹⁰⁸ The Report expressed a concern over the lack of leadership from the Office of Education, DHEW, the lack of support from the Administration, and the failure of the Federal government to stimulate research and evaluation. The Report also declared that other gaps in Federal attention to bilingual needs and services had occurred in vocational education, adult education, and library services. As a result a new bilingual-bicultural emphasis would be included in the statutes

underlying these programs.¹⁰⁹

The second section of the Senate Committee Report ended with the following statement:

. . . The Committee has rejected the Administration's request for a simple one-year extension of the current Title VII program, unchanged. Instead, the Committee finds it both necessary and desirable to provide more specific mandates and directions to enable the Office of Education to move more rapidly toward the demonstration of comprehensive models and examples of bilingual education, toward the development of the requisite quantity and quality of bilingual education personnel and curricula, and thus realize the Federal leadership in bilingual education first called for by the Congress in 1967.

For these reasons, the Committee has extended the revised program through June 30, 1978.¹¹⁰

The third section on bilingual provisions in the reported bill summarized the major sections of the new Title VII. The legislative language was discussed and the Senate Committee Report stated that the Committee had used the term "children of limited English-speaking ability" merely to facilitate discussion not to imply that these children were inferior.¹¹¹ The Report also stated that the Congressional findings of the Subcommittee supported the bilingual-bicultural approach.¹¹²

The Senate Committee Report avoided any discussion of the controversy over the use of bilingual-bicultural education to maintain the native language and culture rather than as a means to permit the transition of limited-English speakers to English language competency. However, the Senate Report dealt with the intent of bilingual-bicultural programs:

. . . The Committee has made clear its intent that bilingual education programs funded under the Act are to be programs involving use of both English and the native language as mediums of instruction in the basic school curriculum and including the study of the history and culture associated with the native language. . .

The Senate Committee Report also covered the duration of bilingual-bicultural programs and stated that a specific grant could not automatically be limited to five years as earlier regulations had proposed. The Report declared:

The goal of the program in the Committee bill is to permit a limited English-speaking child to develop the proficiency in English that permits the child to learn as effectively in English as in the child's native language--a vital requirement to compete effectively in society. This required continuation of basic education instruction in both languages until that level of proficiency in English is achieved. The culmination of the process cannot be projected precisely in terms of a stated duration; therefore, the Committee does not believe it would be in keeping with the over-all goal to set a cut-off for a bilingual program.¹¹⁴

While the major thrust of the legislation was aimed at elementary school programs, the Committee also confirmed the need to provide for preschool and secondary programs as well.¹¹⁵ The Report also showed that the Senate had accepted an expanded role in the areas of national assessment, teacher training, research and development. Mindful of the need for accurate data, the Committee mandated a national assessment program, an annual report to the President and Congress on the status of bilingual-bicultural education in the nation, and the preparation of a five-year plan for

extending bilingual-bicultural services.¹¹⁶

The Senate Committee Report also emphasized the need for fellowships and the preparation of trained bilingual-bicultural professional personnel and thus earmarked specific funds for these purposes. The Report stated:

. . . The reported bill earmarks 15 percent, the current ratio, of each bilingual education grant for in-service and pre-service training and preparation of education personnel, and earmarks 50 percent of appropriations above \$35 million but not more than \$60 million, principally for the provision of new bilingual teachers, counsellors, and other educational personnel, and the development of appropriate graduate education programs for these purposes. One-third of appropriations in excess of \$60 million also was earmarked for these purposes. To help increase the available supply of bilingual educational professionals, the Committee bill also directs the Commissioner to provide a bilingual education fellowship program of from 200 to 500 fellowships each year.¹¹⁷

The Senate Committee Report discussed the failure of NIE to provide leadership in research and development in the area of bilingual-bicultural education and as the rationale for the Committee's earmarking of NIE funds for that purpose.¹¹⁸ Moreover, the Report noted that although an Advisory Council on the Education of Bilingual Children was enacted as part of the original Title VII, the Council had not met between 1970 and 1974.¹¹⁹ The Report declared:

The Committee envisions a strong and active Advisory Council. The reported bill specifies the appointment of fifteen members, to terms of varied length, drawn from the ranks of both lay and professional persons interested and experienced in the education of bilingual persons. Classroom teachers, teacher trainers, and school board members are among the categories of persons to be appointed to the Council.¹²⁰

Finally, the Senate Committee Report summarized the controversy between the capacity-building role of the Federal government versus the service-oriented role to provide Federal funds for local programs. The proposed bill saw an expanded Federal role in providing funds for "better demonstration projects in bilingual education, with a wider range of support activities."¹²¹ The Report, however, also affirmed the Federal government's commitment to fund local programs with greater coordination with state educational agencies. The Report stated:

. . . In the past, Federal monies have been granted to local education agencies and to organizations and institutions supporting LEA activities, but not to the State agencies themselves. The Committee bill provides for a wider range of State activities especially in training, and includes authority for the Commissioner to grant funds to the State educational agencies for supportive and technical services.¹²²

Thus, Senate Committee Report 93-765 was a detailed justification of the need for action to extend and expand the bilingual-bicultural provisions. The Report also was a strong Committee statement--largely written by the staff of Senators Kennedy and Cranston--in support of full bilingual-bicultural education as the most appropriate way to meet the Lau v. Nichols requirements to provide equal educational opportunity to limited English-speaking students, and a forceful statement of a Federal responsibility in that process.¹²³

Senate Adoption of Education Amendments:

May 1974

The Senate began its considerations of the Education Amendments on 13 May 1974.¹²⁴ In the opening remarks on the Senate floor, the Chairman of the Full Committee on Labor and Public Welfare addressed the Members of the Senate. Senator Williams declared that "all my colleagues in this Chamber this week will be considering extension of the most important Federal education legislation ever passed by Congress."¹²⁵ The initial debate that followed concentrated on the formula for the distribution of funds under Title I.¹²⁶

Debate continued on 14 May with new amendments to S. 1539 being introduced on the Senate floor.¹²⁷ Consideration of S. 1539 was resumed on 15 May with a discussion of Title IX, Equal Educational Opportunities and the question of busing.¹²⁸ On 20 May the Senate again took up consideration of S. 1539 with a considerable debate over Title VII, Public School Jurisdiction Provisions; again debate concentrating on the question of busing.¹²⁹ An additional issue debated at this time was the National Reading Improvement Program.¹³⁰

In the debate of 20 May prior to the passage of S. 1539, Senator Cranston declared to his Senate colleagues that much work would have to be done in Conference to resolve the differences between the House and Senate versions of the Education Amendments.¹³¹ Senator Cranston continued by

itemizing the major areas of conflict between the two houses --Title I, impact aid, adult education, program consolidation, programs for gifted children, consumer education, aid for veterans and bilingual-bicultural education.¹³² Thus, on the afternoon of 20 May the first mention of the bilingual-bicultural provision of S. 1539 was heard.¹³³

In his remarks on the bilingual-bicultural provisions, Senator Cranston stated:

I am especially proud of the provisions in S. 1539 for new and expanded programs of bilingual education in elementary and secondary schools, vocational and adult education, library programs, and guidance and counseling programs in post-secondary education. I believe these strong provisions, adopted by the Senate without dissent, are dramatic evidence of our commitment to bilingual peoples across America.¹³⁴

At the conclusion of his remarks, Senator Cranston asked that the language of Senate Committee Report 93-763 that detailed the bilingual-bicultural provisions, the program background and the legislative history of Title VII be printed in the Congressional Record.¹³⁵

Senator Kennedy also rose to speak in support of the passage of S. 1539 and to call attention of his colleagues to the "provisions of that bill extending and improving the Federal role in bilingual education."¹³⁶ Senator Kennedy continued his remarks by discussing the need for new legislation and the failure of the Administration to respond to those needs. Senator Kennedy declared:

While the enactment of Title VII has had some positive effect . . . the level of State effort continues to be inadequate. Several States repealed laws prohibiting the use of languages other than English in the classroom. Ten States now have statutes permitting bilingual instruction. . . . However, the dollar amounts remain small and the priority assigned remains low.

Perhaps most distressing when one reviews the past 7 years has been the inertia, the lack of direction and the absence of leadership evident in the U.S. Office of Education in the area of bilingual education. For the first several years of this administration, the original budget request from the President actually was less than the Congress had authorized the previous year. In addition, in 1973 some \$9.75 million was impounded. Once again, this year's original budget request was some \$15 million less than the \$50.35 million level Congress appropriated in the original fiscal year 1974 Labor-HEW Appropriations bill.¹³⁷

Senator Kennedy spoke specifically of the needs of Spanish-speakers in his remarks:

When the United States is the fifth largest Spanish-speaking country in the world and when a near majority of people in this hemisphere speak Spanish, surely our educational system should not be designed so that it destroys the language and the culture of children from Spanish-speaking backgrounds.¹³⁸

Senator Kennedy concluded by declaring, "I believe the bill before us commits the Federal Government to a major new initiative in the area of bilingual education and I am hopeful that it will be followed by similar actions at the State and local level."¹³⁹

The final vote on the bill occurred on 20 May with an eighty-one to five roll call vote.¹⁴⁰ On 6 June the House formally requested a Conference with the Senate to

reconcile the major differences between the Senate and the House-passed versions of the bill. Thus, on 6 June the Senate appointed thirteen Conferees, eight Democrats and five Republicans, all members of the Subcommittee on Education.¹⁴¹

Lobbyists and Other Influences on the
Senate Legislative Process

Throughout the process of developing a Senate position on the 1974 Bilingual Education Amendments, outside interest groups sought to affect the final product. In broad terms, four groups were actively involved: education lobbying organizations, organizations representing limited English-speaking ethnic groups, other organizations, and the Administration.

Among the education lobbying organizations, which communicated publicly and privately with Senators Cranston and Kennedy and with the other Committee members were the National Education Association (NEA), the American Federation of Teachers (AFT), the American Association of Community and Junior Colleges (AACJC), the National School Boards Association (NSBA), and the Council of Chief State School Officers (CCSSO).¹⁴²

Prior to the introduction of legislation in October 1973 the most active organizations--mainly because their legislative liaison staff included Mexican Americans concerned with bilingual-bicultural education who were personally involved in the bilingual-bicultural movement--were the NEA, the AACJC and the CCSSO.¹⁴³

In the case of both Senators Kennedy and Cranston, drafts of the proposed legislation were circulated and discussed and informal meetings held.¹⁴⁴ In addition, the Senators' offices requested the lobbying groups to supply data and supporting material concerning specific new initiatives they intended to propose. Researchers and research organizations such as the Center for Applied Linguistics also were consulted for their views on the proposed legislation.¹⁴⁵ Senator Cranston thus sought material on state educational agencies and their current and potential involvement in promoting bilingual-bicultural education to justify his new provisions for state leadership development grants and direct funds of involved state agencies.¹⁴⁶ Senator Kennedy pressed the NEA and the AACJC for supporting documents regarding the need for teacher training and development.¹⁴⁷

While the interplay between Senatorial offices and outside education lobbyists continued through the introduction of legislation and changes in the legislation resulted from the lobbying, the basic innovations in the bills, according to the Senate staff, were conceived prior to any discussion with outside lobbyists. Staff memoranda in late 1972 seem to confirm this view.¹⁴⁸

The education lobbyists felt, however, that their influence had direct results on the proposed legislation.¹⁴⁹ The NEA and the AACJC stated that their position papers had

been fundamental in the development of the Senate bills.¹⁵⁰ The NSBA and the AFT also felt their influence had an impact at the staff level.¹⁵¹

After the introduction of the legislation, the education lobbying organizations then formally presented testimony at the hearing as well as helped to organize the hearing in conjunction with the ethnic groups and Senate staff. The structure of the hearing, however, was determined by the staff of Senators Cranston and Kennedy.¹⁵² The lobbying organizations were heavily involved in finding individuals who met the criteria as witnesses previously established by the Senators.¹⁵³

After the hearing and prior to the adoption of the Subcommittee amendment in December 1973, the outside lobbying groups were less involved. Obtaining agreement for a joint amendment was far more an inner Senate operation, involving negotiations among Senators and their staff.¹⁵⁴

However, after Subcommittee adoption, individual education organizations, reflecting their broader interests, focused on specific points of concern unique to their constituencies and lobbied to obtain changes usually with some response.¹⁵⁵

The CCSSO registered their concern in writing and in personal pleas to the Committee members and particularly to Senators Cranston and Kennedy because of the failure of the joint amendments to make state education agencies fully

eligible as recipients for funding teacher training programs or direct bilingual-bicultural programs. The CCSSO also wanted a sign-off prior to the approval of local education agency grant applications by the state agency. Although they did not obtain that veto power, CCSSO did obtain state agency eligibility for funding, as a last choice and after certain conditions had been met, conditions which made it unlikely that many state agencies would be funded unless they devoted substantial state resources to bilingual-bicultural education.¹⁵⁶

At one point, the AACJC wrote Senators Kennedy and Cranston to argue that junior colleges should be more clearly singled out as eligible partners in teacher training programs with a separate earmarking because they enrolled the largest percentage of Mexican American postsecondary students. The Director of one of the affiliates of the AACJC, the Spanish-speaking Fomento, felt that the junior colleges were too often overlooked even though they handled a larger percentage of minority students. Both Senators Kennedy and Cranston agreed to include junior colleges as eligible grantees but without earmarking and the legislation was altered accordingly.¹⁵⁷

The NSBA registered its objection to its failure to be included in the National Advisory Council being established by statute, to the increased mandate for community (parent-teacher) participation involved, and to the level

of Federal direction for the establishment of criteria for eligible programs.¹⁵⁸ According to the Cranston and Kennedy staff, the NSBA, reflecting a division within its constituency, also maintained the most negative attitude toward the Cranston-Kennedy amendment, while always asserting publicly its support for the concept of bilingual education.¹⁵⁹

Thus, of all the lobbying groups, the NSBA raised the two issues of "reverse discrimination" and "biculturalism" as threats allegedly presented by the amendment. The NSBA position paper on S. 1539 stated:

. . . NSBA views with particular alarm those provisions of S. 1539 which amend the Bilingual Education Act and establish a National Reading Improvement Program. . . .

. . . Before NSBA can support the bilingual amendments, more data would be needed to determine whether the manpower and dollars are available to operate a bilingual program of such breadth. . . .

. . . We note that the amendments require that children of limited English-speaking ability enrolled in bilingual programs be given priority preference for placement in courses such as art, music, and physical education. It may be that this requirement will result in unconstitutional reverse discrimination on the basis of national origin. . . . The definition of bilingual education programs is not entirely clear. Presumably, bilingual programs could be fashioned as a tool to assist children of limited English-speaking ability to join the predominant "cultural mainstream." However, it would also appear that the bilingual program could be fashioned as a tool to promote biculturalism--perhaps in the sense of the Canadian model. . . . 160

This position paper, distributed by the NSBA after Subcommittee adoption of the joint Cranston-Kennedy amendment but not discussed with the Senatorial offices, resulted in a sharp exchange between the office of Senator Kennedy

and the chief lobbyist of the NSBA. The Kennedy staff felt the assertions were molded by the desire of the NSBA--following a meeting with Administration lobbyists--to "gut the bilingual provisions."¹⁶¹ Several of the NSBA objections to the bill contained within the position paper were later acknowledged by the NSBA to be "erroneous interpretations" on their part of the provisions in the Subcommittee bill relating to enforcement and "nation-wide planning."¹⁶² Another objection NSBA raised concerned a provision authorizing the Commissioner of Education to promulgate model statutes for use by the states and guidelines for model programs. The objection was removed when the language was revised to emphasize the voluntary nature of state and local agency use of the models and a provision for comment by school boards on the models.¹⁶³

A subsequent letter from the NSBA supported the bilingual provisions of the Cranston-Kennedy amendment after the participation of the NSBA in the National Advisory Council also was provided.¹⁶⁴

The second groups, that of ethnically-based organizations, which influenced the Senate, included: the Raza Association of Spanish Surnamed Americans (RASSA)--whose name was changed in 1975 to National Congress of Hispanic American Citizens--largely representing Mexican Americans in the Southwest; the Puerto Rican Forum, the Puerto Rican Association for National Affairs (PANA), and ASPIRA, all

three representing the Puerto Rican community on the East Coast; and organizations representing Indian Americans and Asian Americans.

RASSA was the most actively involved organization. It was able to organize support for the legislation among the Mexican American community, the largest limited English-speaking ethnic group concerned with bilingual-bicultural education. Also, RASSA, as an umbrella lobbying organization for Hispanic groups in various fields, was able to draw support from Hispanic caucuses within the labor movement and from community groups, particularly groups in the Southwest. Therefore, RASSA acted to coordinate the Mexican American input into the hearing, finding individuals with expertise to testify on each of the panels designated by Senators Cranston and Kennedy. RASSA was involved initially with the Senatorial offices in the development of legislation, commenting on the draft bills before they were introduced. RASSA's interests ranged across all aspects of the legislation, with the overall goal of furthering bilingual-bicultural education.¹⁶⁵

RASSA also helped to produce supportive material, at times in response to requests from the Senatorial offices. For example, RASSA joined with NEA in obtaining data on the need for bilingual-bicultural teachers and provided this information to the Kennedy staff. Letters of support for the legislation also were organized by RASSA from other more

generally oriented Mexican American organizations, such as the G.I. Forum, a Hispanic veterans group.¹⁶⁶ In addition, RASSA prepared a position paper, "Bilingual-Multicultural Legislation" commenting on every aspect of the proposed bilingual-bicultural provisions which was circulated among the Senate staff. In the position paper, RASSA demanded an entitlement for all limited-English speakers for special programs which would be Federally-funded. While RASSA did not feel the entitlement concept would be included in the final legislation, the "radical demand" was included in the position paper in the hopes that it would help to create a dialogue at the Senatorial level of the needs of limited-English speakers.¹⁶⁷

Because RASSA was involved in the development of the legislation, it was aware of the changes occurring during the legislative process, and RASSA argued and lobbied against those changes which diluted in any way the thrust of the original legislation. RASSA also acted to filter some of the more dissatisfied expressions from Mexican Americans of any change in the original Cranston-Kennedy amendment, attempting to explain that some changes were cosmetic or that others had to be made to obtain approval of the more important provisions.¹⁶⁸

In addition, it was RASSA which urged Senators Kennedy and Cranston to accept Senator Montoya as a co-sponsor prior to the introduction of their bills.¹⁶⁹

RASSA, because it contained organizations with a heavy concentration of members in the Southwest, had more access to certain Senators--particularly ones up for re-election such as Senator Dominick of Colorado. According to one interview, under other circumstances, Senator Dominick might have been an opponent of the legislation.¹⁷⁰

The Puerto Rican Forum, PANA, and ASPIRA were involved largely through Senator Kennedy's office and Senator Javits' office because of the Puerto Rican community in Massachusetts and New York and because of previous political relationships between Senator Robert Kennedy and the New York Puerto Rican community, relationships which had continued with Senator Edward M. Kennedy.¹⁷¹

The Puerto Rican Forum, PANA, and ASPIRA received drafts of the Kennedy bill prior to its introduction; PANA and ASPIRA testified at the hearing; and all three commented on the Cranston-Kennedy amendment. The key provision these Puerto Rican groups wanted--an allocation requirement assuring a specific percentage of the total funds for the Puerto Rican community--was viewed as not possible. However, language calling for an equitable distribution of funds among the various ethnic groups was included in the legislation.¹⁷² An explanation of the proposed bilingual-bicultural legislation contained in the Senate Committee Report stated that the Puerto Rican community had been short-changed in the past distribution of Title VII monies.¹⁷³

The Indian American community had inputs into the process just prior to the introduction of the bills in October 1973. As chairman of a Special Indian Education Subcommittee, Senator Kennedy long had been involved in Indian American problems and was the author of the Indian Education Act. The Indian American community concerns related more to the control of bilingual-bicultural funds--with the Bureau of Indian Affairs or with community-controlled school boards--and the legislation emphasized the local school boards as the Indian-American groups desired.¹⁷⁴ Senator Cranston also was concerned with this aspect of the legislation since there were several large concentrations of Indian American communities in his state with bilingual-bicultural program needs. These Indian American groups contacted Senator Cranston, and the Indian Legal Services Program in California also communicated its views.¹⁷⁵ Representatives of Indian American tribes and associations testified at the hearing.¹⁷⁶ The language in Section 722 of S. 1539 entitled "Indian Children in Schools," was developed with the involvement of the Indian American community.¹⁷⁷

The one group with little direct involvement in the legislation, interestingly enough was the Asian American group, the group whose court action (Lau v. Nichols) probably was an important, although unquantifiable, favorable influence on the legislative process. The Asian American community provided a witness at the hearing, but other than their testimony, they had little direct input into the

legislative process.¹⁷⁸ The Asian American group had not been organized politically to the extent of the Mexican American or Puerto Rican groups nor did they have a strong permanent national lobbying organization.¹⁷⁹

The third group of special interest advocates seeking to affect the Senate position included: the U.S. Commission on Civil Rights, the Massachusetts State Department of Bilingual Education, the California Division of Bilingual Education and national labor organizations. A minor role was played by the National Advisory Council on Education Professions Development.

Each of these institutions, except the national labor groups and the National Advisory Council, had previous links to the offices of both Senators Kennedy and Cranston on the issue of bilingual-bicultural education. They were used as resources by both Senators to comment on the drafts of their original bills, to testify at the hearing, and to review the various drafts of the Cranston-Kennedy amendment before its adoption in the Subcommittee.¹⁸⁰ The U.S. Commission on Civil Rights was available at both Subcommittee and Full Committee levels for the most current data on limited English-speaking students, their needs and the availability of local, state and Federal resources to meet those needs.¹⁸¹

The Reports of the U.S. Commission on Civil Rights on the education of Mexican Americans had been a key

influence on Senators in their decision to act.¹⁸² Also, the staff of the U.S. Commission on Civil Rights interacted with the Mexican American lobbying groups and the education lobbying groups and were frequently requested to join in informal planning session on the legislation by the Kennedy and Cranston staff.¹⁸³

While the California and Massachusetts Bilingual Education Offices were used as resources, both Senators Cranston and Kennedy felt a need to obtain the support of their own State Department of Education for the legislation.¹⁸⁴ That positive endorsement would not be of great weight in convincing other Senators to support the provision but it would protect the Senators against any negative reaction from their own states which could be both damaging politically for them in their states and embarrassing to them in the context of their efforts within the Senate to obtain approval for their initiative.¹⁸⁵

The National Advisory Council on Education Professions Development, established by Congress under Public Law 90-35, had been charged by statute to review all Federal programs dealing with the training and development of educational personnel. The National Advisory Council communicated directly with the Full Committee on Labor and Public Welfare in April 1974 and informed Senator Williams of its "strong endorsement of the bilingual personnel training and development aspect of the 1974 Education Amendments."¹⁸⁶

The labor organizations which helped to organize support for the Cranston-Kennedy amendment were the United Auto Workers (UAW) and the American Federation of Labor - Congress of Industrial Organizations (AFL-CIO). Both labor groups coordinated their efforts with RASSA in lobbying those Senators who were supportive of the proposed education amendments either because of an awareness of the "labor vote" or a large concentration of limited-English speakers within their state.¹⁸⁷

The UAW, with a membership of 1.5 million, and the AFL-CIO with a membership of 13 million, had large numbers of limited English-speaking members who, along with their families, would be directly affected by bilingual-bicultural legislation. Thus, there was a feeling on the part of both labor groups that the issues were directly relevant to its members. Members of each also formed a Latino labor caucus which also was affiliated formally with RASSA.¹⁸⁸ There was a broader philosophical commitment as well since both groups felt they should be involved in a "broad range of social, political and educational issues."¹⁸⁹

As a result, the UAW and the AFL-CIO made special efforts to contact those Senators considered by RASSA to be more sympathetic on the "labor issues" than on the "bilingual-bicultural issues" contained within S. 1539.¹⁹⁰ In the case of the UAW, there was some hesitation to accept the bicultural aspects of the Cranston-Kennedy amendment

because of the fear that the provisions might produce "separation rather than integration in the schools." The UAW, however, never lobbied directly against the bicultural provisions as had the NSBA.¹⁹¹

The fourth and final group seeking to influence the legislation was the Administration of President Nixon. Surprisingly, the Administration had not focused on the bilingual-bicultural legislation being proposed until relatively late in the process. For many months, the Administration position favored no change in the original Title VII legislation and merely a one-year extension.¹⁹² This approach meant no involvement in the consideration of the original legislation, no request to testify at the hearing, and no real involvement in the legislative process until after the Subcommittee had adopted the Cranston-Kennedy proposal in December 1973.¹⁹³

However, by the time for Full Committee action on the joint proposal in March 1974 the Administration concern had been aroused on a number of fronts. In a memorandum circulated within the Office of Education, DHEW, the Administration's objections were set out. The Administration opposed the following aspects of the proposed legislation: the level of authorizations; the statutory creation of a National Advisory Council on bilingual-bicultural education; the language on research and the earmarking of NIE funds; the state leadership grant program and the fellowship programs; the

expanded definition of bilingual-bicultural programs; and the allocation formula which protected the existing \$35 million for local districts and only then permitted funds to go into bilingual teacher training and other personnel development.¹⁹⁴

Yet, it was not until after the Cranston-Kennedy amendment had been adopted at the Subcommittee level that the Administration began to organize. Letters to Senators Kennedy and Cranston from the Administration arrived discussing their position.¹⁹⁵ Republican Senators were advised of the Administration's position, and the Administration met with the principal education lobbying organizations to set forth its views.¹⁹⁶ But the Administration had an unusually difficult situation facing them in the Full Committee. Senator Javits was ranking Republican on the Full Committee; Senator Dominick was ranking Republican on the Education Subcommittee. Both Senators Javits and Dominick had large limited English-speaking constituencies and, more important, the conservative Coloradan was tied by the political constraints of a tough election campaign that year (which he lost) so that Senator Dominick would not carry the Administration position on the bill.¹⁹⁷

Essentially, the only real change the Administration pushed for and obtained was the altering of the earmarking of NIE's monies and the limitations of the dollar level of the authorization.¹⁹⁸ But again, the Administration was

banking on the Conference as the best forum to achieve its desired ends of limiting the program and diluting the pressure--virtually a mandate compared to the previous law, although less than in the original bills (S. 2552 and S. 2553) --for full bilingual-bicultural programs.¹⁹⁹

Summary and Conclusions

Chapter Four traced the development of the Senate bilingual-bicultural provisions. It followed the course of the legislation's maturation through the long process that began with informal discussions within the offices of the key Senators through the introduction of separate bills, by Senators Kennedy and Cranston in 1973, S. 2552 and S. 2553. It documented the political rationale for the introduction of separate measures and the early decision to combine both bills into a single amendment to be attached to the omnibus elementary and secondary bill of that year. In this chapter, the outside influences on the legislative process, including the formal and informal roles of lobbyists were noted. It then traced the actual steps which were followed in achieving a draft amendment that combined provisions of both bills and, ultimately, the formal process by which that amendment was adopted first by the Subcommittee on Education, later by the Full Committee on Labor and Public Welfare, and finally ratified in action by the full Senate.

As the Senate developed its bilingual-bicultural provision, major philosophical issues that related to the Federal role in bilingual education were debated. The resolution of those issues by the Senate was contained within the final measure it adopted as part of S. 1539 in May 1974.

Although the Senate did not retain the symbolic title of "bilingual-bicultural education" as some of its most outspoken advocates desired, the amendment did in fact assure an integral cultural component in all programs to be funded under the program. While it clearly bowed in the direction of the more traditional concept of bilingual-bicultural education as a transitional instructional method, the amendment permitted sufficient flexibility in the program so that linguistic and cultural maintenance also could be accomplished. The provision rejected the dichotomy of the service-oriented approach (funding local projects) versus the capacity-building approach (funding research) by expanding the funding for local projects and more clearly defining the terms of what would be acceptable projects under the program. However, it also initiated major Federally-supported capacity-building projects. Even with regard to the debate over whether the program was to continue as a demonstration program as contrasted with an entitlement program, the Senate did not quite accept the more limited role. The Amendment included a vast informational system to gather data and linked that procedure to a requirement that a plan for

providing Federally-funded bilingual-bicultural education services to all limited English-speaking children be developed. Rejecting the conservative position to limit the program to elementary school only, the Senate provision permitted projects from pre-school through high school, although it emphasized the elementary years as critical to the limited English-speaking students' learning development.

In these ways, the Senate resolved the basic philosophical issues concerning bilingual-bicultural education in an effort to fulfill its responsibility to assure equal educational opportunity to the limited English-speaking. How well it succeeded in persuading the House of Representatives can only be judged after examining the House position and the final legislation approved by the Conference Committee of both bodies.

CHAPTER FOUR INTERVIEW NOTES

Senators
(See Appendix K)

Alan Cranston, U.S. Senator from California.

Edward M. Kennedy, U.S. Senator from Massachusetts.

Senate Staff

(See Appendix L)

Gary Aldrich, Legislative Assistant to Senator Cranston.

Roy Millenson, Representative for Association of American Publishers, Inc., formerly Minority Staff Counsel to Subcommittee on Education, Senator Jacob Javits, Member.

Mark Schneider, Legislative Assistant to Senator Edward Kennedy.

Richard Smith, Professional Counsel, Committee for Full Funding, formerly Associate Counsel to Subcommittee on Education, Senator Claiborne Pell, Chairman.

Jonathan Steinberg, Counsel to Subcommittee on Human Resources, Senator Alan Cranston, Chairman.

Doris Ullman, Legislative Assistant to Senator Montoya.

Lobbyists and Other Groups

(See Appendix O)

Pepe Barron, Director, Spanish-Speaking Fomento: El Congreso Nacional de Asuntos Colegiales, American Association of Community and Junior Colleges.

Linda Chavez, Assistant Director, Department of Legislation, American Federation of Teachers.

Cecilia Cosca, Staff Director, Bilingual Education Study, U.S. Commission on Civil Rights. (on leave).

Manuel Fierro, President, National Congress of Hispanic American Citizens, formerly Executive Director, RASSA.

Greg Humphries, Co-Director, Department of Legislation, American Federation of Teachers.

Stanley McFarland, Director, Government Relations, National Education Association.

August Steinhilber, Assistant Executive Director,
National School Board Association.

Richard Warden, Legislative Director, United Auto
Workers.

Kenneth Young, Assistant Director, Department of
Legislation, American Federation of Labor.

Administration

(See Appendix P)

Charles Cooke, Deputy Assistant Secretary, Office
of Planning and Evaluation, Office of the Secretary, DHEW,
formerly Deputy Assistant Secretary for Legislation (Educa-
tion), Office of the Secretary, DHEW.

Kathy Truex, Executive Assistant, Office of Planning
and Evaluation, Office of the Secretary, DHEW.

CHAPTER FOUR NOTES

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CHAPTER FIVE

DEVELOPMENT OF THE HOUSE POSITION

Introduction

While the bulk of activity surrounding the development of the bilingual-bicultural provisions of Public Law 93-380 occurred in the Senate, there also was action in the House related to ESEA Title VII. Bills were introduced, hearings were held, amendments--although minor in nature--were adopted. These seemingly incidental events were part of a strategy devised and implemented to assist in the enactment of a major expansion of the Federal bilingual-bicultural program.

In the House, the strategy was one of "low profile," permitting the Senate to take the lead in bilingual-bicultural education, as it had in the enactment of the original law, but striving to avoid any negative legislative history which might prevent the House Conferees from accepting the Senate version. Thus, there was no extended debate on the philosophical issues surrounding the Federal role in bilingual-bicultural education during House consideration of H.R. 69, the Education Amendments of 1974. The bilingual-bicultural provisions of H.R. 69 were designed merely to

touch on the major areas of change contained in the Senate version---not to constitute themselves the substance of that change. The hearings, although helpful in the construction of a favorable climate toward an expanded Federal role in bilingual-bicultural education, were not part of the formal legislative history of H.R. 69. They began after final House Committee action on the bill and were aimed toward the larger issues of bilingual-bicultural education, issues that would not come to the fore in the House until the Conference with the Senate.

Chapter Five traces the development of the House position on the 1974 bilingual-bicultural education legislation and describes the role of key House members as well as the influence of House staff, lobbyists, the Administration and court decisions.

Initiation of House Position

The House staff maintained contact with their Senate peers during the months of September and October 1973 prior to the introduction of the Senate legislation. They agreed that it was likely that the Senate would adopt most of the major expansions proposed in the Senate bills.¹ The object of the bilingual-bicultural proponents in the House, where the ranking minority member on the Education and Labor Committee, Representative Albert Quie, Republican of Minnesota, was unlikely to support major expansions of the program and

where the negative attitude of the Administration would have greater weight, would be to avoid negative legislative history.²

The House proponents of bilingual-bicultural legislation hoped to achieve three specific goals: first, to avoid losing votes on bilingual-bicultural provisions; second, to obtain some modest amendments extending Title VII beyond the one year proposed by the Administration; and third, to create a favorable record that would justify adoption of the Senate provisions.³

The agreement on these goals was developed over the period of two months in which the Senate version was being developed and was firm by fall of 1973.⁴

House Bills H.R. 11464, H.R. 1085 and H.R. 2490

Introduced: October 1973 to January 1974

Between January 1973 and November 1973, nine bilingual-bicultural provisions were introduced into the House. The majority of the bills dealt with the area of bilingual-bicultural manpower training. Three of the bills, however, H.R. 1085, H.R. 2490 and H.R. 11464 had a different emphasis and were later chosen as the focus of the House hearings held in March 1974 on bilingual-bicultural education.⁵

The first bilingual-bicultural bill which provided a basis for later House hearings was H.R. 1085. It was introduced into the House on 3 January 1973 by Representative

Edward Roybal, Democrat of California and co-sponsored by James Corman, Democrat of California.⁶ Both Congressmen represented districts with large numbers of Spanish-speakers. Representative Roybal was a Mexican-American who felt a strong commitment to bilingual-bicultural education. Extremely limited in scope, H.R. 1085 simply called for "special appropriations for training teachers for bilingual education programs" with sums to be determined by Congress. However, no dollar amounts were authorized.⁷

The second bilingual-bicultural bill providing a basis for the House hearings was H.R. 2490, introduced on 18 January 1973 by Representative Sidney Yates, Democrat of Illinois. Also limited in scope, H.R. 2490 simply called for the removal of poverty as a criterion for Federal aid.⁸ Representative Yates' district in Chicago had some fifty thousand students who did not speak English as their first language--fully 9 percent of the children attending Chicago public schools. Representative Yates felt many of these students, although not meeting the \$3,000 income eligibility standards, had incomes very low relative to the city as a whole and had substantial educational deficiencies, linked to their limited English-speaking capabilities.⁹

The third bill, H.R. 11464, reflected the influence of the Kennedy-Cranston measures. By far the most extensive in scope, H.R. 11464 was introduced by Representative William Cohen, Republican of Maine, on 14 November 1973.¹⁰ Represen-

tative Cohen was concerned, particularly, because of statistics showing that 15 percent of the population of his state of Maine were native French-speakers.¹¹ In a statement during the hearings, Representative Cohen later declared:

According to the 1970 U.S. Census, Franco-Americans constitute the sixth largest minority group in America. . . . The Franco-Americans were ranked second from the list ahead of Spanish-Americans. . . the drop-out rate is dangerously high. It is 12 percent higher than the national average.¹²

Representative Cohen continued by stating that "until 1969, Maine state law prohibited the teaching of Franco-American children in their native language even though in many cases the children entering school had never spoken English."¹³

Thus, H.R. 11464, the Comprehensive Bilingual Education Act, was introduced to expand and improve programs of bilingual-bicultural education, teacher training and child development. H.R. 11464 defined the term "program of bilingual education" as a "full-time program of instruction of children who speak primarily a language other than English. . . in which there is instruction. . . in all courses or subjects of study. . . in both the native language of the child and English. . . ." ¹⁴ The study of history and culture with which the child's language was associated also was included. As in the Senate bills, H.R. 11464 provided for the inclusion of English-speaking children who desired to participate in the program.¹⁵

The Cohen bill extended the authorization for bilingual-bicultural programs for four years--\$135 million for each fiscal year.¹⁶ The bill stressed the capacity-building programs such as teacher-training and curriculum development in addition to the more traditional classroom-based model teaching projects. H.R. 11464 also suggested a change in the legislative language from the use of the phrase children of "limited English-speaking ability" to children "who speak primarily a language other than English."¹⁷

Regarding the duration of programs, grants would be made to local educational agencies to develop programs from the preschool through secondary levels, excluding post-secondary programs.¹⁸ The bill also provided for state supervision of programs with the states providing at least 25 percent of the funds for the Federally-funded programs.¹⁹

The Comprehensive Bilingual Education Act, H.R. 11464, called for the establishment of a Bureau of Bilingual Education headed by a director appointed by the Commissioner of Education.²⁰ H.R. 11464 also mirrored the Senate measures in proposing the establishment of a National Advisory Council on Bilingual Education comprised of fifteen members and required to make a yearly report to the Commissioner of Education.²¹

While the National Institute of Education (NIE) was charged with conducting research in the area of bilingual-bicultural education, no specific funds were allocated under

H.R. 11464 for this purpose as they were in the Senate provisions.²²

The three bills, H.R. 1085, H.R. 2490, and H.R. 11464 were referred to the Full Committee on Education and Labor. None of the sponsors of those measures were members of the Full Committee on Education and Labor. Thus, the influence of the sponsors of the bilingual-bicultural bills on the development of the House position was negligible when contrasted with the Senate situation. Committee members, according to interviews, have more input into the development of a particular bill since they participate in hearings on the bill, have the chance to participate in mark-up sessions at the Subcommittee and Full Committee level and, at times, to attain the House-Senate Conference. In the Senate, the sponsors of the major bilingual-bicultural bills were members of the Full Labor and Public Welfare Committee and its Subcommittee on Education. The Senate sponsors could and did suggest amendments at the mark-up sessions and argue forcefully for their provisions. In the House, the sponsors of bilingual-bicultural bills were not members of the Committee with legislative jurisdiction for education bills and, therefore, did not have access to the development process of the bill.²³

Committee Action on Bilingual-Bicultural Education:
August 1973 to December 1973

During the numerous mark-up sessions on H.R. 69, the Education Amendments of 1974, of the Full Committee on Education and Labor and the General Subcommittee on Education, held from January 1973 to February 1974, the Title VII provisions which related to bilingual-bicultural education, received little consideration. Rather, debate on H.R. 69 and the amendments offered at the Subcommittee and Full Committee level focused on other provisions of the bill--the formula for distributing funds under Title I (compensatory education), busing, impact aid and the questions of student and parental rights.²⁴

Committee consideration of H.R. 69 began soon after the bill was introduced in January 1973, but no mention was made of the needs of limited-English speakers or programs of bilingual-bicultural education until August 1973.²⁵ Issues of eligibility, the poverty clause and the definition of the term "educationally deprived" as it related to Title I dominated the Committee discussions. These issues also affected the position on bilingual-bicultural education adopted by the House. The Subcommittee treated Title VII in an identical manner to Title I by extending the program for four years.²⁶

On 3 August 1973, at a mark-up session of the General Education Subcommittee, Representative Quie offered an

amendment to Title I to clarify the term "educationally deprived children" to include "children whose disadvantage results from physical or mental handicap or from a lack of facility in the English language. . . ." There was a general discussion by the Subcommittee members on "educationally disadvantaged," but members evidenced a lack of awareness of the language of the provisions of Title VII which had been designed to meet the needs of limited English-speakers. Representative Quie directed his staff, the Minority Senior Educational Consultant, Christopher Cross, to provide a copy of the existing Title VII statute to the members present.²⁷

On 27 November 1973, the first of two amendments to the Bilingual Education Act was offered to the Full Committee on Education and Labor by Representative Shirley Chisholm, Democrat of New York and Representative Alphonzo Bell, Republican of California.²⁸ Both had large Spanish-speaking constituencies. Representative Chisholm, one of the strongest supporters in the House of a full bilingual-bicultural program and a fluent Spanish-speaker herself, had observed the development of the Kennedy and Cranston bills in the Senate. Representative Chisholm's staff had worked closely with the staff of Senators Cranston and Kennedy in the development of the Senate bills.²⁹

Representative Bell, the ranking minority member on the General Education Subcommittee, stated during an interview

that he also had a strong commitment to bilingual-bicultural education.³⁰ As the only Republican member on the Subcommittee to support the original 1976 ESEA Title VII legislation in the House, Representative Bell and his staff had monitored the impact of Federal bilingual-bicultural education programs in his state of California. Representative Bell worked in his Los Angeles district successfully to repeal a Los Angeles County ordinance prohibiting the use of a language other than English in the public schools.³¹

Representative Bell had rejected the 1972 Administration request that he sponsor their initial proposal to consolidate all Federal categorical programs--including Title VII--in one general aid program. In addition, the Administration asked Representative Bell to introduce their 1973 proposal to extend Title VII for one year only. Representative Bell also refused to introduce this Administration proposal, since he supported the four-year extension of Title VII included in H.R. 69.³² Instead, Representative Bell argued successfully for separating Title VII from the consolidation package which he introduced for the Administration in March 1973 entitled the Better Schools Act. The Administration agreed to exclude Title VII since it needed Representative Bell's support as ranking minority member on the Education Subcommittee.³³ Thus, the continuation of Title VII as a categorical program was assured and Representative Bell later joined Representative Chisholm in the

introduction of an amendment seeking a modest addition to the Federal bilingual-bicultural provisions.³⁴

The Chisholm-Bell amendment, however, was not in itself a strong statement on bilingual-bicultural programming and implementation, nor did the bill discuss the need for such programs.³⁵ The reasons for the scaled-down amendments presented to the Full House Committee were twofold: first, Representative Chisholm felt that broad-based support from House Committee members on the need for extensive bilingual-bicultural programs was lacking and a defeat of a bilingual-bicultural provision at the Full Committee level in the House would have destroyed all possibility for the inclusion of such a provision when the bill reached the House floor; second, Representative Chisholm felt the most realistic possibility for achieving an expansion of Title VII lay in having the House Conferees at the future Conference accept the far more comprehensive Senate provisions.³⁶

Thus, Representatives Chisholm and Bell presented little more than a technical amendment--proposing minor changes in the legislative language--at the Full Committee and avoided any of the philosophical debate that had been present in the Senate Subcommittee sessions on bilingual-bicultural education.³⁷

Both Representatives Chisholm and Bell emphasized the fact that their joint amendment was the product of a bipartisan effort. In a "Dear Colleague" letter sent to the

members of the Full Committee, Representative Bell stated, "These amendments, which I will offer en bloc, have been drafted on a non-partisan basis with contributions from both the Administration and the bilingual education community."³⁸ In a memorandum to Representative Chisholm from her staff, the strategy behind the Chisholm-Bell amendments was explained. The memorandum stated:

The point to stress is that this package of amendments is the product of a bipartisan effort. There has been input from both outside groups, members of the majority and minority and the Administration. In fact, two of the amendments were proposed by the Administration. All of the above were run by the majority and minority counsels, Jack Jennings and Chris Cross.

They are not major amendments authorizing large new chunks of money--although members of the majority and minority are interested in working to secure more equitable appropriations for Bilingual Ed and teacher training--nor will they initiate a dramatic departure or change in direction from existing law. They are merely technical amendments designed to make the bilingual program more flexible.³⁹

The substantive changes included in the Chisholm-Bell amendment allowed for increased flexibility in the operation of bilingual-bicultural programs.⁴⁰ The changes included the following: first, to give the Commissioner of Education, Office of Education, Department of Health, Education and Welfare (DHEW), the authority to establish criteria for bilingual-bicultural education programs in schools having a major need for such programs after the needs of poverty concentration areas had been met (a provision desired by the Administration and a provision

identical to the Yates bill, H.R. 2490; second, to permit more than one local educational agency to join with an institution of higher education in application for a grant; third, to specifically underscore the inclusion of junior and community colleges in the definition of institutions of higher education; and fourth, to permit public or non-profit private agencies to be eligible for research and development grants and projects to disseminate bilingual-bicultural educational materials, (a provision desired by the Administration and one which also was contained within the Cohen bill, H.R. 11464).⁴¹

During the next meeting of the Full Committee on 4 December 1973, there was an explanation of the Chisholm-Bell amendment offered by the sponsors. Representative Quie raised objections to specific sections and presented his own amendments, the second time amendments to the bilingual-bicultural education title were offered during the Committee sessions.⁴²

Representative Quie, while accepting the other provisions in the Chisholm-Bell amendment, raised one technical objection to the teacher training section of the amendment. Representative Quie felt the basic intent of Title VII was to limit Federal assistance to the elementary and secondary levels. Therefore, Representative Quie felt that teacher training programs should be a cooperative venture between the local agency and institutions of higher education

excluding community and junior colleges, not programs undertaken by the institutions of higher education alone. Thus, Representative Quie offered an amendment to strike the section from the Chisholm-Bell amendment allowing "an institution of higher education (including a junior or community college) from acting alone."⁴³

Representative Quie's position, stated during an interview, reflected his view that the Federal role in bilingual-bicultural education should be a limited one, supporting only short-term transitional assistance for limited-English-speakers. Language maintenance was a responsibility of the community and state agencies, rather than a Federal responsibility. However, Representative Quie stated that because of the great need of limited English-speakers, it would be necessary for a limited period of time for the Federal government to fund local model programs until state and local agencies take over the full responsibility. In each instance, his attitude was to restrict efforts to expand the Federal role.⁴⁴

Representative Chisholm replied to Representative Quie's objection, arguing that the Chisholm-Bell amendment did not mandate a single approach. Instead, Representative Chisholm argued the amendment would insure more flexibility in the use of funds for training of bilingual-bicultural personnel. Moreover, Representatives Chisholm and Bell stated that institutions of higher learning applying for a grant

would have to follow the criteria established by the Commissioner of Education and thus would not be working alone.⁴⁵

Representative Chisholm objected to the Quie amendment and stated:

. . . The record definitely stipulates and definitely shows that junior and community colleges, which is the particular section that Mr. Quie wants to strike, have not been making these applications, and that seventy percent of those for whom the program will be beneficial attend these junior and community colleges.⁴⁶

After further discussion of the wording, Representatives Chisholm and Quie agreed to compromise wording that stated:

. . . a grant under this subsection may be made to a local educational agency or agencies, to an institution of higher education (including a junior or community college) applying jointly, with one or more local educational agencies, in such a manner and containing such information as the Commissioner deems necessary.⁴⁷

Thus, the Chisholm-Bell amendment as changed by the Quie amendment included community and junior colleges in the definition with the stipulation that those institutions work with local agencies. It was agreed to by the Full Committee on 4 December. This was the only extended discussion on bilingual-bicultural education to occur at the Committee level in the House.⁴⁸ The Committee concluded its deliberations on 5 February, and issued the House Committee Report 93-805 in mid-February 1974.⁴⁹

The House Committee Report:
February 1974

The Full Committee on Education and Labor held mark-up sessions on H.R. 69 during twenty-one days between 11 September 1973 and 5 February 1974, at which time the bill, amended in the nature of a substitute, was ordered reported to the House by a vote of thirty-one to four.⁵⁰ Before the House Committee Report was issued on 21 February 1974, several events occurred which influenced the House position on bilingual-bicultural education.

The first event was the landmark Lau v. Nichols decision. In a statement on the House floor, Representative Thomas Railsback, Republican of Illinois, spoke of the impact of the Lau v. Nichols decision. Representative Railsback stated:

Just last month, the Supreme Court held that Federal civil rights laws requires San Francisco public schools to take steps to insure that the nearly 3,000 non-English-speaking children are equipped with language skills to profit from their required attendance in school. . . .

Fortunately, there is also a commitment on the part of Congress to implement bilingual education programs in the national schools. . . .⁵¹

Another manifestation of increased House interest in the issue of bilingual-bicultural education was seen by the drafting of two joint resolutions, H.R. Res. 883 and H.R. Res. 884, introduced on 39 January 1974. The resolutions, sponsored by twenty-seven Representatives, proclaimed the week of 13 May 1974 to be "Bilingual Education Week."⁵²

An annual "International Bilingual-Bicultural Education Conference" would be held in New York as well.⁵³

House Committee Report 93-805 on the Elementary and Secondary Education Amendments of 1974 contained a very brief discussion of the House position on bilingual-bicultural education and a copy of the proposed House Title VII amendment. The House Committee Report essentially restated the definition presented in the original Title VII legislation and is shown in Appendix E. The House Committee Report stated:

Bilingual education involves the use of two languages, one of which is English, as the media of instruction in a comprehensive school program. There is evidence that use of the child's mother tongue as a medium of instruction concurrent with an effort to strengthen his command of English acts to prevent retardation in academic skill and performance. The program is also intended to develop the child's self-esteem and a legitimate pride in both cultures. Accordingly, bilingual education normally includes a study of the history and culture associated with the mother tongue.⁵⁴

The Report continued by listing the distribution of 1973 Title VII funds among the states as well as documenting the need for additional programs. Data collected by the U.S. Commission on Civil Rights also was included.⁵⁵

The House Committee Report presented the House position and explained the four proposed changes in Title VII legislation. The first change related to Congressional appropriations of \$135 million for four fiscal years. The House Committee Report stated:

The Committee believes that the basic problem with Federal efforts does not relate to the programmatic substance of the authorizing legislation. Rather, it is the failure to provide adequate funds for the program. The committee, however, has recognized that some improvements must be made in the authorizing legislation.⁵⁶

The second change in the proposed bill incorporated the removal of the poverty clause desired by the Administration and included by Representative Yates in H.R. 2490. However, the House Committee Report did reiterate the need to serve the poorest children first. The Report declared:

This amendment allows a school district to fund programs in schools other than those with the poorest children if the needs of students in schools with the high concentrations of poor children have been fully satisfied. The Commissioner of Education is to publish criteria by which school districts are to provide services for the poorest first before they can move to progressively higher income groups. There has been a particularly severe problem in the nation's large cities where few families meet the strict income requirements in the present law, while many families are extremely poor relative to income levels of those cities.⁵⁷

The third change in the House bill incorporated the compromise between the Chisholm-Bell and Quie Amendments offered during Committee sessions which included junior and community colleges in the definition of institutions of higher learning although applications would have to be made jointly with a local educational agency.⁵⁸

The fourth change in the proposed House bill was incorporated from the Cohen measure, H.R. 11464, authorizing additional funds for research and capacity-building programs,

a provision also desired by the Administration. The House Committee Report explained:

The Committee has also adopted an amendment authorizing the Commissioner to make grants from bilingual education funds to any public or non-profit agency for the purpose of operating research and demonstration projects, projects designed to disseminate instructional materials, and programs designed to provide pre-service or in-service training. These amendments have been adopted with the idea of giving the Office of Education sufficient flexibility to provide programs which can better meet the special needs of the children for whom they were intended.⁵⁹

The House Committee Report also discussed the data presented by the U.S. Commission on Civil Rights on the need for more adequately trained bilingual-bicultural teachers.⁶⁰ Moreover, the House Committee Report noted that the Advisory Committee first authorized under Section 708 of Title VII had not been appointed until 4 January 1974, and had not held its first meeting until 10 January 1974.⁶¹ Regarding the failure to include the Advisory Committee in the development of the regulations placed in the Federal Register on 1 October 1973, the Report stated that this failure "clearly opens O.S. to a lawsuit on its lack of compliance with Section 708(b)."⁶²

Finally, the House Committee Report on bilingual-bicultural education concluded by mentioning the implications of the Lau v. Nichols decision and the need for further hearings on the Federal role in bilingual-bicultural education. The House Committee Report stated:

The committee is cognizant that the landmark Lau v. Nichols decision will have far-reaching ramifications for all of the school systems serving children whose native tongue is other than English. In light of this, the committee recognizes the urgent need to hold oversight hearings to review existing authorizations and current appropriation levels, for bilingual education as well as the interrelationship between the various Federal programs.⁶³

A letter requesting oversight hearings--examinations by the Committee with legislative jurisdiction to determine how a particular law is working--on bilingual-bicultural education and the implications of the Lau v. Nichols decision was sent to Chairman Carl Perkins in February 1974, and was signed by the eight members of the Full Committee with large Spanish-speaking constituencies: Representative Herman Badillo, Democrat of New York; Representative Bell; Jaime Benitez, Resident Commissioner, Democrat of Puerto Rico; Representative Chisholm; Representative William Lehman, Democrat of Florida; Representative Lloyd Meeds, Democrat of Washington; Representative Patsy Mink, Democrat of Hawaii; and Representative Dominick Daniels, Republican of New Jersey.⁶⁴ The letter stated:

. . . While the greatest impact will be upon those communities with large concentrations of Spanish speaking citizens, the Lau v. Nichols decision will also have a profound impact upon those school systems serving French, Chinese, American Indians, Eskimos and the 20 other language groups now receiving instruction under bilingual programs.⁶⁵

While the eight Representatives realized it would be impossible to hold hearings on bilingual-bicultural education before ESEA Title VII was considered on the House

floor in March, the House Committee members believed "it would be very important to hold oversight hearings before we go to conference committee so that we may make recommendations appropriate to the circumstances raised by the Lau decision."⁶⁶

Some of the points the eight Representatives believed ought to be covered in the hearings also were stated in the letter. The areas included the following:

. . . the need for increased appropriations for the training of bilingual teachers under EPDA, the need for increased appropriations for Title VII of ESEA and the need to allocate some ESEA resources to those schools with concentrations of students requiring bilingual instruction. We would also like to follow up the inquiry you initiated with Commissioner of Education, John Ottina in your letter of October 31, 1973 regarding the attempt of the Office of Education to terminate projects initiated under the Bilingual Education Act after five years and the lack of consultation with the appropriate advisory committee in the preparation of the new Bilingual guidelines.⁶⁷

House Hearings: March 1974 and May 1974

Using the House Committee Report as a mandate to further investigate the need for and effectiveness of Federal bilingual-bicultural education programs, the House General Subcommittee on Education held six days of oversight hearings in March 1974 in Washington, D.C. and one day of hearings in May 1974 in New York City.⁶⁸

The House hearings were organized by Representatives Chisholm and Bell. In this instance, as in many others,

members with a strong interest were permitted, within limits, to structure hearings covering their particular concern, in exchange obviously for loyalty to the Chairman at critical moments. Representative Chisholm and her staff interviewed the witnesses, directed their testimony at the issues they wanted discussed, and met with lobbyists for ideas and for obtaining witnesses.⁶⁹

Other members of the Subcommittee who played an active role in the hearings were Representative Meeds, Representative Badillo, Representative Lehman, Representative William Steiger, Republican of Wisconsin, and Representative Peter Peyser, Republican of New York. Active participants in the hearings and in the Full Committee on Education and Labor were Representative Perkins, Chairman of the Full Committee, Representative Quie, Representative Mario Biaggi, Democrat of New York, and Resident Commissioner Benitez.⁷⁰

The staff of Representative Chisholm, as well as witnesses, felt that the House oversight hearings provided a more extensive inquiry into the question of the need and the Federal role in bilingual-bicultural education than the Senate hearings.⁷¹

The reasons given were twofold: first, the House devoted seven full days to the issue of bilingual-bicultural education and heard from sixty witnesses; second, witnesses stated they were given more time to prepare testimony, and they were better prepared to address the fundamental issues.⁷²

The sixty witnesses invited by Chairman Perkins, although in reality chosen by Representatives Chisholm and Bell, included: members of Congress; Administration representatives including key personnel from DHEW; the U.S. Commission on Civil Rights; directors of local and state bilingual-bicultural programs; lobbyists representing various limited English-speaking ethnic groups; education lobbying organizations; teachers and principals working in bilingual-bicultural programs; and academicians doing research in bilingual-bicultural education.⁷³

During the hearings, the major philosophical questions debated in the Senate--the question of transitional (the fastest possible acquisition of English language competence without regard to cultural or language preservatives) versus maintenance (preservation of the native language and native culture), the appropriate Federal role in bilingual-bicultural education and the duration and type of programs to be Federally funded--were raised.⁷⁴

The Subcommittee hearings had three purposes according to the opening remarks of Representative Meeds: first, the Subcommittee was interested in learning more about the Lau v. Nichols decision and in understanding the effects of that decision on local school districts and on the states; second, the Subcommittee would hear testimony on the effectiveness of the various federal programs providing assistance for bilingual-bicultural education, whereby attention

specifically would be directed to an examination of ESEA Title VII programs and the bilingual-bicultural programs authorized by the Emergency School Act, and, finally, the Subcommittee would hear views on the purposes and direction of bilingual-bicultural programs and on the role of the Federal Government.⁷⁵

On the second day of hearings, 14 March 1974, Representative Quie brought up a fundamental issue: the role of the native language in a child's first introduction to school. Representative Quie spoke of his own experience as a limited-English speaker:

. . . Norwegian was my first language. At school we were not allowed to speak in Norwegian except at recess. But eventually we did learn to speak English with all those Yankees, just by association. Then there were the people of Greek, German extraction who had to learn Norwegian so they could sell to the Norwegians. I wonder what would have happened had they continued to teach Norwegian in the schools?⁷⁶

Representative Quie also questioned the role of the Federal government to provide service-oriented programs at the local level. Representative Quie declared:

. . . We had dyslexic problems in my own family --but it seems to me the interest ought to develop on the local level. I think the Federal Government ought to assist, but for the Federal government to continue paying for a program such as this, it would be an enormous cost. It ought to be a local responsibility and the Federal Government ought to stimulate it. It seems to me eventually the States are going to have to recognize the need locally and be able to put up the money and at least they are not as far in debt as the Federal Government is.⁷⁷

A witness, Rosa Guas de Inclan, Chairlady of the National Advisory Committee on the Education of Bilingual Children, Office of Education, DHEW, testified of the need for a strong Federal mandate allocating funds for bilingual-bicultural education.⁷⁸ In a statement before the House Subcommittee members, Inclan discussed the need for higher appropriations. Inclan declared:

. . . You people who are making the laws of the Nation cannot afford to let this go by. You have a commitment to your constituencies and to the United States of America to make sure that the Federal Government provides for bilingual education everywhere that it is needed and by a measly \$35 million, you do not minister to the millions and millions of children who need bilingual education in this Nation. It takes at least \$300 million, they way it stands, to provide bilingual education in the highest populated school districts, where the largest concentrations of, say, Spanish, French children are concerned.⁷⁹

The next three days of hearings, 19 March, 21 March, and 27 March, saw the Subcommittee focus on the effectiveness of the various Federal programs providing assistance for bilingual-bicultural education programs. Perhaps most directly related to the legislative debate on bilingual-bicultural education was the testimony of Manuel Fierro, Executive Director of RASSA. Fierro began his testimony by presenting a detailed analysis of S. 1539, the Senate amendments to Title VII of ESEA. Fierro urged the Subcommittee members to support the bilingual-bicultural provisions contained in S. 1539 when H.R. 69 reached the Conference Committee. In addition, Fierro presented specific

recommendations to the Subcommittee which included the following: the development of a Federal philosophy of bilingual-bicultural education; the articulation of objectives and purposes by the Office of Education, DHEW; the strengthening of curriculum development through the establishment of a National Center for Bilingual Education; the recognition of the implications of the Lau v. Nichols decision on the Federal role, and the importance for more research in the field of bilingual-bicultural education.⁸⁰

The U.S. Commission on Civil Rights also submitted a position paper at the hearings in support of the Senate provisions.⁸¹ Moreover, the staff of the U.S. Commission on Civil Rights worked closely with House members in providing data needed to justify the expansion of the bilingual-bicultural programs.⁸² At this time, Representative Badillo stated the willingness of the Subcommittee members, including Chairman Perkins based on the testimony in process, to give "full consideration" to the bilingual-bicultural provisions of S. 1539 in the subsequent Conference with the Senate.⁸³

The sharpest exchange on the questions of the appropriate Federal role in bilingual-bicultural education, on the maintenance versus the transitional role of bilingual-bicultural education, and on the ESL versus the bilingual-bicultural approach occurred after Fierro's testimony. Representative Quie's strong position of the responsibility

for the local and state agencies to finance the cost of bilingual-bicultural programs was restated during the hearings.⁸⁴ According to Representative Quie, the main goal of Federally-funded programs should be to teach English to limited English-speakers. Moreover, Representative Quie reiterated his concern that the bicultural component of bilingual education would lead to separatism, not integration.⁸⁵

The House General Subcommittee on Education also held one day of hearings in bilingual-bicultural education in New York City on 19 May 1974. The stated purpose of the hearing, according to Representative Badillo, was to investigate the need for bilingual-bicultural programs in the state of New York.⁸⁶ According to the staff of Representative Chisholm, pressure was exerted by Representative Badillo to hold a hearing in New York since he was up for re-election that year, his first campaign following his defeat in the Democratic mayoralty primary the year before. The Chisholm staff agreed to Representative Badillo's request although felt that holding hearings in New York took time away from the main goal in May 1974 of educating all the members of the Subcommittee to the need for expanding Federal legislation.⁸⁷

Other members of the Subcommittee from New York present at the hearings were Representative Chisholm, Representative Peter Peyser, Republican of New York, and Representative Biaggi, a member of the Full Committee.

Representative Bella Abzug, Democrat of New York, not a member of the Subcommittee, was also a participant.⁸⁸

In his opening statement at the hearings, Representative Biaggi, an Italian American who represented a district with a large concentration of Italian Americans, stated that the Federal bilingual-bicultural program had excluded a "large number of important language groups."⁸⁹

Representative Biaggi stated:

There are no programs for Italian-Americans funded by the Federal Government today anywhere in the country. There are no programs for Americans of Greek origin funded by the Federal Government today anywhere in the country. There are no programs for Russian or Polish Americans funded by the Federal Government today anywhere in the country.⁹⁰

Other witnesses who testified for the need for bilingual-bicultural programs included teachers and administrators from New York schools, representatives from the New York State Board of Education, coordinators of Spanish American and Asian American bilingual-bicultural programs, and the Executive Administrator of the New York City Office of Bilingual Education.⁹¹

Although the House hearings had no effect on the specific provisions of the House bill, the result of the hearings was to create a House record supporting bilingual-bicultural programs, in general, and, specifically, the concept and provisions contained within the Senate bill. According to an interview with Representative Steiger, the House hearings provided a positive legislative history.⁹²

House Adoption of Education Amendments:

March 1974

While the hearings were under way, the House debate on H.R. 69 also took place. Beginning on 12 March 1974 the House debated H.R. 69 through 27 March 1974.⁹³

In a brief colloquy previously agreed to Representative Badillo noted in an interview that he introduced amendments which essentially substituted the Senate bilingual-bicultural provisions for the House bilingual-bicultural provisions. Then after receiving verbal assurances from Chairman Perkins of full consideration of an expanded bilingual-bicultural program in Conference, Representative Badillo withdrew those amendments.⁹⁴

This colloquy on 27 March, reprinted in Appendix F, once more reflected the overall House strategy of the bilingual-bicultural proponents to secure a positive legislative history concerning bilingual-bicultural education. The key objective was attained when Chairman Perkins said that "an expansion of bilingual education programs will be given full consideration. . . including during the Conference on the pending legislation."⁹⁵ That statement by Chairman Perkins was a major goal of Congressman Badillo and had been previously agreed to by Chairman Perkins. It also permitted Representative Badillo to introduce floor amendments to satisfy the ethnic lobbyists without risking sure defeat.⁹⁶

That discussion was the only time the House focused attention on the bilingual-bicultural provisions during the

debate on H.R. 69 itself. However, Representative Badillo and three other Representatives submitted supplementary statements supporting bilingual-bicultural education.⁹⁷

On the day the House initiated debate on H.R. 69, Representative Patricia Schroeder, Democrat of Colorado, submitted a statement into the Congressional Record supporting action in the Senate and House to continue Title VII programs. Representative Schroeder stated:

. . . Both the House and Senate Education Committees, in their consideration of renewal legislation for the Elementary and Secondary Education Act, have added provisions to strengthen the title VII bilingual education effort. H.R. 69 has set the fiscal year 1975 authorization level for title VII at \$135 million. This effort is for naught, though, unless we can insure that the programs are administered effectively.⁹⁸

Representative Schroeder also criticized the Administration for attempting to cut back funding for bilingual-bicultural programs. Representative Schroeder declared: "Although Congress clearly intended more than a token effort authorizing \$400 million to be spent over a six-year period, only a small portion of the authorized funds have been expended by the administration."⁹⁹

On 27 March 1974, in the final statement on the House floor prior to the vote on H.R. 69, Representative Don H. Clausen, Republican of California, included a statement supporting the proposed bilingual-bicultural education legislation. Representative Clausen declared:

The bilingual education assistance effort is expanded by H.R. 69 and this provision will have my full support. Bilingual education is becoming more commonly recognized as an essential element of any curriculum which serves children of limited English-speaking ability. . . .

We have had some success with bilingual programs, but an enormous, unmet need remains. Growing recognition of the need both within and outside the academic community will contribute to greater appreciation of the necessity for this effort.¹⁰⁰

The House passed H.R. 69 by 380 to 26 on 27 March 1974.¹⁰¹ On the day of House passage, Representative Roybal made a general statement in support of bilingual-bicultural education criticizing the Administration's budget requests and urging additional funding, but without reference to H.R. 69.¹⁰² Representative Roybal who had co-sponsored one of the original bilingual-bicultural bills, H.R. 1085, was not actively involved during the development of the bilingual-bicultural provisions in the House since he was not a member of the Committee on Education and Labor. Instead, Representative Roybal, a member of the Appropriations Committee, concentrated his efforts on increasing Federal appropriations for bilingual-bicultural programs.¹⁰³

In the interim between House passage and the Conference, the main House supporters of Federally-funded bilingual-bicultural programs made House floor statements on the issue. These statements by Representatives Chisholm, Meeds, Don Young, Biaggi, Badillo and Representative Charles Rangel, Democrat of New York, however, did not discuss the

proposed Senate or House legislation. The focus, instead, was on the need for bilingual-bicultural programs and the evidence from the hearing testimony on the continued lack of adequate programs to meet that need.¹⁰⁴

Following Senate action on 20 May 1974, the House formally declined to accept the Senate version, and on 5 June 1974, requested a Conference, naming as Conferees eight Democrats and five Republicans all from the Full Committee on Education and Labor.¹⁰⁵

Lobbyists and Other Influences on the
House Legislative Process

As in the Senate, outside interest groups sought to influence the House position on bilingual-bicultural education. However, much of the discussion with House staff and with House members was tangential to the main lobbying effort which was concentrated on the Senate. (See Chapter Four, section on Lobbyists.)

As part of the overall lobbying on the other issues contained within the Elementary and Secondary Amendments, the National Education Association (NEA), American Federation of Teachers (AFT), American Association of Community and Junior Colleges (AACJC), National School Board Association (NSBA), and Council of Chief State School Officers (CCSSO) indicated their support for extension and expansion of Title VII.¹⁰⁶ The focus of effort on bilingual-bicultural

provisions settled on Representative Chisholm, Representative Badillo, Representative Bell, and the lobbyists supported the technical amendments that Representatives Chisholm and Bell felt they could win acceptance for in the House Education and Labor Committee.¹⁰⁷

With the Senate Subcommittee adoption of the Cranston-Kennedy amendment in December 1973 and the clear indication that the amendment would be ratified by the Full Senate Committee on Labor and Public Welfare, an initial effort was made by the Rasa Association of Spanish Surnamed Americans (RASSA) and the American Federation of Labor (AFL-CIO) to determine the possibility of action in the House beyond the Chisholm-Bell amendments.¹⁰⁸ The interested members of the House Committee decided not to risk a defeat in Committee, where even the Chisholm-Bell amendments had produced sharp questioning from Representative Quie.¹⁰⁹ The explorations continued, however, even after the Full Couse Committee concluded its actions. Prior to House floor action, RASSA Executive Director Manuel Fierro and the AFL-CIO chief lobbyist on the bill, Kenneth Young, met with the chairman of the House Education and Labor Committee Carl Perkins to determine his views and to urge his support for more extensive bilingual-bicultural amendments.¹¹⁰

Representative Perkins expressed his strong objection to any floor amendments on that subject, while asserting his full support for bilingual-bicultural education and

his generally sympathetic attitude toward the Senate provisions.¹¹¹ However, Chairman Perkins declined to give a firm commitment that he would support acceptance of the Senate provisions in Conference.¹¹²

At that point, RASSA attempted to influence the outcome of the legislation. First, RASSA sent out a packet of information on the status of bilingual-bicultural education legislation in the Senate, House, and the Administration position to its membership across the United States, which represented ninety-five state and local Spanish-speaking organizations. RASSA asked its members to communicate directly with Senators and Representatives urging them to support the Senate version of the bill, S. 1539.¹¹³ Second, RASSA sought to influence Representatives Chisholm, Bell and Badillo during numerous strategy meetings to attempt floor amendments similar to the measure advanced in the Senate.¹¹⁴ The clear opposition of Chairman Perkins to a floor amendment along with the more substantive opposition of the ranking minority member, Representative Quie, convinced the Representatives that the risk of a defeat on the House floor and the negative position that would place the House Conferees when they went to Conference with the Senate was not worth the slim hope for House floor adoption of major bilingual-bicultural amendments.¹¹⁵ That view, although contrary to the desire of the ethnic lobbyists, was shared by Senate staff, who were consulted by Chisholm staff.¹¹⁶

Thus, Representative Chisholm did not introduce any additional bilingual-bicultural amendments nor did she make any floor statements on bilingual-bicultural education during the debate on H.R. 69.¹¹⁷

Instead, Representatives Chisholm, Bell and Badillo returned again to the overall strategy of limiting House action to developing a positive legislative history and a record in support of bilingual-bicultural education.¹¹⁸ That strategy yielded the decision to pursue agreement from Chairman Perkins to engage in a colloquy with Representative Badillo on 27 March in which the Chairman would express a commitment, if not to accept, then at least positively to consider the Senate bilingual-bicultural provisions in the forthcoming Conference.¹¹⁹

The Administration position during the legislative process itself was torn between the formal position supporting a single-year extension, after they had failed to win support for inclusion of Title VII in their consolidation proposal, and the desire to respond more affirmatively to the aftermath of the Lau v. Nichols decision.¹²⁰ In general, the Administration position prior to the final House action on H.R. 69 was that this was not the year to have substantive change in the bilingual-bicultural provisions of Title VII because insufficient evaluation of the needs and appropriate response to the Lau v. Nichols decision had occurred. However, the Administration did not press its opposition to

the four-year extension or to the minor amendments included, since with regard to the former, the four-year extension mirrored what was done for all education programs, and to the latter, no substantive change in the program thrust had taken place. Thus, the Administration, too, would wait for the Conference.¹²¹

Summary and Conclusions

The House had not attempted a major revision of the bilingual-bicultural education provisions. It had carried out, at the instigation and direction of those individual members concerned with bilingual-bicultural education, a low profile strategy directed at obtaining a positive legislative history for an expanded bilingual-bicultural program. Amendments which touched on training, research and program eligibility were raised in Committee so as not to spotlight major philosophical issues. The amendments were phrased as technical adjustments to existing law, and although Title VII was extended for four years, it was done so in accord with the overall action of the House Committee on all Federal education programs. Fortuitously, the decision on Lau v. Nichols during the House Committee consideration on H.R. 69 also helped ease acceptance of the amendments and rejection of the final Administration position of limiting the extension of bilingual-bicultural programs to one year.

During floor debate, the chief proponents of expanded bilingual-bicultural provisions declined to confront the Chairman with a floor fight but did obtain his personal statement of a willingness to give "full consideration" to the Senate expanded bilingual-bicultural provisions in Conference. This statement, along with other pro-bilingual-bicultural statements submitted in the Congressional Record during and after the consideration on H.R. 69 helped create positive legislative history. Although cited in some of the floor statements, the hearings themselves came after House Committee action and were not aimed at H.R. 69, but were designed to develop a record that would help enable House Conferees to accept the Senate bilingual-bicultural provisions and then justify their action to their House colleagues.

CHAPTER FIVE INTERVIEW NOTES

Representatives

(See Appendix M)

Herman Badillo, U.S. Representative from New York.

Alphonzo Bell, U.S. Representative from California.

Albert Quie, U.S. Representative from Minnesota.

William Steiger, U.S. Representative from Wisconsin.

House of Representative Staff

(See Appendix N)

Christopher Cross, Minority Senior Educational Consultant, House Committee on Education and Labor, Representative Albert Quie, Ranking Minority Republican.

Shirley Downs, Legislative Assistant to Representative Chisholm.

Jean Fujimoto, Legislative Assistant to Representative Mink.

Sharon Halroyd, Legislative Assistant to Representative Bell.

Ralph Hurtado, Legislative Assistant to Representative Badillo.

Jack Jennings, Counsel to Subcommittee on Elementary and Secondary Education, Representative Carl Perkins, Chairman.

Janet Kuhn, Lawyer for Steptoe and Johnson Law Firm, formerly Legislative Assistant to Representative Bell.

Mira Luy, Administrative Assistant to Representative Badillo.

Dan Maldonado, Administrative Assistant to Representative Roybal.

Trudy Wright, Legislative Assistant to Representative Meeds.

Lobbyists and Other Groups

(See Appendix O)

Pepe Barron, Director, Spanish-Speaking Fomento: El Congreso Nacional de Asuntos Colegiales, American Association of Community and Junior Colleges.

Cecilia Cosca, Staff Director, Bilingual Education Study, U.S. Commission on Civil Rights (on leave).

Manuel Fierro, President, National Congress of Hispanic American Citizens, formerly Executive Director of RASSA.

Greg Humphries, Co-Director of the Department of Legislation, American Federation of Teachers.

Stanley McFarland, Director, Government Relations, National Education Association.

August Steinhilber, Assistant Executive Director, National School Board Association.

Kenneth Young, Assistant Director, Department of Legislation, American Federation of Labor.

Administration

(See Appendix P)

Charles Cooke, Deputy Assistant Secretary, Office of Planning and Evaluation, Office of the Secretary, DHEW, formerly Deputy Assistant Secretary for Legislation (Education), Office of the Secretary, DHEW.

Kathy Truex, Executive Assistant, Office of Planning and Evaluation, Office of the Secretary, DHEW.

CHAPTER FIVE NOTES

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³Interview with Alphonzo Bell, U.S. Representative from California, Washington, D.C., 22 July 1976.

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⁶U.S., Congress, House, A Bill to Authorize Special Appropriations for Training Teachers for Bilingual Education Programs, H.R. 1085, 93rd Cong., 1st sess., 3 January 1973, Congressional Record 119: H64.

⁷U.S., Congress, House, Bilingual Education Act, Hearings on H.R. 1085, H.R. 2490, and H.R. 11464, p. 1.

⁸U.S., Congress, House, A Bill to Amend the Bilingual Education Act with Respect to the Qualification of Schools in Which Programs Under Such Act May be Carried Out, H.R. 2490, 93rd Cong., 1st sess., 18 January 1973, Congressional Record 119: H1644.

⁹U.S., Congress, House, Bilingual Education Appropriations: Remarks by Representative Yates, 93rd Cong., 1st sess., 26 June 1973, Congressional Record 119: H21385

¹⁰U.S., Congress, House, A Bill to Amend Title VII of the Elementary and Secondary Education Act of 1965 to Extend, Improve, and Expand Programs of Bilingual Education, Teacher Training, and Child Development, 93rd Cong., 1st sess., 14 November 1973, H.R. 11464, Congressional Record 119: H37015.

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¹³Ibid., p. 71.

¹⁴Ibid., p. 2.

¹⁵Ibid.

¹⁶Ibid.

¹⁷Ibid., p. 3.

¹⁸Ibid., pp. 3-4.

¹⁹Ibid., p. 4.

²⁰Ibid., p. 5.

²¹Ibid., pp. 5-6.

²²Ibid., p. 6.

²³Interview with Shirley Downs, Chisholm staff, 16 April 1976; Interview with Representative Badillo, 20 July 1976.

²⁴U.S., Congress, House, Committee on Education and Labor, Transcript of Minutes on Open Mark-Up Sessions of Full Committee on Education and Labor and General Subcommittee on Education: Part I, 93rd Cong., 1st sess., 1973; Part II, 93rd Cong., 2nd sess., 1974, (Washington, D.C.: Alderson Reporting Company, Inc., Official Reporters). (Mimeographed.)

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²⁷Interview with Christopher Cross, Minority Senior Educational Consultant, House Committee on Education and Labor, Representative Albert Quie, Ranking Minority Republican, Washington, D.C., 27 April 1976.

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- 30 Interview with Representative Bell, 22 July 1976.
- 31 Interview with Sharon Holroyd, Legislative Assistant to Representative Bell, Washington, D.C., 28 June 1976.
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⁴⁴Interview with Representative Quie, 21 June 1976.

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⁶⁰Ibid., p. 69.

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⁶⁷Ibid.

⁶⁸U.S., Congress, House, Committee on Education and Labor, Bilingual Education Act, Hearings on H.R. 1085, H.R. 2490, and H.R. 11464, p. II.

⁶⁹Interview with Shirley Downs, Chisholm staff, 16 April 1974; Interview with Janet Kuhn, Bell staff, 28 June 1976.

⁷⁰U.S., Congress, House, Committee on Education and Labor, Bilingual Education Act, Hearings on H.R. 1085, H.R. 2490, and H.R. 11464, p. II.

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⁷²Interview with Manuel Fierro, President, National Congress of Hispanic Citizens, formerly Executive Director, RASSA, Washington, D.C., 16 April 1976; Interview with Shirley Downs, Chisholm staff, 16 April 197 .

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⁸⁴Ibid., pp. 264-265.

⁸⁵Interview with Representative Quie, 21 June 1976.

⁸⁶Interview with Representative Badillo, 20 July 1976.

⁸⁷Interview with Shirley Downs, Chisholm staff, 16 April 1976.

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121 Interview with Charles Cooke, Deputy Assistant Secretary, Office of Planning and Evaluation, Office of the Secretary, DHEW, formerly Deputy Assistant Secretary, Office of the Secretary, DHEW, Washington, D.C., 5 May 1976.

CHAPTER SIX

DEVELOPMENT OF THE ADMINISTRATION POSITION AND ITS AFFECT ON THE LEGISLATIVE PROCESS IN THE SENATE AND HOUSE

Introduction

The Administration position on the bilingual-bicultural provisions of the 1974 law resulted from a long period of internal dispute over the proper role of the Federal government. From 1972 to 1974, the Administration position shifted constantly. It started from a total opposition to the extension of Title VII, the Bilingual Education Act, and ultimately ended with the signing into law of a provision that not only extended but also expanded this categorical program of bilingual-bicultural education assistance.

Chapter Six traces the development of the Administration position and describes how it influenced and was influenced by such external factors as lobbyists, national political events and the Lau v. Nichols Supreme Court decision. (A list of frequently used acronyms is provided in Chapter Six and an Executive Branch Reference Chart is found in Appendix G.)

Acronyms Used in Chapter Six

DBE	Division of Bilingual Education
DHEW	Department of Health, Education and Welfare
NIE	National Institute of Education
OCR	Office for Civil Rights
OE	Office of Education
OGC	Office of General Counsel
OMB	Office of Management and Budget
OPBE	Office of Planning, Budgeting and Evaluation
OPE	Office of Planning and Evaluation

The Administration on Title VII Prior to 1973:

Phase-Out or Consolidate?

The Title VII program was identified with its Democratic sponsors and with the Democratic Administration under which it was created. It was a categorical program; that is, a program in which the Federal government directly provides grants to the local delivery agent for a specific and legally defined service. It was a characteristic of the Johnson "Great Society" programs and contrary to the Republican philosophy regarding the role of the Federal government. Also, the target community was largely comprised of an ethnic group (Mexican American) which for the previous decade had voted almost exclusively for the Democratic party at the national level.¹

For these reasons, it should not be surprising that the Nixon Administration budget requests were initially negligible, the program severely underfunded, and the Administration attitude generally uncooperative toward the program's development.² (See Appendix C.) In keeping with this approach, the Office of Education, Department of Health, Education and Welfare (DHEW, initiated a feasibility report which was released in September 1971 which offered only two possibilities: first, the phasing-out of all categorical Federal programs for limited-English speakers; and second, the inclusion of Title VII in a total consolidation of all ESEA single purpose assistance programs.³

The position of the Office of Management and Budget (OMB) initially was to promote the immediate phase-out of the program. It based its position on the paucity of empirical evidence to demonstrate the benefits of the bilingual-bicultural approach, on the need to limit all Federal spending, and on the even greater potential cost where the program expanded to meet the needs of the entire target population. OMB was the least supportive element of the bureaucracy regarding a continuing Federal role in bilingual-bicultural education.⁴

The outcome of the internal debate within the Administration over the Federal role in bilingual-bicultural education was visible in January 1972 with the publication

of the proposed Federal budget for fiscal year 1973.⁵ The budget clearly demonstrated that the Administration position was not to continue bilingual-bicultural education as a categorical program but rather to submerge the program with other non-discretionary programs in a new Educational Systems Improvement Program.⁶ Thus, for the first time, there was no line item request for Title VII. Instead, the Administration intended to consolidate separate programs, permitting a school district to submit a single proposal for all Federal education grant programs without in any way indicating how much would be spent for bilingual-bicultural education.⁷ In addition, the Administration intended to submit new legislation providing for special education revenue-sharing in which funds, instead of going directly from the Federal government to a local school district competitively applying for a grant for a categorical purpose such as bilingual-bicultural education, would go to the states for reallocation to local districts on a formula basis. This Administration proposal was entitled the Better Schools Act.⁸ The amount going to bilingual-bicultural education then would be discretionary to the localities and the state.⁹

Thus, the OMB special analysis of the revenue sharing proposal in the fiscal year 1973 budget stated:

This proposal would pull together more than 30 separate existing Federal aid programs to provide States and local school districts greater flexibility to coordinate and concentrate Federal funds to more effectively meet their educational needs. Funds would flow automatically to States under a formula established by law with no State matching required and with no State receiving less than it does now under the present grant system.¹⁰

The bilingual-bicultural education programs no longer would be an identifiable program. The OMB analysis continued by declaring:

An important element of the administration's reform of Federal aid programs is the legislative proposal for special revenue sharing which pulls together a large number of narrow-purpose categorical grants for elementary and secondary education. This proposal would retain the essential framework of national policy but would give States and localities a wider degree of discretion as to how they would meet their own local problems. The proposal would also permit a large margin of flexibility to move funds from one broad purpose to another to enable States to respond to their own priorities.¹¹

Although the Administration estimated that some \$41,130,000 would be spent for the program, according to one interview, no assurance of that expenditure for that purpose would have been possible had education special revenue sharing been enacted.¹²

However, there were other influences during the course of 1972 on the Administration position. The National Advisory Council on the Education of Disadvantaged Children (NACEDC) also examined the issue of consolidation. NACEDC was established under ESEA Title I of 1965 for the purpose of reviewing the administration and operations of Title I

programs including improving the educational attainment of educationally deprived children.¹³ The 1972 NACEDC Report probed the exploration of alternative funding of bilingual-bicultural education programs.¹⁴ The NACEDC Report concluded that if the states are funding programs similar to those funded by Title VII and Title I, "the deletion at this time from Federal funding would thus not have the result of depriving children who are in need of, and entitled to, such programs."¹⁵ However, the NACEDC Report continued by stating that "if the States and localities have not taken steps to assume financing such programs, the pullout of Federal funds with no foreseeable replacement by the localities would severely limit the achievement of equal educational opportunity for all."¹⁶

The year 1972 also was a presidential election year and political influences reached in to the relatively esoteric subject of the Federal role in bilingual-bicultural education.¹⁷ The Committee for the Re-election of the President (CREEP) undertook a survey of the Spanish-speaking population in four major cities--Los Angeles, San Antonio, Chicago and New York City--in April 1972. The study included questions on the issue of bilingual-bicultural education and showed a high level of support for Federal bilingual-bicultural education programs.¹⁸ The results of the survey were reported by CREEP to Henry Ramirez who previously had directed the Mexican American Study conducted by the U.S.

Commission on Civil Rights and had been appointed Chairman of the Cabinet Committee on Opportunities for Spanish-Speaking People by President Nixon in 1971. Ramirez was directed to use the survey results to "develop a strategy to follow in each of the areas that the survey was conducted" to attract Spanish-speaking voters to the Republican party.¹⁹ One suggestion for the strategy was to encourage support for bilingual-bicultural education and to maintain the program's independence.²⁰

Similar messages were being communicated to Administration officials by Representative Alphonzo Bell, Republican of California. As the ranking Republican on the Education Subcommittee, Representative Bell was called in with Representative Albert Quie, Republican of Minnesota, in September and October 1972 to discuss the Administration's education positions.²¹ At several of these sessions in Representative Quie's office, the Administration sought to obtain support for its special revenue-sharing proposal.²² Representative Bell objected to the inclusion of Title VII and argued instead for its maintenance as an independent categorical program.²³

Administration representatives in these talks included Frank Carlucci, Under Secretary of DHEW, Paul O'Neill, then Associate Director for Human and Community Affairs, OMB, and James Cavanaugh, Deputy Director of Operations of the President's Domestic Council.²⁴

The agreement reached in these sessions was that Representative Bell would introduce the special revenue sharing proposal in the House, but that the Better Schools Act would not include Title VII, which would remain independent.²⁵

The outcome of these negotiations, while communicated to the Spanish-speaking community prior to the elections, was evident in the budget for fiscal year 1974 developed in July 1972 and submitted to the Congress January 1973. No longer was Title VII included in the consolidation or proposed revenue-sharing. Instead, it had its own categorical line item and its continuing independence.²⁶

The Administration Position: 1973

The fiscal year 1974 budget submission did not reflect a total conversion to the merits of bilingual-bicultural education. It was a request for \$10 million less than the Congress had appropriated the previous year. The budget was a compromise of differing internal views between OMB and DHEW, on the merits of bilingual-bicultural education, of political obligations generated by the Presidential campaign and of the influence of Republicans such as Representative Bell, who had a large Spanish-speaking constituency. The proponents obtained the continued program independence of Title VII and the opponents obtained a cut in the required level of funding.²⁷

The dissention within the Administration, particularly in DHEW, over the issue of bilingual-bicultural education continued through 1973 as rival position papers went back and forth across the desks of Administration officials. The dispute covered all of the major philosophical issues concerning bilingual-bicultural education.²⁸ In January 1973, John Evans, Assistant Commissioner of the Office of Planning, Budgeting and Evaluation (OPBE) in the Office of Education, DHEW, released the first position paper on the role of Federally-supported bilingual-bicultural education programs. The cover letter accompanying the Evans position paper which was sent to Under Secretary Carlucci and the Office of Planning and Evaluation (OPE) in the Office of the Secretary, DHEW, stated:

All of us have been aware for some time now that we have not had a coherent and consistent policy for our Bilingual Education program. The legislative language is general and leaves room for the program to take different directions and employ different strategies. The issues at stake have been debated vigorously over the past two years within the Office of Education but without resolution. Attached is a brief paper which tries to set forth what the basic federal policy for a Bilingual Education program should be. All of you have at one time or another expressed interest or concern about the Bilingual Education program, so before we take the next step to make the principles expressed in this paper official policy, I would like to receive any comments or suggestions you may have.²⁹

The Evans position paper also discussed the goals of Federal involvement in bilingual-bicultural education. The position paper declared:

The fundamental goal of a federally-supported bilingual-education program is to enable children whose dominant language is other than English to develop competitive proficiency in English so that they can function successfully in the educational and occupational institutions of the larger society. Bilingual/bicultural education is seen as a necessary and appropriate means of achieving this end.³⁰

In addition, according to the Evans position paper, the fundamental goal was based on two realities: first, the ability to function in English is a prerequisite to survival in the United States; and second, since the bilingual-bicultural approach "begins at the earliest point of entry in the school system it is only appropriate for children born in this country or for children who immigrated during their preschool years."³⁰

Based on the previously stated arguments, the Evans position paper concluded with the following rationale for a limited Federal goal:

. . . This view of the federal goal regards use of the home language and reinforcement of its culture and heritage as a necessary and appropriate means of reaching the desired end of giving the children from various language groups proficiency in the dominant language, and not as ends in themselves.

To do otherwise--to regard bilingual/bicultural education as an end in of itself--would mean that the preservation and furtherance of minority subcultures would be acknowledged federal responsibility and therefore should be formally embodied in a school system. . . . The logical extension of such a policy would be an endless and undesirable expansion of the federal government's involvement in and support for the activities and languages of the literally countless subcultural minorities which presently exist in American society. In addition . . . there are the limitless costs it would entail.

By contrast, defining the appropriate federal role as using bilingual/bicultural education as a means of imparting necessary skills is consistent with both the focus and limited scope of the Federal role in education generally.³²

Thus, an analysis of the Evans position paper illustrates that a transitional rather than a maintenance model of bilingual-bicultural education for Federally-supported programs had been proposed by the Office of Education, DHEW. Charles Cooke, the former Deputy Assistant Secretary for Legislation (Education), Office of the Secretary, DHEW stated in an interview that the Evans position paper created a vigorous dialogue over the issue of the Federal role in bilingual-bicultural education within DHEW.³³

Two other position papers from the Division of Bilingual Education (DBE), Office of Education, DHEW, offered a different point of view, at times diametrically opposed to the Evans position paper. The first position paper was written by John Molina in September 1973 soon after his appointment as Director of DBE on 5 August 1973. The DBE position paper was, according to Molina, unofficial and reflected his own personal views.³⁴

Molina's paper, circulated in September 1973, supported the maintenance of cultural pluralism in the United States discussed previously by Gaarder and Swanson in Chapter Two. Molina also endorsed a full bilingual-bicultural approach, "an approach which would effectively manifest

itself in a well-planned concrete program begun at the pre-school level and continuing throughout a child's secondary career. By adhering to this philosophy, a vitally needed national resource would be maintained and expanded."³⁵

The Molina position paper had little impact on policy within the Office of Education, DHEW, let alone the Administration. Thus, only a month after its circulation, the 1 October 1973 Federal Regulations were issued in direct opposition to the Molina document, limiting Title VII grants to five years.³⁶ Limiting programs to five years not only contradicted a full bilingual-bicultural approach but denied the maintenance concept and cultural pluralism proposed by Molina.³⁷

In a letter to U.S. Commissioner of Education John Ottina, Representative Carl Perkins, Democrat of Kentucky, criticized the Federal Regulations and declared, "a five-year cutoff is clearly a limitation on funding, and that limitation is nowhere authorized by the Bilingual Education Act."³⁸

In a reply to Chairman Perkins, Commissioner Ottina explained the rationale behind the five-year cutoff. Commissioner Ottina stated:

. . . The proposed regulation recognizes that local educational agencies which have received assistance under the Act for five previous years have to some extent met the needs of their students and are, by virtue of having conducted bilingual education programs for some time, better able to continue to meet those needs without Federal assistance.

In this connection I would point out that, as the language underscored above indicates, this provision would not impose an absolute limitation upon awards of assistance under the Act. Rather, it would establish a time period after which an applicant for continued assistance would be required to demonstrate more compelling reasons for funding than would otherwise be obtained.³⁹

The second position paper on bilingual-bicultural education, although issued in December 1973 by DBE, was prepared in reality by Evans. Thus, within the Office of Education, internal memoranda show that DBE was not making policy on bilingual-bicultural education, rather, policy decisions came from OPBE, Evans' office.⁴⁰ The stated purpose of the position paper was "to define and to establish a focus for the continuation of a Federal role in implementing and enhancing bilingual education throughout the nation."⁴⁰

Thus, the December position paper was much more supportive of the continuation of a Federal leadership role in bilingual-bicultural education than the original Evans position paper of January 1973. The thesis of the position paper was that "at the present time this Federal role remains essential particularly in view of the still relatively embryonic developmental stage of bilingual education throughout the nation."⁴²

However, a month later, the original less expansive January 1973 memorandum of Evans was circulated stating that it represented the official "philosophical stance" of the Office of Education, DHEW, on bilingual-bicultural education in the United States.⁴³

Throughout this period, OMB opposed Federally-supported bilingual-bicultural education and continued to argue for the consolidation and demise of Title VII as an independent entity. Budgetary constraints were its chief arguments but discussions clearly indicated a philosophical opposition to Federal categorical programs, particularly in the area of education.⁴⁴

The combination had produced by the end of 1973 an Administration position firm in only one respect; bilingual-bicultural education was not part of the consolidation proposal. The Administration would support its extension for one-year. However, even that seemingly solid stance was to fall beneath the impact of the Lau v. Nichols decision.⁴⁵

The Administration Position: 1974

Impact of Lau v. Nichols on the
Administration Position:
January to March

The landmark decision by the Supreme Court on 21 January 1974 gave OPE, Office of the Secretary, DHEW, the leverage to push for a change in the position of OMB on bilingual-bicultural education and also set off a new round of internal debates on the Federal role in bilingual-bicultural education. Since the Court had affirmed the position that local educational agencies must provide special programs

--without specifying the approach--for limited-English speakers, OMB could no longer maintain its complete refusal to accept bilingual-bicultural education as a possible remedy. OPE, however, refused to adopt a supportive position for a bicultural approach as well.⁴⁶

Thus, Lau v. Nichols provided a catalyst to open discussion anew within DHEW and with OMB on the Administration's position. In addition, the Lau v. Nichols decision produced a perceived need for the Administration to revise its budget request for Title VII appropriations.⁴⁷ (See Appendix C.)

Several memoranda circulated throughout DHEW on the consequences of the Supreme Court decision. A Lau Task Force was created to investigate the issue.⁴⁸

On 25 January 1974, the Office of the General Council (OGC), Office of the Secretary, DHEW, sent a memorandum to Cooke, then Deputy Assistant Secretary for Legislation (Education), DHEW, on the effect of the Lau v. Nichols Supreme Court decision on Federal bilingual-bicultural efforts.⁴⁹ OGC maintained that Lau v. Nichols had required that basic bilingual-bicultural instruction be a local responsibility but did not preclude an "appropriate Federal role in the process of providing or assisting in the providing of such instruction."⁵⁰ The OGC memorandum continued by discussing the poverty clause contained in ESEA Title VII. The Lau v. Nichols decision, based on the Civil Rights Act prohibition

against discrimination grounded on national origin had made no mention of family income level as a determining factor in providing bilingual-bicultural education instruction by the local educational agency (LEA). Thus, the memorandum declared that, "any future proposal designed to assist LEA's in implementing that decision should therefore not be limited to children from low-income families."⁵¹

The OGC memorandum also declared that the Lau v. Nichols decision had created a need for reappraisal of the Federal effort in the field of bilingual-bicultural education. The OGC memorandum stated:

The most basic question which arises after Lau concerning the future direction of Federal bilingual programs is whether the Federal government should undertake to assist local educational agencies in implementing the requirements of Lau (i.e. basic bilingual services support) or whether such programs should continue to be of a supplementary nature, focusing on such matters as professional development, cultural heritage studies, and adult and community programs. There is nothing in Lau which speaks one way or another concerning the appropriate Federal role. . . . 52

In conclusion, the OGC memorandum considered the effect of Lau v. Nichols on persons with other educational handicaps (such as physical or mental handicaps) now apparently possessing a right to special educational services required to provide them with equal educational opportunity. The OGC memorandum declared:

The simple answer to that question is that Lau does not speak to that issue. Lau was decided not on the basis of a constitutional principle under the Fourteenth Amendment that all children have a right to an equal educational opportunity.

Rather, the Court specifically declined to rule on the constitutional issue and based its decision instead on section 601 of the Civil Rights Act of 1964 which bars discrimination based "on the grounds of race, color, or national origin" in "any program or activity receiving federal financial assistance."⁵³

A final memorandum was sent on 15 February 1974 to Caspar Weinberger, Secretary of DHEW from William Morrill, Assistant Secretary, OPE, Office of the Secretary, DHEW, stating the need for the clarification of Administration policy as a result of the Lau v. Nichols decision. The memorandum noted the different versions of Title VII before the House and the Senate. Morrill stated that the probable impact of the Lau v. Nichols decision would be for Congress to increase its authorizations for bilingual-bicultural education. The memorandum discussed several pertinent issues being considered by DHEW:

The Department has never specifically adopted a policy with regard to the appropriate form of educational services which should be provided. . . to youngsters of non or limited English speaking ability. Additionally, it has not formally addressed the issue of whether special cultural maintenance services should be available to youngsters of English-speaking ability. . . .

This memorandum is intended to provide you with both alternative courses of action vis a vis the Federal role in bilingual education as a consequence of Lau. . . . Your decisions in turn will permit us to provide the technical assistance requested by Congress, prepare appropriate testimony for the Under Secretary, and continue on-going discussions with OMB regarding the probable legislative and budgetary implications of our position.⁵⁴

The Division of Civil Rights in the Office of the General Counsel, Office of the Secretary, DHEW, also issued a following clarifying memorandum in February 1974 regarding Federal Regulations and the need to consider Lau compliance. The clarifying memorandum from the Division of Civil Rights summarized the Administration position. The memorandum stated that bilingual-bicultural education was a permissible remedy but not the only approach and that a decision would have to be made on the Federal government's view on bilingual-bicultural education and the Federal role.⁵⁵

Some of the previously mentioned memoranda, in addition to other documents clarifying the Administration position on Title VII, were sent to the U.S. Commission on Civil Rights by certain DHEW staff who desired to push the Administration to support a greater Federal role in bilingual-bicultural education.⁵⁶ Since this was prior to the October 1974 Freedom of Information Act, Public Law 93-502, many of these documents would not have been made available by DHEW upon request. The result was that the U.S. Commission on Civil Rights prepared a position paper for the House hearings in March that specifically countered Administration proposals regarding Federal Regulations relating to Lau v. Nichols compliance and the Administration position on Title VII.⁵⁷ Thus, the U.S. Commission on Civil Rights position paper stated:

It is our understanding that one of the alternative directions being considered for the Title VII programs at this time is, essentially, to channel present available funds into the maximum number of programs possible which would be designed solely to meet the minimum requirements of Title VI of the Civil Rights Act of 1964. This Commission strongly opposes this alternative.

This approach would leave to the Federal government the financial responsibility for assisting the districts in meeting the minimum requirements for compliance with Title VI. Aside from the fact that there is some question regarding the legality of using Federal funds to finance basic educational services which are the responsibility of local school districts this approach for Title VII would be a very detrimental one to the future of education of language minority children.⁵⁸

Testimony by Administration Officials on
Bilingual-Bicultural Education:
March 1974

The first formal testimony by Administration officials during the two years prior to the passage of the 1974 Act took place in the weeks following the Lau v. Nichols decision. That testimony again reflected the lines of battle between the major internal Administrative agencies with views on bilingual-bicultural education and the Federal role.⁵⁹

Although various Administration witnesses would testify, Under Secretary Frank Carlucci was the highest official present. The Office of Planning and Evaluation (OPE) in the Office of the Secretary, DHEW--not the Office of Planning, Budgeting and Evaluation (OPBE) headed by John Evans

in the Office of Education, DHEW--was charged with drafting the Carlucci testimony.⁶⁰

The major thrust of the Carlucci testimony was that Lau v. Nichols required a Federal response and that it must be comprehensive, providing an adequate response to all youngsters who were limited English-speaking. Under Secretary Carlucci's suggestions included the alternative of expanding Title I to include specific populations and allocating percentages of the available funds to each of the various groups.⁶¹

The implications of this "Title I" alternative were that a service approach--with the Federal government as provider of last resort--was being considered by the Administration. The character of the bilingual-bicultural program, its extent and its objective, were not fully elaborated but the spectre of a Federal responsibility for providing bilingual-bicultural services was sufficient to swing the full weight of OMB into the bureaucratic fray.⁶²

The Carlucci testimony was taken to OMB for clearance. OMB staff declined to provide that clearance and brought the matter directly to Paul O'Neill, the principal OMB official with regard to DHEW programs.⁶³

A meeting on 27 March 1974, the day before Under Secretary Carlucci was to testify before the House, was held between O'Neill, Carlucci and Morrill in O'Neill's office at OMB. The first draft of Carlucci's testimony which reflected Carlucci's belief in the need for a greater

Federal role and increased Federal assistance for bilingual-bicultural programs, as well as the need to clarify the definition of "disadvantaged" was completely rejected by OMB. According to interviews with OPE staff, O'Neill had deleted entire paragraphs from the Carlucci draft and inserted OMB-approved language. The OMB position was to agree to a limited Federal commitment to finance demonstration bilingual-bicultural education projects with the goal being the shifting of all responsibility for bilingual-bicultural programs to the states and local education agencies. OMB also objected to the Carlucci draft because of budget considerations.⁶⁴

Under Secretary Carlucci refused to give the testimony prepared by OMB, threatened to call Chairman Perkins and cancel his appearance at the House hearing, and said he would call President Nixon and resign unless OMB would clear his original testimony. If OMB cleared the testimony, Under Secretary Carlucci said he would agree to a smaller increase in the Administration fiscal year 1975 budget request. The negotiations continued until 1:00 AM, when the final draft of the testimony--more to Under Secretary Carlucci's liking--was approved. Under Secretary Carlucci saw a clean copy of the rewritten testimony for the first time on his trip to the House of Representatives the day of the hearings.⁶⁵

OPE staff interviewed stated that Under Secretary Carlucci had a personal commitment to bilingual-bicultural

education.⁶⁶ Moreover, OPE staff stated that the compromise between Under Secretary Carlucci and OMB had in part resulted from the fact that a personal friendship existed between Under Secretary Carlucci, Morrill and O'Neill; all had worked together previously in OMB--in fact, Under Secretary Carlucci had been O'Neill's boss at OMB. Another factor influencing the strong position taken by Under Secretary Carlucci was the bureaucratic struggle that existed between OMB and DHEW over policy-making. The acceptance by OMB of a legitimate Federal responsibility to finance bilingual-bicultural education was a significant breakthrough in the Administration position. According to a statement by Cooke, the Administration shift in position was "one of the most significant policy changes in the Administration in the last five years." However, within OPE the general feeling was that Under Secretary Carlucci's testimony still had not gone far enough in asserting a strong Federal role in bilingual-bicultural education.⁶⁷

Under Secretary Carlucci appeared with Commissioner Ottina, Molina, Cooke and other Administration officials. The Carlucci testimony represented an expansive view of the role of the Federal government. Although that role was not to meet all of the costs of bilingual-bicultural education, it clearly was to play a major part in capacity-building (teacher training and curriculum development) and to have a substantially greater role than before in providing services to local educational agencies.⁶⁸

Thus, the two alternative Federal responses that Under Secretary Carlucci set forth were to expand Title I, which as he noted, "most clearly conceptualizes a Federal responsibility running to the individual child. . ."69 or to fund a short-term, massive Federal education program, similar to that funded by the Emergency School Aid law. Under Secretary Carlucci's preference was the Emergency School Aid approach, implying a large injection of Federal dollars for a relatively short time period as local districts moved to comply with the Lau v. Nichols decision.⁷⁰ The decision on which was most appropriate, however, had not yet been reached within the Administration, Under Secretary Carlucci testified. But what he did reject was to have "the Federal government underwriting the entire incremental cost of providing special education service" to meet the Lau v. Nichols mandate for limited English-speaking students.⁷¹

Under Secretary Carlucci stated:

. . . It is appropriate to explore the roles which should be played by the local, State and Federal levels of government. Clearly, most would agree that the educational system which directly serves students, with or without special problems, should be operated predominantly at the local level. Only in rare instances where a special problem is so infrequent that few if any States would be able to operate a program or facility economically should the Federal government consider assuming responsibility for the direct provision of the special services required.

On the other hand, there is a clear Federal role and responsibility in conducting a vigorous civil rights compliance/enforcement activity--not because LEA's and States are necessarily unwilling to achieve voluntary compliance with the law, but because the

Federal government is obligated to ensure that such compliance actually occurs. . . .

Beyond a Federal civil rights compliance/enforcement strategy, a generally accepted Federal role would include research, testing, and dissemination of educational approaches, models and techniques for teaching students with special education problems. This capacity building role would include such related activities as curriculum development, teacher training, and technical assistance to States and LEA's attempting to meet their obligations to provide equal educational opportunities to all students

. . . .72

The Carlucci testimony thus clearly envisioned a major role for the Federal government in the future. And, for the first time, the Administration was not merely proposing a one-year extension with the possibility of phasing-out the distinct Federal bilingual-bicultural programs-- as OMB had long advocated. Instead, it was advocating a one-year extension in 1974 and then an apparent Administration commitment to decide in 1975 which of two more expansive and aggressive approaches the Administration would adopt to meet the needs of limited English-speaking children.⁷³

Under Secretary Carlucci also announced specifically that the Administration was going to recommend an added \$35 million for bilingual-bicultural education under Title VII in fiscal year 1974, \$4.5 million for NIE for bilingual-bicultural research and technical assistance through the Office of Civil Rights to districts affected by the Lau v. Nichols decision.⁷⁴

Thus, Under Secretary Carlucci had managed to win a temporary victory over the most negative Administration

critics of an expanded Federal bilingual-bicultural program and had at least indicated that there not only would be a Federal role but that it would be substantial.⁷⁵

Under Secretary Carlucci's testimony also demonstrated that the Administration would provide both a new focus on capacity building, teacher training and curriculum development and it would expand local projects as well. Under Secretary Carlucci emphasized that while he was ready to advocate "a partially bilingual approach" as the view of most experts to be most effective, he would not support a mandate limiting Federal support to full bilingual-bicultural programs.⁷⁶

Under Secretary Carlucci's view also was that bilingual-bicultural education should be solely transitional in nature although with a cultural component sufficient to ensure "that positive rather than negative emphasis is placed on the child's native language and culture. . . ."⁷⁷

Thus, the Carlucci testimony, occurring as the House was engaged in debate on H.R. 69, reflected a far more sympathetic view toward bilingual-bicultural education than previously had been the Administration position. However, the Administration was not ready to commit itself to new programs. Commissioner Ottina specifically objected to the Senate teacher training provisions with their earmarked spending requirements for new teachers.⁷⁸ Under Secretary Carlucci even stated that the Administration would veto the

Senate bill's expansive bilingual-bicultural provisions if sent to the President in its present form.⁷⁹

Administration Position on the House Bill

As previously noted, the Administration had been urging the House to accept only a one-year extension of Title VII. However, the Administration also had been willing to join with Representatives Chisholm and Bell in modest technical changes, which offered greater administrative flexibility. But the Administration had disagreed with other provisions of the Chisholm-Bell amendment, particularly its primary objective strengthening the Federal law's emphasis on the bilingual-bicultural approach.⁸⁰ Since the House Committee already had acted, the opportunity for affecting the bilingual provisions of the House bill was not great since Representative Bell had refused to sponsor the Administration's attempt to consolidate Title VII.⁸¹

Administration Position on the Senate Bill

The Administration did intend to focus on the Senate bill and to seek major substantive changes on the bilingual-bicultural provisions, or at least to make its views fully known. In April 1973, Caspar Weinberger, Secretary of DHEW, responded to S. 1539 by issuing a DHEW position paper. In a report to Senator Williams, Chairman of the Committee on

Labor and Public Welfare, Secretary Weinberger urged acceptance of the Administration's Better Schools Act, S. 1319, calling for consolidation of Titles I, II, III, and V as well as acceptance of S. 1792, the Bilingual Education Act, which would extend Title VII for one year as a categorical program.⁸² Both bills were introduced in March by Senator Dominick.⁸³ The DHEW position paper continued by declaring:

We are strongly opposed to S. 1539. First, we express our strong opposition to the extensions of unduly narrow categorical programs contained in title I of S. 1539. The Administration has proposed consolidation of titles I, II, III and V of ESEA in S. 1319. We believe the system proposed by that bill for delivering Federal financial assistance to elementary and secondary education is preferable to the continuation of these narrowly focused programs

. . . .

We recommend that two programs--bilingual education (title VII, ESEA) and dropout prevention (section 807, ESEA)--currently authorized by ESEA be continued for one additional fiscal year. Our proposals for these programs, embodied in S. 1792, would authorize \$35 million for bilingual education and \$4 million for dropout prevention for fiscal year 1974. These authorizations are more realistic than those found in S. 1539. We have asked for only a one year extension of these programs because we are currently developing recommendations for their long range future. We also oppose extension of the extremely narrow categorical Ethnic Heritage Studies Program, title IX of ESEA.⁸⁴

The OMB position was clarified in a September 1973 letter from OMB to Chairman Williams which now supported the earlier position taken by DHEW and a one-year extension of Title VII. The OMB letter declared:

In its report to your Committee, the Department of Health, Education and Welfare states in detail its reasons for recommending against enactment of S. 1539. The Department strongly opposes the

general extension of unduly narrow categorical programs proposed in Titles I through VI of the bill and recommends instead enactment of S. 1319 and S. 1792. S. 1319, the Administration's proposed Better Schools Act, would consolidate many of these programs. S. 1792 would continue the bilingual education and dropout prevention programs for one year while consideration is given to their future course

. . . .
We concur with the views expressed in the report of the Department and, accordingly strongly oppose enactment of S. 1539. Enactment of the bill would not be in accord with the program of the President.⁸⁵

Prior to the Senate hearings in October 1973, Cooke met with key Senate staff to explain the objections of Under Secretary Carlucci and William Morrill, Assistant Secretary of OPE to the Cranston-Kennedy bill. The Administration was concerned mainly that the Cranston-Kennedy bill was too service-oriented (providing funds to local educational agencies). Cooke's view was that DHEW had to change OMB's approach to bilingual-bicultural education. Thus, Cooke asked the Cranston and Kennedy staff to adjust the Senate bill to reflect Administration objections in the following ways: to make the bill less service-oriented, to delete the bill's mandate for programs extending from grades K-12 to remove the section requiring a bilingual-bicultural approach only, and to add the flexibility of using ESL where appropriate. The response of the Cranston and Kennedy staff to Administration objections was to reject virtually all the requests for substantive change.⁸⁶

Senators Kennedy and Cranston also decided not to invite the Administration to offer testimony orally at the

October hearing because of time constraints and the goal of obtaining witnesses supportive rather than antagonistic toward expanded bilingual-bicultural provisions being contained in the 1974 bill. Instead, the Administration was requested to submit written position papers which were inserted later into the official hearing record.⁸⁷

Albert Alford, Assistant Commissioner for Legislation in the Office of Education, DHEW, sent a memorandum to Cooke on 22 February 1974 which contained specifications for amendments to Title VII of S. 1539 which would make the Senate bill acceptable to the Administration. The memorandum declared:

. . . We feel that the range of options that Congress is now considering lies somewhere between continuing the bilingual program intact as in the House bill (H.R. 69) and expanding it along Kennedy-Cranston lines as in the Senate bill (S. 1539). Therefore, if we wish to influence Congressional action at this point, we believe that proposing amendments to S. 1539 which would enable us to support that bill is the most feasible route.⁸⁸

The Administration had the following objections and offered specific changes to bilingual-bicultural provisions of S. 1539. The Administration objected to the statement of policy's emphasis on the need for Federal leadership in bilingual-bicultural education. The memorandum stated:

S. 1539 does not make it clear that under Lau local educational agencies now have the basic responsibility to provide a remedy which will open the educational program to children of limited English-speaking ability and teach them English. The Federal/local relationship needs to be clarified in light of this.⁸⁹

The Administration objected to the section on program goals and desired language more clearly defining the objectives of Federally supported bilingual-bicultural programs. The Administration suggested "equal educational opportunity for children of limited English-speaking ability" as the fundamental goal.⁹⁰

The Administration desired to change the program definition since S. 1539 required a "full bilingual-bicultural program in all required preschool, elementary school, and secondary school subjects for each language group served." Instead, the Administration suggested substituting a simple definition which would indicate that "bilingual programs must use two languages, one of which is English. . . and must give attention to the cultural heritage of the children of limited English-speaking ability."⁹¹

The Administration objected to the requirement in the program definition which specified that while English-speaking children may participate on a voluntary basis in bilingual-bicultural programs, these children could not constitute more than one-half of the total number of children in the program. The Administration wanted to delete the fifty percent quota from the legislation since it felt this quota could lead to conflicts with Title VI of the Civil Rights Act.⁹²

The Administration also wanted to delete the following sections of S. 1539 and offered no substitutions:

-- The sections authorizing the Commissioner of Education to set standards in bilingual-bicultural education since "this has traditionally been an area of local responsibility."⁹³

-- The section creating the Bureau of Bilingual Education and the specifications of grade level for the Director's post since these are "Administration decisions which should be made within the executive branch."⁹⁴

-- The section requiring annual reports to be submitted yearly to Congress and the President since "these provisions set up conditions under which one program within the executive branch may release information in conflict with overall administration policy."⁹⁵

-- The section earmarking five percent of NIE's funds for research and experimentation in bilingual-bicultural education since it would diminish the responsibility of the Director of NIE to design a total educational research and development program for NIE.⁹⁶

-- The section authorizing funds which adds "such sums as may be necessary" to the annual authorization ceilings since "it effectively nullifies the limit set" and makes the authorizations unnecessary.⁹⁷

Of all the Administration objections, the only objections that were successfully raised in Senate Subcommittee and Full Committee sessions by the minority were those relating to the Bureau and to earmarking funds for NIE. (The Full

Committee agreed to a compromise on the amount earmarked to NIE and while maintaining the Bureau and GS-18 grade level, removed the requirement that the director be a Deputy Commissioner.)⁹⁸ However, most of the Administration objections in the February Amendment Specifications memorandum became the objections which were raised in Conference by Representative Quie, ranking minority member of the Full Committee on Labor and Public Welfare. This has been a normal practice in which the Republican minority feels an obligation to express the formal position of the Republican Administration on issues in dispute in a Conference.⁹⁹

Lobbyists and Other Influences on the
Administration Position

Affecting the Administration decision were other inputs of information and the influence of lobbyists. Prior to the Lau v. Nichols decision DHEW had begun an in-house research project initiated by Evans and OCR to find out the "state of the art" in bilingual-bicultural education. Early in 1974, OPE began collecting census data, which were verified by OCR and Evans, through a state-by-state telephone survey of state bilingual-bicultural programs. OPE was interested in broadening the discussion beyond the needs of Spanish-speakers. The OPE survey unearthed many language groups previously unmentioned. This census information was used later by OCR to find those school districts which could be

held for non-compliance with the Lau v. Nichols decision.¹⁰⁰

In addition, results of the survey were sent in April 1974 to Senators and Representatives interested in Title VII.¹⁰¹

The same lobbying groups which had met with key Senate and House members and staff also attempted to influence the Administration.¹⁰² Formal contacts between lobbyists and the Administration mainly took place through Cooke, then Deputy Assistant Secretary for Legislation (Education).¹⁰³ The primary focus of concern in 1973 for lobbyists--as well as the Administration's own lobbying efforts--had been concentrated on the Title I formula. Thus, most of the contacts between the Administration and education lobbying organizations and labor groups had centered on Title I.¹⁰⁴ Except for two lobbying groups, the American Association of Community and Junior Colleges (AACJC) and the Raza Association of Spanish Surnamed Americans (RASSA), the other lobbying groups, which included the National Education Association (NEA), the National School Board Association (NSBA), the American Federation of Teachers (AFT), the Council of Chief State School Officers (CCSSO), the United Auto Workers (UAW) and the American Federation of Labor (AFL-CIO), considered Title VII to be a "relatively minor issue" within the total 1974 ESEA proposals.¹⁰⁵ While all the previously mentioned lobbying groups urged the Administration to support the Senate bilingual-bicultural proposal over the House version, the NSBA and the UAW retained their strong opposition to the

bicultural provisions in the Cranston-Kennedy bill.¹⁰⁶

The strongest lobbying efforts came from AACJC who joined with organizations representing limited English-speaking ethnic groups, primarily RASSA. Thus AACJC and RASSA lobbied the Administration to support the bilingual-bicultural provisions of S. 1539 from the time the Cranston-Kennedy bills were introduced in October 1973.¹⁰⁷

As OPE began to focus on the issue of bilingual-bicultural education early in 1974, and as internal dialogue with DHEW increased, lobbying efforts intensified. After the Lau v. Nichols decision and prior to Administration testimony at the House hearings, the Office of Special Concerns, OPE, which concentrated on issues relating to Spanish Americans, Asian Americans, Indian Americans, black Americans and women, had contacts with ethnic-group lobbyists.¹⁰⁸ An OPE staff member declared, however, that the Office of Special Concerns had relatively minor input into the decision-making process on the Administration position on Title VII.¹⁰⁹

After the Carlucci testimony in March 1974, Cooke continued to talk with lobbying organizations on the issue of bilingual-bicultural education; however, now the Administration began to intensify its own lobbying efforts on the new Title VII proposals in the Congress.¹¹⁰

Cooke concentrated most of his efforts in the Senate and had frequent meetings with the Kennedy and Cranston staff

during April and May 1974.¹¹¹ During these meetings, Cooke obtained general agreements from the Kennedy and Cranston staff as to probable compromises in Conference and would report back to Under Secretary Carlucci and Morrill. In turn, Carlucci and Morrill would clear the compromises with OMB.¹¹² Cooke followed the same process, to a more limited extent, in the House in meetings with Representative Quie and his staff.¹¹³

Summary and Conclusions

Chapter VI traced the development of the Administration position from 1972 to 1974. The Nixon Administration began with a negative attitude toward bilingual-bicultural education, and moved toward a phase-out and a consolidation approach as seen in the fiscal year 1973 budget requests. Finally, there was a reluctant agreement to support a one-year extension. The lack of Congressional support, even within the Administration's own party, for ending Title VII's independence was a key factor in the evolution of the Administration position. The Lau v. Nichols Supreme Court decision then prompted an extensive internal review of the Administration decision toward bilingual-bicultural education. Although the Administration continued to press for limitations in the Senate bill, it determined to await the Conference to press for restrictions on what was viewed as a far too expansive view of the Federal role, a far too

stringent commitment to the bilingual-bicultural approach in meeting the schooling needs of the limited English-speaking, and a far too costly and lengthy renewal of a categorical Federal spending program.

CHAPTER SIX INTERVIEW NOTES

Administration

(See Appendix P)

Joseph Connor, Program Analyst, Compensatory Education Programs, Bureau for School Systems, Office of Education, DHEW.

Charles Cooke, Deputy Assistant Secretary, Office of Planning and Evaluation, Office of the Secretary, DHEW, formerly Deputy Assistant Secretary for Legislation (Education), Office of the Secretary, DHEW.

William Fisher, Assistant Director of Human Resources, Congressional Budget Office, U.S. Congress, Formerly Deputy Associate Director, Human Resources Division, Office of Management and Budget. (Listed under Administration Interviews, now in U.S. Congressional Budget Office.)

Alan Ginsburg, Director of Elementary and Secondary Education, Office of Planning and Evaluation, Office of the Secretary, DHEW.

John Lively, Education and Budget Examiner, Human Resources Division, Office of Management and Budget.

Dan McGurk, Associate Director for Human and Community Affairs (position formerly held by Paul O'Neill), Office of Management and Budget.

John Molina, Director, Office of Bilingual Education, Office of Education, DHEW.

Sharon Patrick, Management Control Staff, Office of Administration and Management, Office of Planning and Evaluation, Office of the Secretary, DHEW.

Kathy Truex, Executive Assistant, Office of Planning and Evaluation, Office of the Secretary, DHEW.

Senators

(See Appendix K)

Alan Cranston, U.S. Senator from California.

Edward M. Kennedy, U.S. Senator from Massachusetts.

Representatives

(See Appendix M)

Herman Badillo, U.S. Representative from New York.

Alphonzo Bell, U.S. Representative from California.

Albert Quie, U.S. Representative from Minnesota.

Senate Staff

(See Appendix L)

Mark Schneider, Legislative Assistant to Senator Edward M. Kennedy.

Jonathan Steinberg, Counsel to Subcommittee on Human Resources, Senator Alan Cranston, Chairman.

House of Representatives Staff

(See Appendix N)

Christopher Cross, Minority Senior Educational Consultant, House Committee on Education and Labor, Representative Albert Quie, Ranking Minority Republican.

Jack Jennings, Counsel to Subcommittee on Elementary and Secondary Education, Representative Carl Perkins, Chairman.

Janet Kuhn, Lawyer for Steptoe and Johnson Law Firm, formerly Legislative Assistant to Representative Bell.

Lobbyists and Other Groups

(See Appendix O)

Pepe Barron, Director, Spanish-Speaking Fomento: El Congreso Nacional de Asuntos Colegiales, American Association of Community and Junior Colleges.

Linda Chavez, Assistant Director, Department of Legislation, American Federation of Teachers.

Cecilia Cosca, Staff Director, Bilingual Education Study, U.S. Commission on Civil Rights (on leave).

Manuel Fierro, President, National Congress of Hispanic American Citizens, formerly Executive Director of RASSA.

Greg Humphries, Co-Director of the Department of Legislation, American Federation of Teachers.

Charles Lee, Executive Director, Committee for Full Funding, formerly Professional Staff Member to Senator Wayne Morse, Senate Labor and Public Welfare Committee.

Stanley McFarland, Director of Government Relations, National Education Association.

Rosa Morales, Equal Opportunities Specialist, Office of Program Policy Review, U.S. Commission on Civil Rights.

August Steinhilber, Assistant Executive Director, National School Board Association.

Richard Warden, Legislative Director, United Auto Workers.

Kenneth Young, Assistant Director, Department of Legislation, American Federation of Labor.

CHAPTER SIX NOTES

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106 Interview with August Steinhilber, Assistant Executive Director, National School Board Association, Washington, D.C., 3 May 1976; Interview with Richard Warden, Legislative Director, United Auto Workers, Washington, D.C., 17 May 1976.

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THE 1974 BILINGUAL EDUCATION AMENDMENTS:

REVOLUTION, REACTION OR REFORM

by

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CHAPTER SEVEN

THE CONFERENCE AND PASSAGE

Introduction

The Conference between the House and Senate on the Education Amendments of 1974, H.R. 69, was lengthy and difficult. Convening in various different rooms in the U.S. Capitol over six weeks, the Conferees frequently met into the evening, and, in the final two sessions, continued to dawn. The Education Conference ultimately produced compromises on each of two hundred titles in the Senate and House versions of the bill, including the twelve major elements of difference of the bilingual-bicultural provisions.

Chapter Seven traces the resolution of the differences between the House and Senate bilingual-bicultural provisions of H.R. 69 and S. 1539 during the Conference. It notes the resolution of the philosophical divergences over how to educate limited-English speakers. The chapter also discusses the role in the Conference played by key House and Senate members, staff, lobbyists and the Administration. The chapter concludes by describing the passage of the Conference Report in both the House and Senate and

by noting the debate within the Administration, as it related to bilingual-bicultural education, over whether the omnibus measure should be signed or vetoed.

The House - Senate Education Conference:

A General Description

The overriding objective in all Conferences is to obtain a bill that both houses will agree to and pass without debate and further amendment and the President will sign. The Conference is the last stage in the legislative process before final Congressional action. Most of the members of the Conference first sat at hearings on the development of the legislation as Subcommittee members and attended Subcommittee mark-ups and Full Committee mark-ups. They were most knowledgeable and, usually, most active in the floor debates. These legislators have a vested interest as members of the legislative institution in seeing that the differences which could prevent final action are resolved and a consensus reached which will permit the culmination of the legislative process. To a certain degree, the political futures of the legislators also depend on their being able to show constituents and colleagues that they have been successful as Representatives and Senators in producing a final legislative product that becomes law. Thus, even more important than preserving one's own position on a particular issue of dispute in the Conference is the pressure for a final consensus.¹

Within that framework, each house tends to defend its position, seeking to obtain acceptance from the other on each point and ultimately hoping to obtain the compromise closest to their original position.²

In the Conference, the concept, spelled out by the rules of either house, is that the Conferees are representing the house that named them and not their own districts, their own parties, or even their own personal preferences. Thus, one sees, at times, votes in a Conference in accord with the position of the house rather than the individual Conferee's personal view. While this is the generally accepted view of the role of Conferees, there are exceptions: when individual members feel certain basic principles are involved, or when other influential House or Senate members make their views known to the Conferees. When one house is silent on a particular issue contained within the other body's version of the legislation, then these personal and political preferences usually dominate the attitude and actions of the Conferees.³

According to interviews with participants, the clearest analogy to the Conference is a labor-management negotiating session. There are no clear or obvious right answers to the issues in dispute; all finally are resolved based on argument, on facts, on personalities, on institutional constraints and on partisan political influences.

The Conference also does not occur in a vacuum, with only the Senators and Representatives affecting the outcome. Although the 1974 Conference was closed, since it took place prior to the post-Watergate reforms such as the Government in the Sunshine Act which opened such sessions to the public, each Conference session had an "audience," sitting just outside the doors, of lobbyists and of Administration legislative representatives.⁴

At each break in the Conference, usually because of a vote in either the House or the Senate, the Conferees and their staff were quizzed by the lobbyists and the Administration spokesmen outside the door. They wanted to know what had occurred and what would be occurring when the Conference resumed. In that process, the lobbyists and the Administration officials urged their particular views on the Conferees.⁵

Inside the Conference room, the House Conferees were on one side, House Conference Chairman Representative Carl Perkins, Democrat of Kentucky sat in the center with his Democratic colleagues on his right, ranking Republican member Representative Albert Quie, Republican of Minnesota, first on his left, with the other Republican Congressmen seated according to seniority beside him. Facing Representative Perkins was the Senate Conference Chairman, Senator Claiborne Pell, Democrat of Rhode Island, with his Democratic colleagues on his left and the Republicans on his

right. The staff sat behind the Senator or Representative and sometimes at the Conference table itself. At each Conference, this was the general seating arrangement, with modifications depending on the size of the Conference room.⁶

The chairman of the education conferences traditionally has switched between Senate and House and in 1974 it was Chairman Perkins' turn to be elected by a pro-forma vote of Senate and House Conferees. As chairman, Representative Perkins determined the time and place of the meetings and determined the agenda of each of the Conference sessions.⁷

Distinguishing Characteristics of the
1974 Education Conference

On 5 June 1974 and 6 June 1974, the House and Senate appointed Conferees to resolve the differences between the House version (H.R. 69) and the Senate version (S. 1539) of the Education Amendments of 1974.⁸ (Thereafter the bill was referred to as H.R. 69 since the legislation first was introduced in the House.) The House Conferees were comprised of eight Democrats and five Republicans. The Senate Conferees were comprised of eight Democrats and five Republicans.⁹

The Conferees were drawn from the Senate Labor and Public Welfare Committee and the House Education and Labor Committee. These committees have a tendency to be comprised of more urban representatives than the Congress as a whole.

The urban constituencies have greater demands for social services and therefore are more likely to be favorable toward an expanded Federal role in providing those services. Senators and Congressmen representing those constituencies frequently seek out these Committees when Committee assignments are made. As a result, the Committees themselves tend to be more liberal in their make-up than the Congress as a whole. This is shown by the ratings of two lobbying groups, the Americans for Democratic Action (ADA) and the Americans for Constitutional Action (ACA).

The ADA listing gave the Senate an average 48 percent liberal mark on a selected voting record. The Senate Conferees as a group averaged 72 percent. Similarly, the Senate Democratic Conferees had an 84 percent average compared to 61 percent for all Senate Democrats and the Senate Republican Conferees had a 53 percent rating compared to 31 percent for all Senate Republicans. (The ADA percentage was derived from the number of times the Senators and Representatives voted in accordance with the ADA position on twenty-one selected votes in 1974.)¹⁰

The same showing is found if the ratings of the conservative Americans for Constitutional Action (ACA) are examined. The ACA rated the Senate 41 percent on a conservative scale. However, the Senate Conferees as a group averaged only 14 percent. While Senate Democrats as a group averaged 26 percent on the conservative scale, the Senate

Democratic Conferees averaged only 5 percent. The Senate Republican Conferees did little better, averaging 30 percent, while Senate Republicans as a whole averaged 60 percent. In fact, of the fourteen Senators who received a zero rating from ACA, six of them were on the Conference Committee. (The ACA percentage was derived from the number of times the Senators and Representatives voted in accordance with the ACA position on nineteen selected votes in 1974.)¹¹

The House Conferees received a 19 percent rating from ACA as a group compared to 42 percent for the entire House. The House Democratic Conferees had a 7 percent rating from ACA compared to 23 percent for all House Democrats. The House Republican Conferees were closer to the overall House Republican voting record with a 39 percent mark for the Conferees and 42 percent for all House Republicans. However, four of the five Republican Conferees had between 21 and 33 percent with a 93 percent rating for Representative Ashbrook, Republican of Ohio, boosting the overall average. The House Democratic Conferees rating from the liberal ADA was 76 percent while the House Republican Conferees received 44 percent. The overall average for the House Conferees was 63 percent.¹²

The Conference on the Education Amendments of 1974, H.R. 69, differed in several respects from the normal Conference and with particularly significant implications for Title VII--the bilingual-bicultural provisions of the House

and Senate bills. Many of the House Democrats, including Chairman Perkins (who told Senator Edward M. Kennedy, Democrat of Massachusetts, that he would give full support to most of the Senate bilingual-bicultural provisions in S. 1539 unless Representative Quie became a problem), were in support of the expanded provisions in the Senate bill. Representative Alphonzo Bell, Republican of California, and ranking Republican on the House General Subcommittee on Education, also supported those provisions.¹³

Thus, one would assume, given the favorable House legislative history towards bilingual-bicultural education and the absence of any negative actions regarding bilingual-bicultural provisions similar to those of the Senate, rapid action on the bilingual-bicultural differences was anticipated. In each case where the Senate version represented an expanded bilingual-bicultural provision, it might have been adopted overwhelmingly with a minority of only a few of the House Republican Conferees in opposition. However, it was not to be so easy.¹⁴

A substantial portion of the Conference which lasted from 6 June 1974 to 22 July 1974, was spent on the bilingual-bicultural differences. After the Title I formula dispute, anti-busing provisions, and the consolidation formula, more time was spent on the Title VII provisions than on any other, --three full days out of a total of seventeen working days were spent on the bilingual-bicultural provisions.¹⁵

Equally important, Representative Quie, the ranking Republican on the Full House Committee on Education and Labor, was the real link between the Conference and the upper levels of the Nixon Administration. Representative Quie's support for a final Conference Report could not guarantee a signature of President Richard Nixon; but his opposition could guarantee a veto. At the very least, this was the perception of both the House and Senate Conferees.¹⁶

The complicating factor was the dispute over the anti-busing provisions and the critical role of Representative Quie. Since the Senate, as in the past, had diluted the anti-busing provisions approved by the House, only united House Conferees could convince their colleagues that the Conference Report represented the best that could be obtained in the way of restrictive anti-busing language. Representative Quie, as an influential moderate Republican, had supported the House anti-busing provisions. As ranking Republican, Representative Quie would have a major role in determining whether a Presidential veto could be overridden in the House, even if the Conference Report could be adopted initially over his objection.¹⁷

If Representative Quie argued that the Democratic House Conferees had sold out the more restrictive House anti-busing provisions, it was even doubtful that the Conference Report would have been passed by the House.¹⁸

This crucial leverage that Representative Quie possessed was unusual, and it gave leverage in all other aspects of the bill, particularly in bilingual-bicultural education, where he had strong personal views. This situation might have been different had it been evident that Vice President Gerald Ford would be in the White House when Congress concluded action on the measure. Since it would be the first major bill for President Ford to sign, a veto would conflict with the harmonious and unifying image that he wanted to foster.¹⁹

The Administration role was one of supporting the House position and seeking at every possible instance to limit the Senate provisions. It was this role that Representative Quie played to perfection. Representative Quie did not demand that the Senate give up all of the expanded provisions in S. 1539, nor did the Administration pressure him to support this position. Such a dogmatic position would conflict with normal courtesies granted by each body to the other. It also would have been a personal affront to Senators Kennedy and Alan Cranston, Democrat of California, who were on the Conference Committee, since they were the major Senate sponsors of the bilingual-bicultural provisions. Instead, the Administration sought limitations on most provisions, saving their full opposition to four provisions-- the definition of bilingual education programs, the creation of fellowships and the preference to award those fellowships

to persons whose native language was other than English, the raising the Division of Bilingual Education to the level of a Bureau within the Office of Education, Department of Health, Education and Welfare (DHEW), and the earmarking of funds for the National Institute of Education (NIE) in the Education Division of DHEW.²⁰

After the first day of the Conference on 6 June 1974, there was a break until 11 June 1974. During this time, the Administration sent a letter to Chairman Perkins and Senator Pell stating that the Administration would veto H.R. 69 if some major changes did not occur in the bilingual-bicultural provisions of the bill. In a meeting with Chairman Perkins in his office, Representative Quie and Administration officials (John Ottina, Commissioner of Education, Office of Education, DHEW; William Morrill, Assistant Secretary of the Office of Planning and Evaluation, Office of the Secretary, DHEW; Frank Carlucci, Under Secretary of DHEW; and Charles Cooke, Deputy Assistant Secretary for Legislation (Education) Office of the Secretary, DHEW;) discussed the changes desired by the Administration in the bilingual-bicultural provisions.²¹

The result of this meeting, from the Administration view, was that Representatives Perkins and Quie agreed that they would join forces to insure that those issues--the definition, the fellowships, the creation of a Bureau and NIE earmarkings--were kept out of the bill.²² Thus, during the

three days the Conferees dealt solely with the bilingual-bicultural provisions (12 June, 13 June and 17 June 1974), Representative Quie acted as the direct representative of the Administration. Chairman Perkins generally supported Representative Quie's positions.²³ Representative Quie argued for the removal of the statutory creation of a Bureau of Bilingual Education, for the removal of earmarkings of NIE funds, for the removal of fellowships and for the rewording of the definition of bilingual education programs as contained in the Senate version.²⁴

Philosophical Issues Relating to
Bilingual-Bicultural Education
Discussed in Conference

Either specifically stated or underlying the differences between the Senate and House bills were the three basic philosophical issues that provided the core of the philosophical debate concerning bilingual-bicultural education and more previously noted in this dissertation. The first issue was whether transitional or language maintenance programs should be emphasized and whether Federal programs should be limited to providing funds for the elementary school years only or for pre-school through high school and beyond. The second issue was whether the Federal government should adopt a service-oriented approach funding local classroom programs or a capacity-building approach to provide funds

for model demonstration programs, research, teacher training and curriculum development. The third issue was whether bilingual as well as bicultural content should be required in Federally-funded programs and the degree of that bilingual and bicultural content.²⁵ (See Chapter Four Introduction.)

Those issues at times were specifically addressed by the Conferees. At other times, they lurked beneath the surface of the debate. The Conference resolved them all; although, in certain cases, the resolution was at best ambiguous.

Conference Chronology: Resolution
of Differences

During the three full days of discussion on Title VII, the bilingual-bicultural provisions of the Education Amendments of 1974, the Conferees discussed forty items of differences contained in the House and Senate versions of the bill. These forty differences were listed in the Conference Committee Print of H.R. 69, a document prepared by the House and Senate Legislative Counsel and the staff of the House Education and Labor Committee and the Senate Labor and Public Welfare Committee. The Conference Committee Print of H.R. 69 and an accompanying commentary summarizing the differences were used by the Conferees and their staff as the basis for the discussion of those forty

differences.²⁷ The agreements reached by the Conferees are contained within the Conference substitute, found in the House Conference Report 93-1211 and in the Senate Conference Report 93-1026.²⁸ An explanation of the Conference resolutions is presented in a section of the Conference Report entitled "Joint Explanatory Statement of the Committee Conference" (hereafter referred to as Statement of Managers) which is shown in Appendix H. For the purpose of this dissertation, the forty items of differences between the House and Senate versions have been divided into twelve general issues and are shown in Appendix I. A discussion of these twelve general issues including the Senate version, the House version and the Conference substitute follows.

When the Conferees began consideration of the Title VII provisions of H.R. 69, they were presented with a DHEW memorandum which listed specific Administration objections to the Senate version, S. 1539.²⁹ As a result, the Kennedy staff prepared a memorandum which was given to the staff of Senator Cranston. The memorandum summarized the position of the House, the Senate, the Administration, DHEW, and the Office of Management and Budget (OMB) on H.R. 69 and proposed a strategy to be followed during the Conference. The Kennedy staff memorandum stated:

The House bill essentially leaves existing law intact but extends the program with no increase in appropriations for 4 years. It also provides that there may be joint applications by colleges and universities and LEAs for teacher training programs. And it authorizes research and demonstration. Essentially all of these provisions are either included or expanded upon in Senate provisions. They therefore can be folded in without difficulty.

The Senate provision is a major expansion. It is endorsed by all Senate conferees. Dominick particularly should be a major source of support. It is probably supported by Demo House members and by at least a few of the House Republicans. Quie for both political and personal reasons is going to oppose it strongly.

The Administration's official public position is that it opposes the Senate language and prefers the House. They then would propose new legislation next year. (This is OMB position. DHEW is less opposed. Office of Bilingual Education in OE favors.)

Privately, DHEW is not too unhappy with the bill, except for the following provisions: Definition of bilingual education program; Bureau of Bilingual Education; Fellowships; Preference on fellowships to persons whose native language is other than English; NIE Research; Model Guidelines.³⁰

Issue One: Policy

The first issue considered by the Conferees dealt with the differences in the "Policy" section of the proposed bill. The Senate version, S. 1539, expanded existing law by declaring it to be a Congressional policy to encourage bilingual-bicultural education, thereby including an explicit recognition of the importance of culture in the development of bilingual programs. According to the Senate version, the overall goal of the legislation was to assist in providing equal educational opportunity for limited English-speaking students.³¹ The bilingual-bicultural education

program proposed in the Senate bill was designed, according to the policy statement, to:

. . . establish equal educational opportunity for all children. . . to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and. . . to provide financial assistance to local educational agencies, and to State educational agencies. . . to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level. . . and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the native language.³²

The House version, H.R. 69, left the current law unchanged. The House receded (the formal motion to indicate one body withdraws its own position on an item of difference and accepts the version of the other body) to the Senate version with an amendment limiting the "Policy" section.³³

The Conference substitute changed what had been a broad affirmation of the value of bilingual-bicultural understanding for "all children" by stating that "only children of limited English-speaking ability benefit from these resources."³⁴ This was a clear example of the strategy employed by Representative Quie and was in keeping with the Administration position.³⁵ However, the Conference substitute, with this new "Policy" section, still went further than existing law in emphasizing the philosophy of bilingual-bicultural education, in emphasizing bilingual-bicultural education techniques and practices from the pre-school to the secondary levels.³⁶

Issue Two: Definition of Bilingual
Education Programs

The second issue dealt with the differences in the definition of bilingual education programs contained in the "Definition" section of the proposed bill. The Senate version S. 1539 expanded the existing law by defining bilingual education as a "full time institutional program, conducted in English and the native language."³⁷ In the Senate version, the object of the program was to develop the resources to enable school districts to carry out programs that encouraged a child of limited English speaking ability to develop fully his talents and skills and to learn as effectively in English as he does in his native language. To do that, stated the Senate version, there must be use of the child's native language and respect for his cultural background.³⁸

In arguing for this definition, Senators Cranston and Kennedy cited a U.S. Commission on Civil Rights memorandum prepared for them which repeated some of the testimony given at the Senate hearings in October 1973. The memorandum asserted that accepted educational principles underpinned the bilingual-bicultural approach.³⁹

Neither the House amendment nor the current law had defined bilingual education programs. The House receded to the Senate version with an amendment limiting the definition of bilingual education programs. The joint statements

of the Conference Managers emphasized the concern that the definition "not be misinterpreted to indicate that an ultimate goal of the program is the establishment of a Bilingual Society."⁴⁰

The DHEW memorandum listed specific Administration disagreements to the Senate version of the "Definition" section. The Administration objected to the phrase "full time" contained in the Senate definition. The Administration desired to limit program grants to five years and also desired to provide a more "flexible definition" under which local education agencies could use their own discretion, within certain broad guidelines, as to the amount of native language instruction programs for limited-English speakers.⁴¹ These objections were raised by Representative Quie during the Conference.⁴²

The main Senate proponents, Senators Kennedy and Cranston, supported by Senator Jacob Javits, Republican of New York and Senator Walter Mondale, Democrat of Minnesota, argued that Title VII, as a Federally-funded demonstration program, should demonstrate the "best" program for these students, and, therefore, it was appropriate to place requirements on the local education agency (LEA) and the state educational agency (SEA).⁴³

The Senate Conferees also reported on preliminary evaluations of three bilingual-bicultural programs showing greater achievements for limited English-speaking students

than in either English-as-a-second-language (ESL) or the regular school program. These summaries were prepared by the U.S. Commission on Civil Rights staff at the request of Senator Kennedy's office. The Administration approach was to place Federal dollars in LEA hands without any requirement that LEAs offer full bilingual-bicultural programs. Senators Kennedy and Cranston also argued that the past failure of LEAs to use Federal Title I funds or their own funds to develop programs to meet the needs of limited English-speaking justified the restrictions on the character of projects to be funded.⁴⁴

The Conferees rephrased the definition so that English was cited first as the language of instruction and then native language instruction was included but with a modifying limitation not found in the Senate bill. The Conference substitute read:

. . . there is instruction given in, and study of, English and, to the extent necessary to allow a child to progress effectively through the educational system, the native language of the children of limited English-speaking ability. . . .⁴⁵

Senate Conferees felt they still had obtained a substantial improvement over current law since the native language was required whenever "necessary. . . (to) allow a child to progress effectively through the educational system." The Senate Conferees believed that standard would result in the native language being required at least throughout the elementary school years.⁴⁶

The Statement of Managers further emphasized that point by including the following statement:

. . . However, the conferees agreed that the bilingual education program must include use of the native language of the child of limited English-speaking ability in the acquisition of skills and knowledge as well as--either through the development of literacy in, or the transfer of literacy from, his native language to literacy in English--in the acquisition of English language competence. The conferees acted to insure that the limited English-speaking child would progress effectively through the educational system. Thus, a limited English-speaking child should receive his instruction in whichever language is necessary to insure that he has the same opportunity to learn and develop his skills as a non-limited English-speaking child during the time that he is building his English competence to a level equivalent with his non-limited English-speaking peers.⁴⁷

Representative Quie also put forth the Administration recommendation to insert the phrase "to the extent feasible and appropriate in the definition in connection with the study of the history and culture of the child."⁴⁸

Senators Kennedy and Cranston felt the phrase "feasible and appropriate" was inadequate. The argument used by Senators Kennedy and Cranston was that if a school could not meet the requirements then it should not receive Federal Title VII funds to carry out programs. Since there was nothing mandatory about the program, and schools had to choose to apply for funds, Senators Kennedy and Cranston argued that if LEAs were serious about providing bilingual-bicultural programs, they must think of it as an effort to embrace the total educational picture of the limited English-speaking child.⁴⁹

The Conferees agreed to rephrase the definition to read, ". . . such (bilingual-bicultural) instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system. . . ."50

The Senate version also provided for limited voluntary enrollment of native English-speakers. The House version left the current law unchanged. Thus, the House receded to the Senate version with an amendment changing the provision from a requirement to a permitted activity.⁵¹

According to the Cranston staff, an extended discussion of several hours occurred during the Conference on a single phrase in the Senate version of the "Definition" section which stated, "a program of bilingual education shall make provision for the voluntary enrollment. . . of children whose language is English. . . ."52 The Conference substitute changed shall to may--a proposal insisted on by Representative Quie who felt that shall mandated the inclusion of native speakers while may provided flexibility.⁵³

At issue was the overlap of civil rights and educational goals. The Senate felt that failure to mandate the availability of the program to English-speakers would result in unlawful reverse discrimination. The House argued that it was a program directed to disadvantaged youngsters and should be tilted toward them. The Senate also had a

hidden reason believing that the inclusion of the English-speaking youngsters would raise the status of the program.⁵⁴

The Senate version also required that an application for a bilingual-bicultural program be developed in consultation with parents, teachers and students. The House receded to the Senate version with an amendment that after the application for Federal funding had been approved, a committee comprised of parents, teachers, and students would be established.⁵⁵ The House wanted to assure a local mechanism to monitor the performance of the bilingual program after it had begun.⁵⁶

Issues Three and Four: Expiration and Authorization

The third and fourth issues dealt with the differences in the levels of funding authorized in the two bills and the specific addition of authority in the Senate bill for training programs and leadership development in the SEAs. The Senate version S. 1539 increased authorizations yearly for bilingual-bicultural programs for five years, with a final authorization of \$175 million. The House maintained a \$135 million authorization for each of the following four years. The House receded to the Senate version with an amendment.⁵⁷

The Conference substitute agreed to authorize \$135 million for fiscal years 1974 and 1975, \$140 million for fiscal year 1976, \$150 million for fiscal year 1977 and \$160 million for fiscal year 1978. Thus, the Title VII program was extended for five fiscal years instead of four years with increasing authorizations, although lower than the Senate had recommended.⁵⁸

The Senate version also reserved a major portion of the funding for teacher training purposes. The Senate version provided for 50 percent of the appropriations in excess of \$35 million and 33 1/3 percent of the appropriations in excess of \$60 million to be reserved for teacher and other personnel training. Also 10 percent of the funds were reserved for the National Advisory Council on Bilingual Education created by the 1967 ESEA Title VII and for leadership training for bilingual-bicultural education and coordination of technical assistance in the SEAs.⁵⁹

The House receded with an amendment authorizing \$16 million of the first \$70 million appropriated and 33 1/3 percent of amounts over \$70 million to be used for training purposes. One percent of the appropriation was allocated to the National Advisory Council on Bilingual Education. The SEAs would receive \$6.75 million for fiscal year 1974, \$7.25 million for fiscal year 1975, \$7.25 million for fiscal year 1976, \$8.75 million for fiscal year 1977, and \$9.75 million for fiscal year 1978.⁶⁰

Issue Five: Distribution of Funds

The fifth issue dealt with the differences in the distribution of funds in Part A, "Financial Assistance for Bilingual Education Programs," of the proposed bill. The Senate version extended existing law by specifying how appropriations should be distributed across four general areas-- LEAs, SEAs, training and research and demonstration projects.⁶¹

The House version retained the provisions of the current law and added an amendment. The House version stated that schools which had a need for bilingual education programs but were not eligible for Title VII under the poverty criteria (an annual income of \$3,000 or less for a family of four) could also qualify for Federal funds if poverty criteria schools were served first.⁶²

The Conference substitute stated that "in determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title."⁶³

The Senate version also provided that the Commissioner of Education establish model guidelines based on the recommendations from SEAs and LEAs regarding the factors affecting the quality of bilingual-bicultural education programs. The House contained no comparable provision.⁶⁴

Representative Quie raised the Administration objection contained in the DHEW memorandum. The Administration felt that requiring the Commissioner of Education "to develop suggested model guidelines with respect to teacher qualifications, pupil teacher ratios, and other factors. . . is inconsistent with State and local control of personnel and curricula in schools."⁶⁵

The House receded to the Senate version with an amendment requiring the Commissioner of Education, Office of Education, DHEW, to distribute model guidelines but did not require SEAs and LEAs to conform to the models suggested by the Commissioner.⁶⁶

The House version also contained a provision which provided that grants for LEA classroom programs made to institutions of higher learning could include community and junior colleges if they applied jointly with a LEA. The Senate version provided for grants to these institutions only after consultation with or jointly with LEAs but did not require a joint application.⁶⁷

The Senate receded with an amendment which provided that "a grant may be made under this section only by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agency. . . ."⁶⁸

Issue Six: LEA Grants

The sixth issue dealt with the differences in the grants for LEAs in Part A "Financial Assistance for Bilingual Education Programs." The Senate version extended the existing law by providing that grants to LEAs be distributed equitably where need for the programs existed in the various regions of the United States.⁶⁹

The House version had no comparable provision nor did the current law. The House receded to the Senate version with an amendment directing the Commissioner of Education to give priority to areas having the greatest need for programs, thus giving the Commissioner of Education greater discretion.⁷⁰

The Senate version contained a limitation on amounts available for ungraded classrooms and secondary schools. The House version contained no comparable provision. The Senate receded and the limitation was deleted.⁷¹

The Senate amendment contained a new authorization for the Commonwealth of Puerto Rico for children living in Puerto Rico who were limited Spanish-speakers. The House version had no comparable provision. The Senate receded and the item was deleted. The Conference felt that Title VII programs already were operating in Puerto Rico for limited Spanish-speakers and did not feel that funds needed to be stipulated for Puerto Rico in the new legislation.⁷²

Issue Seven: Training Grants

The Seventh issue dealt with differences in the award of training grants in the "Training" section of Part A. The Senate version expanded existing law by including grants for pre-service and in-service personnel training including a provision for the creation of fellowships. The Senate version directed the Commissioner of Education to provide no less than two hundred nor more than five hundred fellowships each year "leading to an advanced degree for persons planning to pursue a career in bilingual education" with preference in the award of such fellowships to persons whose native language is other than English. Neither the House version nor the current law contained a comparable provision.⁷³

The Administration objections to the Senate provisions listed in the DHEW memorandum were raised by Representative Quie during the Conference.⁷⁴ The Administration objected to the provision on two grounds: first, the Administration urged that the entire fellowship program be deleted because "such detailed mandating of particular training programs is inconsistent with the need for the Commissioner to have sufficient flexibility and discretion to deal with changing conditions in the need for bilingual training." Second, the Administration claimed the preference for non-native English-speakers was discriminatory. The DHEW

memorandum declared "such a requirement is inconsistent with a policy of nondiscrimination in the administration of Federal programs on the basis of race, color, national origin, or sex."⁷⁵

Senators Kennedy and Cranston argued against the Administration position because they felt the lack of adequate bilingual-bicultural education professionals and the inability of programs to produce them was one of the greatest failures of existing bilingual-bicultural education programs. Cited as evidence was a May 1974 letter from the General Accounting Office to Senators Kennedy and Cranston which confirmed the magnitude of the need for bilingual-bicultural education teachers.⁷⁶

Representative Quie along with Representative William Ford, Democrat of Michigan, argued that the House did not want the Commissioner of Education bound by the two hundred requirement in case there were not enough qualified applicants.⁷⁷ Senator Kennedy answered the Administration objection by stating that the University of Southern California, Department of Education, had testified during the Senate hearing that their bilingual-bicultural program alone would produce at least fifty persons who were actively interested in bilingual-bicultural education careers--twenty-five percent of the level right there. In addition, argued Senator Kennedy, the Senate version would give the Commissioner

of Education a loophole by permitting him to certify that two hundred qualified applicants had not applied.⁷⁸

Senator Kennedy declared that giving a preference for speakers whose native language is other than English was not discriminatory. Senator Kennedy cited the requirement for affirmative action to remedy past denials of equal opportunity and to compare the existing numbers of limited English-speaking education professionals to justify this preference.⁷⁹

The House receded to the Senate version with amendments. The Conference substitute adopted a program to provide not less than one hundred fellowships in fiscal year 1975. The Conference substitute declared "such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English-speaking ability." A provision was made for additional fellowships in future years. The Senate provisions thus were retained, although with a reduction in the minimum number and with a removal of the preference to speakers of other languages. However, the Senate Conferees felt the compromise language still would assure the majority of fellowships going to minority group members.⁸⁰

The Senate version also provided that training grants be made to institutions of higher education including community and junior colleges which applied jointly or after consultation with LEAs. The House version provided for only joint application.⁸¹

The Conference substitute provided that training grants could be made to eligible institutions "which apply, after consultation with, or jointly with, one or more local educational agencies. . . ." Thus a distinction was made between a program grant--where only joint application with an LEA was acceptable--and a training grant--where consultation was sufficient.⁸²

Issue Eight: SEA Grants

The eighth issue dealt with the differences in the funding for SEAs and Part A, "Financial Assistance for Bilingual Education Programs" section. The Senate provided that the basic bilingual-bicultural education services would be coordinated at the state level if there was a competent administration mechanism. Otherwise, services would continue to go directly to the LEAs. There was also a stimulus to states to develop quality programs of bilingual-bicultural education programs by providing for a five percent additional appropriation for state administration when the SEA demonstrated (by meeting twenty-five percent of the cost of bilingual-bicultural programs and by developing substantial numbers of programs throughout the state) their own capability.⁸³

The Senate version also specified two types of state grants with no state to receive more than five percent of its total LEA amounts. The SEA could apply for a grant to develop leadership capability in bilingual-bicultural education

and apply for a special grant if the state had already developed high quality leadership capability. The House and current law version had no comparable provision.⁸⁴

The Conference agreement stated that the Commissioner of Education should provide for the coordination of assistance to the SEA. The Conference substitute contained the stipulation that SEA funding could not exceed more than five percent of the state's total LEA funds.⁸⁵

The Conference substitute also stated that the state program must contain assurances that Federal funds will "supplement and not supplant state funds for bilingual education"--a phrase which had been omitted from S. 1539 but contained in the original ESEA Title VII.⁸⁶ Under 1967 ESEA Title VII the phrase "supplement and not supplant" meant that Federal funds should be used to supplement (provide additional services) rather than simply supplant (take the place of services already provided) the funds currently provided by the SEA.⁸⁷ In this decision, the Conference retained the Senate innovation of funding to aid states develop the capacity to provide bilingual-bicultural programs but left greater discretion to the Commissioner of Education in determining the recipients.⁸⁸

Issue Nine: Research and
Demonstration Grants

The ninth issue dealt with the differences in Part C "Supportive Services and Activities" in the Research and Demonstration Projects section. The Senate version directed NIE to conduct the following activities:

(1) undertake studies to determine the basic educational needs and language acquisition characteristics of. . . educating children of limited English-speaking ability;

(2) develop models (including model bilingual-bicultural curricula) for such bilingual education programs. . . ;

(3) develop a suggested model State statute . . . designed to promote equal educational opportunities for children of limited English-speaking ability through bilingual education practices, techniques and methods;

(4) develop, publish and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

(5) establish and operate a Center for Bilingual Education designed to serve as a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education. . . and related programs.⁸⁹

Because of the lack of research, curriculum and adequate bilingual tests, the Senate version directed NIE to focus more attention on bilingual education, with five percent of \$3 million earmarked for those purposes as a minimum. Earmarking funds for NIE only would occur if a separate \$5 million authorization to NIE for bilingual-bicultural education was not funded. (DHEW had opposed any earmarking during the Senate mark-up of S. 1539 in March

1974 where Charles Cooke, the Deputy Assistant Secretary for Legislation (Education), Office of the Secretary, DHEW, had been called in to executive sessions to testify.) The House version contained no comparable provision.⁹⁰

Representative Quie raised the Administration objection contained in the DHEW memorandum.⁹¹ The memorandum declared that the Administration was opposed to earmarking of funds for NIE because "it is inconsistent with the statutory requirement for the activities of NIE to be developed in conjunction with the National Council on Educational Research on the basis of priorities which reflect current needs in the field of education."⁹²

The argument used by the Administration during the 1974 Conference was that especially in research, as problems change, the thrust of the research ought to change. Earmarkings prevented the necessary flexibility.⁹³ According to Cooke, the Executive branch generally was opposed to earmarkings of any kind. The Executive branch did not like the Legislative branch to interfere with its flexibility and capacity to move money from one area to another.⁹⁴

The House receded with an amendment. The Conference substitute retained some of the specified research criteria of the Senate bill, including the requirement for language acquisition studies, dissemination of instructional materials and the Clearinghouse, although it eliminated the title of "Center for Bilingual Education." The Conference

substitute eliminated the earmarking of funds for NIE and instead retained the separate \$5 million authorization.⁹⁵ The Administration position supported by the House Confer-ees, particularly Representative John Brademas, Democrat of Indiana, who was the original author of the 1972 legis-lation creating NIE, was totally victorious on this issue.⁹⁶

Issue Ten: Participation of
Reservation School Children

The tenth issue discussed dealt with the Participa-tion of Reservation School Children in "Indian Children in Schools" section of Part A. The Senate version extended the current law by giving special recognition to the needs of Indian Americans and by providing that reports by the Secretary of the Interior on assistance to Indian American children under Title VII be made by 1 November each year.⁹⁷ The House version left the current law unchanged. The House receded to the Senate version.⁹⁸

Representative Lloyd Meeds, Democrat of Washington, who had a large Indian American constituency, strongly sup-ported the Senate version during the Conference. Represen-tative Meeds was familiar with the problems of Indian Ameri-cans, was a member of the Indian Affairs Subcommittee and agreed with Indian American leaders that bilingual-bicul-tural education was vital to their educational progress.⁹⁹

Issue Eleven: Advisory Committee

The eleventh issue dealt with the difference in Part B, "Administration" in the "National Advisory Council on Bilingual Education" and "Office of Bilingual Education" sections. The Senate version revised current law which established a fifteen member National Advisory Committee to be appointed by the Commissioner of Education. The Senate version placed sharp restrictions on membership to assure that the National Advisory Council represented the bilingual-bicultural community. Also, the National Advisory Council would be appointed by the Secretary of DHEW not the Commissioner of Education, Office of Education, DHEW. The National Advisory Council was required to make a yearly report to the Congress and the President through the Commissioner of Education. The Senate version provided that if reports to Congress and to the President were delayed beyond their due date the Director of the National Advisory Council would be required to submit the report as it had been submitted originally to the Office of Management and Budget. The Senate version also provided for a survey to be conducted by the National Center for Education Statistics, Office of Education, DHEW, by 1 July 1976 of all children and persons of limited English-speaking ability in the United States. The House version left current law unchanged.¹⁰⁰

The House receded with an amendment. The Conference substitute required that "The Commissioner, in consultation with the Council, shall prepare. . . and . . . shall submit to Congress and the President a report on the condition of bilingual education in the Nation"¹⁰¹ The Conference substitute also provided that the report include cost estimation for bilingual-bicultural education programs and that it be due twice: 1 November 1975 and 1 November 1977. The provision relating to delays was omitted.¹⁰² The Senate effort to insure that reports by the Advisory Council could not be side-tracked by OMB, the Office of Education, DHEW, thus was defeated.¹⁰³

Issue Twelve: Administration

The twelfth issue covered differences in Part B, "Administration," dealing with the administrative structure of the program. The Senate version, S. 1539, mandated a Bureau of Bilingual Education within the Office of Education, DHEW, to be headed by a GS-18 director with two GS-17 assistants, reporting directly to the Commissioner of Education. The Bureau of Bilingual Education would serve as the nerve center for the coordination of all Federal bilingual-bicultural education sources primarily to avoid duplication, monitor programming and maximize Federal resources for the client. The Bureau of Bilingual Education would also coordinate all Federal Lau v. Nichols compliance efforts

and offer a center for developing resources to assist SEAS and LEAs in responding to the needs of their limited English-speaking students. Moreover, the Bureau of Bilingual Education would prepare an annual report to the President and Congress in conjunction with the annual report prepared by the National Advisory Council. Neither the House version nor the existing law contained a comparable provision.¹⁰⁴

The DHEW memorandum stated that the Administration opposed the creation of the Bureau of Bilingual Education, and these objections were raised by Representative Quie.¹⁰⁵ The Administration felt the Secretary of DHEW and the Commissioner of Education should be free to organize DHEW and the Office of Education as they deemed necessary in order to function efficiently, and resented the Legislative branch mandating the internal structure of the Executive branch. Moreover, the Administration objected to raising the Division of Bilingual Education to the level of a Bureau because bilingual-bicultural education programs (funded at \$58.350 million in the fiscal year 1974) would be placed on a par with the Bureau of School Systems, Office of Education, DHEW, (funded at about \$1.6 billion in fiscal year 1974) which was responsible for administration of all school assistance grants to SEAs and LEAs.¹⁰⁶

The DHEW memorandum also declared that the Administration opposed the requirement for the preparation of an

annual report by the Division of Bilingual Education and the National Advisory Council on Bilingual Education apart from the requirements already contained in the General Education Provision Act (GEPA) of 1970, Title VII of Public Law 91-230. The Administration felt the detailed nature of these annual reports would make reports of the Division of Bilingual Education and the National Advisory Council on Bilingual Education inconsistent with all other education program reports required by the GEPA of 1970.¹⁰⁷

The strongest support for the creation of a Bureau of Bilingual Education within the Office of Education, DHEW, came from Senators Kennedy and Cranston during the Conference. Representative Patsy Mink, Democrat of Hawaii and Representative William Steiger, Republican of Wisconsin, offered compromises to Representative Quie's attempt to completely delete the Bureau.¹⁰⁸

A Kennedy staff memorandum summarized the arguments presented by Senators Kennedy and Cranston during the Conference for the creation of a Bureau. The memorandum declared:

Historically, bilingual education has suffered due to the task of coordination by the U.S. Office of Education. Even though Title VII of the Elementary and Secondary Education Act is the only legislation that is specifically designed to provide for limited English-speaking children, there are other federal programs that finance models and/or strategies directly related to bilingual education. . . . The problem mainly rests on the inability of U.S.O.E.

to coordinate funding. This results in a serious duplication of efforts in many instances and secondly school district authorities use federal funding sources to supplant, rather than to supplement. . . .

It must be legislated because we know that otherwise it will not exist. The Administration has shown by its failure over the past 5 years, that it considers this program a low priority item. Its funding has generally been woefully inadequate and even this year, the original budget request (\$35 million) was less than appropriate in the regular DHEW 1974 appropriations bill (\$53 million).¹⁰⁹

The House receded with amendments. The Conference substitute established an Office of Bilingual Education, not a Bureau, in the Office of Education and without the creation of supergrade positions. In addition, the compromise provided that the Office of Bilingual Education would "be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education."¹¹⁰ Thus, the Conference raised the Division of Bilingual Education to the level of an Office no longer under the Bureau for School Systems within the Office of Education, DHEW, but neither on a par with the Bureau. Although mandated by the August 1974 law, the actual reorganization of the Division did not become effective until May 1975 when an Office of Bilingual Education was created.¹¹¹

Additional Amendments to 1974
Education Amendments

In addition to the twelve areas of differences between the Senate and House bilingual-bicultural provisions in Title VII of H.R. 69, the Conference amended four other sections of the Education Amendments of 1974 to include new bilingual-bicultural provisions, which had been present in the Senate version. The amendments dealt with the sections on Adult Education, Higher Education, Library Services and Vocational Education.

The Conference substitute added bilingual education amendments to Part A "Adult Education" which was included in Title VI of H.R. 69, Extension and Revision of Related Elementary and Secondary Education Programs. The Adult Education amendments were to "promote that special assistance be given to the needs of persons of limited English-speaking ability. . . by providing bilingual adult education programs. . . to allow such persons to progress effectively, through the adult education program. . . ."112

The Conference substitute also added several amendments to Title VIII of H.R. 69, entitled Miscellaneous Provisions, relating to bilingual education. In Part C, "Amendments to the Higher Education Act of 1965," the Conference substitute declared that the Commissioner was authorized to waive three years of the requirement that developing institutions be in existence for five years prior to their

eligibility for grants "if the Commissioner determines such action will substantially increase higher education for Spanish-speaking people."¹¹³ The Conference substitute also provided that recipients of grants under the Higher Education Act "shall include in their curriculum a program of English language instruction for students of limited English-speaking ability." Programs to train persons to provide bilingual instruction and counseling were authorized under the Education Professions Development Act.¹¹⁴

Under Part D of Title VIII, entitled "Other Miscellaneous Provisions," the Conference substitute contained a series of bilingual education amendments from the Senate version relating to the Library Services and Construction Act and the Vocational Education Act of 1963. The Conference substitute inserted in the Library Services Construction Act a new requirement that priority in funding under that Act must be given to areas with high concentrations of persons of limited English-speaking ability.¹¹⁵

The Conference substitute also authorized \$17.5 million for fiscal year 1975 for the purpose of funding a new bilingual vocational education program, an amendment originally sponsored by Senator Peter Dominick, Republican of Colorado.¹¹⁶ In so doing, it reduced the Senate version from \$40 million and limited the program to a single year. The House Conferees argued the vocational education programs were to be reviewed in 1976 and therefore the program should be a part of that review.¹¹⁷

Under Part J of Title VIII, "Bilingual Vocational Training," the Conference substitute did insert a new section on Congressional findings including a statement affirming a critical shortage of bilingual vocational educational instructors. The Conference substitute declared that "the Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens. . . whose efforts to profit from vocational training is severely restricted by their limited English-speaking ability. . . ."118

Lobbyists and Other Groups
During the Conference

The lobbying groups which had been involved during the legislative development of the bilingual-bicultural provisions of the Education Amendments of 1974 submitted memoranda, letters and position papers to the Conferees and staff on the bilingual-bicultural provisions of H.R. 69.¹¹⁹

The Raza Association of Spanish Surnamed Americans (RASSA) circulated its earlier memorandum favoring the Senate position over the House and was the most active of the ethnic lobbying groups in support of the Senate position. RASSA representatives contacted individual Senators and Congressmen urging support for the Senate bill and attempted to follow the progress of the Conference to be able to button-hole the Conferees and add to the arguments which they had

put forward within the Conference for a particular Senate position.¹²⁰

RASSA also was looked to by the labor group lobbyists monitoring the conference for marching orders on particular provisions of the Conference under dispute. Both the American Federation of Labor (AFL-CIO) and the United Auto Workers (UAW) lobbyists essentially acted as supporters of the RASSA position on the various issues under discussion. However, the contact of the labor groups on behalf of those RASSA positions with Congressmen had greater weight than RASSA making those points alone.¹²¹

The Council of Chief State School Officers (CCSSO) sent telegrams to all Conferees indicating total support for the Senate language contained in the bilingual-bicultural provisions of H.R. 69. Included in the CCSSO telegrams were specific recommendations supporting those sections which were most objected to by the Administration-- the definition of bilingual-bicultural fellowships, the creation of a Bureau of Bilingual Education and earmarking funds for NIE.¹²²

At the request of Chairman Perkins, the U.S. Commission on Civil Rights submitted a position paper in the form of a letter with their views on the bilingual-bicultural provisions of the Education Amendments of 1974. In the position paper, the U.S. Civil Rights Commission discussed the findings of the five-year Mexican American Education Study and hearings they had held in the Southwest on

educational problems of Indian Americans.¹²³ The U.S. Commission on Civil Rights position paper favored adoption of the Senate version of the Education Amendments and stated:

The Senate version assures the provision of key components of the bilingual educational programs which are not included in the House version. In addition, it establishes certain requirements in the administration of the program which are important to the program's effectiveness and which are not mentioned in the House version.

One of the most important provisions in the Senate version is the detailed definition of the term "program of Bilingual Education." The term was not defined in the 1967 Bilingual Education Act, nor is it defined in the present House version. As there is some confusion over the use of this term, it is important that this Title specify that in order to be considered a bilingual education program, the program must use the child's native language as a medium of instruction as well as English, and that the cultural heritage of the children of limited English speaking ability must be incorporated into the curriculum, as specified in the Senate version.¹²⁴

The National Education Association (NEA) submitted a position paper on selected issues for the Conference on H.R. 69. The NEA position was also endorsed by the American Federation of Teachers (AFT).¹²⁵ On the issue of bilingual education, the NEA position paper declared:

We support the Senate version of Bilingual Education which permits states to develop a variety of programs to meet the needs of persons with limited English-speaking ability, including Indian children.

We also support the Senate provisions for Training of bilingual teachers and aides, operation of short-term institutes and the award of fellowships.¹²⁶

The National School Boards Association (NSBA) submitted a letter to the Conferees which, while supporting the Senate version, restated their objection to the inclusion of the term "cultural heritage" in the policy and definition sections. The NSBA letter declared:

Obviously, the cultural heritage of a child is important both to the child and to his/her education. However, the Bilingual Education Act is written in such a manner as to require a full-time program of instruction in several languages from kindergarten through grade 12. The goal of the program includes the development of a bicultural or multicultural system of education in the United States. Obviously, this is administratively impossible. We simply do not have sufficient staff or resources to develop such a multicultural system. It should be remembered that bilingual education is extremely important in our effort to bring non-English-speaking children into the mainstream of American education. However, once a child has become proficient in English, that child should attend regular classes. 127

The Cabinet Committee on Opportunities for Spanish Speaking People submitted a position paper in the form of a letter from its Chairman, Henry Ramirez, to Chairman Claiborne Pell with copies to other members of the Senate Subcommittee on Education as well as to Chairman Carl Perkins and Representative Bell. Ramirez discussed the finding of the Mexican American Study he had directed while at the U.S. Commission on Civil Rights and concluded, "providing a token effort of instruction in English as a second language will do little to secure equal educational opportunities for these children."¹²⁸

While Ramirez did not take a position favoring the Senate or the House version, he did support increased funding for Title VII, setting aside funds for teacher training and more responsibility given to the U.S. Commission on Civil Rights for evaluating bilingual education models. The Ramirez position paper, however, declared support for, "the expansion of state and local activity in bilingual education since final responsibility for elementary and secondary education finance belongs at this level."¹²⁹

Ramirez, responding to requests from RASSA and the U.S. Commission on Civil Rights, became involved in the Conference in support of the Senate position. Ramirez felt he would jeopardize his position if he adopted an attitude that was directly contrary to that of other agencies in the Administration. Instead, Ramirez simply was silent on which version of the pending legislation he supported, although his arguments strongly in favor of bilingual-bicultural education could only be interpreted as more supportive of the Senate version.¹³⁰

Congressional Adoption of Conference Report

Senate Adoption: 24 July 1974

On 22 July 1974 the Conferees concluded six weeks of deliberations on H.R. 69, the Education Amendments of 1974. On 24 July 1974, the Chairman Claiborne Pell, Demo-

of Rhode Island, submitted the Senate Conference Report 93-1026 for consideration.¹³¹ Senator Pell made the following statement regarding H.R. 69:

. . . This bill is really a major educational bill covering a great portion of the educational system of our country making for a new Title I of the Elementary and Secondary Education Act; having an effect on impact aid; going along with the administration to a degree in its consolidation program; and involving a great deal of funds, \$24 billion; . . . on the busing portion; which is the part of the bill which always seems to acquire national focus . . . the conference language that we agreed to sought to do what any conference should do, and that is to work out a compromise between the House and the Senate language.¹³²

As in the March 1974 Senate debate on the Education Amendments, the major portions of the discussion on the Senate floor focused on those issues mentioned by Senator Pell. Although debate did not concentrate on the bilingual-bicultural provisions of H.R. 69, no negative mention was made of the provisions.¹³³

On the day of Senate adoption, there were two mentions of bilingual-bicultural education programs on the Senate floor. The first mention was made by Senator Dominick on the bilingual vocational education section of the bill. Senator Dominick declared, "this bill contains a number of provisions which focus attention on those thousands of children who require bilingual education programs."¹³⁴

The second specific mention of bilingual-bicultural education came from Senator Cranston who urged his colleagues to support H.R. 69. Senator Cranston stated:

. . . I am especially proud that the conference agreement on bilingual education includes all the major provisions of S. 2553, the bill I introduced in October 1973, as well as the principle features of S. 2552, as introduced by the Senator from Massachusetts. . . . The conference action in sustaining the key points of my bill and Senator Kennedy's is an important reaffirmation of congressional faith in the value of bilingual education as a critically important educational mode.¹³⁵

At the conclusion of the debate on 24 July 1974, the Senate agreed to the Conference Report by a vote of 81 to 15, which meant passage of H.R. 69 by the Senate.¹³⁶

House Adoption: 31 July 1974

On 31 July 1974, the Chairman of the Full Committee on Education and Labor, Representative Carl Perkins, Democrat of Kentucky, submitted the House Conference Report 93-1211 for House consideration.¹³⁷ Representative Perkins urged adoption of H.R. 69 and cited some of the improvements contained in the Conference Report including a mention of the Bilingual Education Act. Chairman Perkins stated:

The conference report strengthens the Federal commitment to bilingual education by increasing the authorization of appropriations for the Bilingual Education Act, by more precisely defining the requirements for Federally assisted bilingual education programs, by providing for the voluntary enrollment of English-speaking students in those programs, by requiring consultation with parents of limited English-speaking ability and teachers in developing the applications for those programs, and by expanding the list of eligible activities which can be funded to include supplementary

activities such as adult education and preschool programs.

Of particular importance is the emphasis placed in these amendments to the Bilingual Education Act upon the training of personnel involved in bilingual programs. . . . These sections had appeared as two separate sections of the Senate bill and did not appear in the House passed version of H.R. 69. By consolidating these sections of the Senate bill into one provision in the conference report, no change in substance was intended by the conference.

The administration of bilingual education programs was also improved by requiring the creation of an Office of Bilingual Education within the U.S. Office of Education. This Office must administer all Programs relating to bilingual education within the USOE.¹³⁸

Various statements were made during the House debate by both the majority and minority House members on bilingual-bicultural education. No negative statements were made.¹³⁹

Representative Quie, the ranking minority Republican on the Full Committee on Education and Labor stated that although debate would focus on busing, House members should realize that "this legislation is the most important elementary and secondary education bill to be considered by Congress in the last several years." Representative Quie continued by specifically mentioning the needs of limited-English speakers. Representative Quie stated:

Those who would be most severely affected by the failure to enact this legislation are those who can least afford to suffer the loss of support. H.R. 69 authorizes very important programs for disadvantaged children, children of limited English-speaking ability, Indian children, handicapped children, and those children who reside in areas which are heavily impacted by the Federal Government.¹⁴⁰

Representative Patricia Schroeder, Democrat of Colorado, summarized the major provisions of the bilingual-bicultural provisions of H.R. 69 in her remarks on the House floor.

Representative Schroeder declared:

I am especially pleased that the bill replaces the current title VII with a greatly expanded and improved bilingual education program which includes: Increased funding for bilingual education projects on the elementary, secondary and preschool level; a bilingual vocational training program; an expanded program for the training of bilingual education teachers and other educational personnel; an in-depth research program by the National Institute of Education to develop better teaching methods and materials; a national survey of the number of children and adults with limited English-speaking ability and the extent to which they are being served by Federal, State and local programs; and a strengthened independent National Advisory Council on Bilingual Education which will insure meaningful input from those most directly concerned with the implementation of the above programs.¹⁴¹

Representative Herman Badillo, Democrat of New York, made the most extensive remarks on the issue of bilingual-bicultural education during the House consideration. Representative Badillo summarized the history of the Bilingual Education Act of 1967, the impact of the Lau v. Nichols Supreme Court decision and the need for a greater Federal commitment to provide equality of educational opportunity for limited-English speakers.¹⁴²

Representative Badillo also described the bilingual-bicultural provisions contained in the original House version of H.R. 69. Representative Badillo stated:

The original committee version of H.R. 69 did not broaden title VII nearly as much as necessary, and I had prepared a series of amendments closely approximating bilingual education provisions expected to be included in the Senate education bill. Consequently, on March 27 I engaged in a colloquy on the floor with the distinguished chairman of the Committee on Education and Labor who asked that I withdraw my amendments at that time on the premise that the committee had not had adequate time to consider them.

I did withdraw my amendments, Mr. Speaker, in exchange for the chairman's assurances that House conferees would give every consideration to a more comprehensive bilingual package in the Senate bill, and I am pleased to report that the gentleman from Kentucky has been as good as his word.¹⁴³

Other Representatives who specifically remarked on the Title VII provisions of H.R. 69 included: Representatives Meeds and Brademas; Representative William Lehman, Democrat of Florida; Representative Robert Mathias, Republican of California; and Representative Jack Kemp, Republican of New York. Representatives Meeds, Brademas and Lehman were members of the Committee and particularly Representative Meeds had been supportive of bilingual education. Representatives Mathias and Kemp appeared to be acting more to impress their constituencies.¹⁴⁴

At the conclusion of the debate on 31 July 1974, the House agreed to the Conference Report by a vote of 323 to 83.¹⁴⁵ On 8 August 1974 the Speaker of the House signed H.R. 69 and the "enrolled bill" was sent to the Senate.¹⁴⁶ (See footnote for explanation of "enrolled bill.") On 9 August 1974 the Acting President pro tempore of the Senate signed the "enrolled bill." H.R. 69 was then presented to the President for his signature.¹⁴⁷

Presidential Action on H.R. 69

In the weeks following the final Congressional passage of the Conference Report on 31 July 1974, the Republican Administration of Richard Nixon went through its final throes. On 9 August 1974, Richard Nixon resigned from office in disgrace. On the same day, Gerald Ford was sworn into office as President of the United States.¹⁴⁸

President Gerald Ford signed H.R. 69, the Education Amendments of 1974, which included a new Title VII--the Bilingual Education Act of 1974--into law on 21 August 1974.¹⁴⁹ (The Bilingual Education Act of 1974, part of Public Law 93-380, is shown in Appendix J.)

Those events affected the final decision to sign into law the Education Amendments of 1974 with its bilingual-bicultural provisions. Had Richard Nixon remained as President, it is possible that the measure would have been vetoed. Within the Administration, there were those who urged such action, and part of the argument rested on the aversion to the expanded portions of Title VII.¹⁵⁰

After H.R. 69 passed both houses, Administration officials and OMB, as is customarily the practice, had several days to write recommendations to the President. The DHEW position paper recommended that the President sign the bill since the major Administration objections had been removed during the Conference.¹⁵¹ OMB recommended that the President veto the bill for two reasons: the

bilingual provisions of H.R. 69 and the bill's statutory mandate of the internal organization of much of the Office of Education. On the bilingual provisions, OMB argued that the bilingual education approach had not proved itself to be effective, that the costs were too high and that it was not a proper role for the Federal government to finance local bilingual education programs.¹⁵²

As a result of the two opposing positions, a White House meeting was called for by OMB Director Roy Ash at the beginning of August. Also present were members of the Nixon staff; OMB officials, including William Fisher and Jim Cavanaugh of the President's Domestic Council; and DHEW officials, including Under Secretary Frank Carlucci, Assistant Secretary of Planning and Evaluation William Morrill, and Deputy Assistant Secretary for Legislation (Education) Charles Cooke. (See Appendix G.) Thus, the question of the appropriate Federal role in bilingual-bicultural education was one of the most debated issues of the Education Amendments of 1974 and was fought all the way to the White House.¹⁵³

Gerald Ford as President finally decided to reject the OMB arguments. Instead, President Ford responded to the urging of Representatives Quie and Perkins, Senator Jacob Javits and others in the Congress, DHEW officials and some of his White House Staff. Not only did the proponents argue the merits of the bill but they also argued that a veto would undercut President Ford's own pronounced desire to

restore harmonious relations between the Executive and Legislative branches.¹⁵⁴

In his first Presidential address, delivered before a joint session of Congress on 12 August 1974, President Ford mentioned the Education Amendments of 1974. President Ford declared:

Last week, the Congress passed the elementary and secondary education bill, and I found it on my desk. Any reservations I might have about some of its provisions--and I do have--fade in comparison to the urgent needs of American for quality education. I will sign it in a few days.

I must be frank. In implementing its provisions, I will oppose excessive funding during this inflationary crisis.¹⁵⁵

Although H.R. 69 was enacted into law on 21 August 1974, President Ford made no specific mention in his signing statement of Title VII, the bilingual-bicultural provisions, as had been made on 2 January 1968, when President Johnson enacted the first Federally-funded bilingual-bicultural programs into law as part of the ESEA Amendments of 1968. (See Chapter Three, Elementary and Secondary Education Amendments of 1968, Public Law 90-247.) President Ford's signing statement indicated the lack of Presidential enthusiasm for the bill itself. In the signing statement President Ford declared:

As the first major legislation to become law during my Administration, this bill symbolizes one of my greatest hopes for the future--the hope that a new spirit of cooperation and compromise will prevail between the legislative and executive branches. Enactment of this bill was possible only

because the two branches settled their policy differences in that spirit. If it continues, I am confident that we can make equally effective progress on other pressing issues.

Much of the controversy over H.R. 69 has centered on its busing provisions. In general, I am opposed to the forced busing of school children because it does not lead to better education and it infringes upon traditional freedoms in America.

Another troublesome feature of this bill would inject the Congress into the process of administering education laws. For instance, some administrative and regulatory decisions of the Department of Health, Education, and Welfare would be subjected to various forms of Congressional review and possible veto.

Closely related to this issue is my concern about substantially increased Federal funding for education, especially at a time when excessive Federal spending is already fanning the flames of inflation. I hope the Congress will exercise restraint in appropriating funds under the authorizing legislation included in H.R. 69 and will carefully avoid increasing the budget.¹⁵⁶

The signing of the Education Amendments was noted in the press but no specific mention was made immediately of the bilingual-bicultural provisions of the legislation.¹⁵⁷ However, numerous statements supporting bilingual-bicultural education were placed in the Congressional Record after passage of H.R. 69.¹⁵⁸ Articles, editorials, and "Letters to the Editor" also appeared after passage of H.R. 69 commenting on bilingual-bicultural education. Some were critical, questioning the validity and cost of the program. Others sought to justify its use and commended the action of the Congress in expanding the Federal bilingual-bicultural education program.¹⁵⁹

Results of the Bilingual Education Act of 1974

As a result of the Bilingual Education Act of 1974 there was an increase in appropriations, and the number of local education programs funded. (See Appendix C.) In fiscal year 1973, before enactment of Public Law 93-380, the appropriation was \$58.350 million. In fiscal year 1976, \$94.970 million was appropriated for Title VII bilingual-bicultural education programs. In fiscal year 1973 there were 209 local bilingual education projects serving 129,000 students funded by the Division of Bilingual Education. In fiscal year 1976, there were an estimated 425 programs serving an estimated 191,718 students.¹⁶⁰

In fiscal year 1973, there were no fellowships awarded. In fiscal year 1976, the Office of Bilingual Education awarded 375 fellowships costing \$4 million. In fiscal year 1973, virtually no funds were spent for teacher training. In fiscal year 1976, \$9.375 million were spent on classroom training projects for teacher in-service and paraprofessional training.¹⁶¹ In fiscal year 1973 no money was spent on classroom materials development, assessment and dissemination activities. In fiscal year 1976, the Office of Bilingual Education spent \$12 million for these activities which included subcontracting for the establishment in 1975 of two National Dissemination Assessment Centers (one in Austin, Texas with a branch in San Antonio and one in Fall River, Massachusetts). The purpose of these

centers was to compile bilingual-bicultural teaching materials and to assure their broad dissemination.¹⁶² In addition, nine Materials Development Centers were funded to develop instructional and testing materials to be used by bilingual-bicultural education programs in local educational agencies and institutions of higher learning. Also funded were seven Resource Centers to provide intensive training to classroom personnel as well as higher education personnel in bilingual-bicultural education pedagogy.¹⁶³

In fiscal year 1973, the National Institute of Education spent \$1.037 million on bilingual-bicultural education research. In fiscal year 1976, NIE spent \$6 million on bilingual-bicultural research.¹⁶⁴

The Education Amendments of 1974 upgraded the Division of Bilingual Education under the Bureau for School Systems, Office of Education, DHEW, to an Office of Bilingual Education reporting directly to the Commissioner of Education. Although mandated in Public Law 93-380, the Office of Bilingual Education was not created until 5 May 1975. On 11 December 1975 further reorganization occurred with the creation of three divisions within the Office of Bilingual Education; Division of Bilingual Education Program Development, Division of Bilingual Education Elementary and Secondary Programs, and the Division of Bilingual Education Post Secondary Programs.¹⁶⁵

The upgrading and reorganization of the Division of Bilingual Education took place as a result of pressure exerted from Senators Kennedy and Cranston and Senator Joseph Montoya, Democrat of New Mexico.¹⁶⁶ Senators Kennedy, Cranston and Montoya wrote letters to T. H. Bell, U.S. Commissioner of Education, Office of Education, DHEW and to Caspar Weinberger, Secretary of DHEW.¹⁶⁷

The initial failure to comply with the Congressional mandate contained in Public Law 93-380 reflected the general opposition by the Executive Branch to the legislated change in the internal structure of the Office of Education.¹⁶⁸

Summary and Conclusions

Chapter Seven traced the resolution of differences between the Senate and House versions of the bilingual-bicultural education provisions of the Education Amendments of 1974 during the Conference.

The final Conference Report was a compromise in which the bulk of the Senate bilingual-bicultural section was retained, although limiting language on many of the provisions.

Representative Quie had led the effort to restrict the Senate version, voicing both his own and the Administration's objections to the range and breadth of the Senate bill.

Chairman Perkins, without antagonizing his fellow Democrats or the advocates of bilingual-bicultural education, had walked a middle line between Representative Quie's position and that of Senators Kennedy and Cranston, a position which was shared by many of the House Democrats.

The Senate, with Senators Kennedy and Cranston taking the lead in defending the bilingual-bicultural provisions, had succeeded in retaining portions of all of the Senate provisions and some of them fully intact. The chief Senate proponents felt the House-imposed limitations of the Senate language were in many cases sufficiently ambiguous so that the Conference Report still insured the major thrust of the Senate measure to be unaffected. It guaranteed that new teachers would be trained, new materials developed and new research undertaken. It mandated a bilingual-bicultural approach in a definition of the bilingual program where none had existed previously. However much the limitations imposed by the House had been intended to restrict that approach, the end result was clearly to outlaw any Federally-funded program that did not both contain native language instruction for a substantial portion of the time as well as inclusion of the cultural heritage of the student. ESL no longer would be an acceptable vehicle for meeting the needs of the limited English-speaking with Title VII funds.

The Administration, represented by Office of Education and DHEW legislative liaison and working through

Representative Quie, nevertheless was successful in obtaining some change in each of the protested areas. Knowing the character of any Conference, and the pro bilingual-bicultural composition of this particular Conference, the Administration felt they had done better than anticipated.

The lobbyists, who had been warned previously that some of the provisions might be yielded in Conference, particularly the fellowships, viewed the Conference compromise as acceptable in which the limitations were not so far reaching as to threaten the bilingual-bicultural approach or to prevent any of the activities which had been proposed in the Senate version.

The Conference Report, despite some last minute opposition by OMB, was signed into law by President Ford. It subsequently produced major additions in Federal bilingual programs, in the development of bilingual-bicultural teachers, materials and research, and in new material studies on bilingual-bicultural education.

Finally, the Conference Report constituted the resolution of certain philosophical issues dealing with bilingual-bicultural education and the Federal role. First, the Federal role would be retained; the Federal role would continue to be demonstration-oriented but with certain major differences. In addition to the funding of an expanded number of demonstration classroom projects, the Federal government would fund major new efforts in the area of capacity-building

teachers, curricula, research. Also, the Federal government would ask what was needed for it to become the national service provider of bilingual-bicultural education.

Second, although the transitional goal of the bilingual program would be retained, the possibility for maintenance programs, that is, programs where the native language and culture are maintained throughout the elementary and secondary years, was not excluded.

A third issue was whether bilingual instruction and cultural enrichment were required. Here, the answer was clear. Federally-funded programs must include both native language instruction and cultural enrichment. ESL was unacceptable standing alone. The extent of the inclusion of culture and the native language was dependent on the interpretation of how long it was necessary to permit the child to learn as effectively as his peers.

The Conference had been drawn-out, difficult and affected by a host of political, personal and partisan considerations. Its outcome was successful. It produced a bill, and the compromised version of the bilingual-bicultural provisions was viewed as an acceptable one by all participants.

CHAPTER SEVEN INTERVIEW NOTES

Senators

(See Appendix K)

Alan Cranston, U.S. Senator from California.

Edward M. Kennedy, U.S. Senator from Massachusetts.

Senate Staff

(See Appendix L)

Gary Aldrich, Legislative Assistant to Senator Cranston.

Roy Millenson, Representative for Association of American Publishers, Inc., formerly Minority Staff Counsel to Subcommittee on Education, Senator Jacob Javits, Member.

Mark Schneider, Legislative Assistant to Senator Edward M. Kennedy.

Richard Smith, Professional Counsel, Committee for Full Funding, formerly Associate Counsel to Subcommittee on Education, Senator Claiborne Pell, Chairman.

Jonathan Steinberg, Counsel to Subcommittee on Human Resources, Senator Alan Cranston, Chairman.

Doris Ullman, Legislative Assistant to Senator Montoya.

Representatives

(See Appendix M)

Herman Badillo, U.S. Representative from New York.

Alphonzo Bell, U.S. Representative from California.

Albert Quie, U.S. Representative from Minnesota.

William Steiger, U.S. Representative from Wisconsin.

House of Representative Staff

(See Appendix N)

Christopher Cross, Minority Senior Educational Consultant, House Committee on Education and Labor, Representative Albert Quie, Ranking Minority Republican.

Shirley Downs, Legislative Assistant to Representative Chisholm.

Jean Fujimoto, Legislative Assistant to Representative Mink.

Jack Jennings, Counsel to Subcommittee on Elementary and Secondary Education, Representative Carl Perkins, Chairman.

Thomas Jolly, Counsel to Subcommittee on Agriculture and Labor, Representative William Ford, Chairman.

Janet Kuhn, Lawyer for Steptoe and Johnson Law Firm, formerly Legislative Assistant to Representative Bell.

Trudy Wright, Legislative Assistant to Representative Meeds.

Lobbyists and Other Groups

(See Appendix O)

Pepe Barron, Director, Spanish-Speaking Fomento: El Congreso Nacional de Asuntos Colegiales, American Association of Community and Junior Colleges.

Linda Chavez, Assistant Director, Department of Legislation, American Federation of Teachers.

Cecilia Cosca, Staff Director, Bilingual Education Study, U.S. Commission on Civil Rights (on leave).

Manuel Fierro, President, National Congress of Hispanic American Citizens, formerly Executive Director, RASSA.

Greg Humphries, Co-Director of the Department of Legislation, American Federation of Teachers.

Charles Lee, Executive Director, Committee for Full Funding, formerly Professional Staff Member to Senator Wayne Morse, Senate Labor and Public Welfare Committee.

Stanley McFarland, Director of Government Relations, National Education Association.

Rosa Morales, Equal Opportunities Specialist, Office of Program Policy Review, U.S. Commission on Civil Rights.

August Steinhilber, Assistant Executive Director, National School Board Association.

Richard Warden, Legislative Director, United Auto Workers.

Kenneth Young, Assistant Director, Department of Legislation, American Federation of Labor.

Administration

(See Appendix P)

Joseph Conner, Program Analyst, Compensatory Education Programs, Bureau for School Systems, Office of Education, DHEW.

Charles Cooke, Deputy Assistant Secretary, Office of Planning and Evaluation, Office of the Secretary, DHEW, formerly Deputy Assistant Secretary for Legislation, Office of the Secretary, DHEW.

William Fisher, Assistant Director of Human Resources, Congressional Budget Office, U.S. Congress, formerly Deputy Associate Director, Human Resources Division, Office of Management and Budget. (Listed under Administration interviews, now in U.S. Congressional Budget Office.)

Alan Ginsburg, Director of Elementary and Secondary Education, Office of Planning and Evaluation, Office of the Secretary, DHEW.

John Lively, Education and Budget Examiner, Human Resources Division, Office of Management and Budget.

Dan McGurk, Associate Director for Human and Community Affairs (position formerly held by Paul O'Neill), Office of Management and Budget.

John Molina, Director, Office of Bilingual Education, Office of Education, DHEW.

Rudy Muniz, Director, Division of Bilingual Education, Elementary and Secondary Programs, Office of Bilingual Education, Office of Education, DHEW.

Michael O'Malley, Acting Director, Bilingual Multicultural Division, National Institute of Education, Education Division, DHEW.

Juliet Rendely, Program Officer, Office of Bilingual Education, Office of Education, DHEW.

CHAPTER SEVEN NOTES

¹ Interview with Alan Cranston, U.S. Senator from California, Washington, D.C., 24 June 1976.

² Stephen Bailey, Congress Makes a Law: The Story Behind the Employment Act of 1946 (New York: Columbia University Press, 1950), pp. 220, 226-227; Interview with Gary Aldrich, Legislative Assistant to Senator Cranston, Washington, D.C., 9 April 1976.

³ Theodore R. Marmor, The Politics of Medicare (Chicago, Illinois: Adeline Publishing Company, 1970), pp. 76-77; Interview with Shirley Downs, Legislative Assistant to Representative Chisholm, Washington, D.C., 16 April 1976.

⁴ Interview with Edward M. Kennedy, U.S. Senator from Massachusetts, Washington, D.C., 10 May 1976; Interview with Herman Badillo, U.S. Representative from New York, Washington, D.C., 20 July 1976.

⁵ Interview with Manuel Fierro, President, National Congress of Hispanic American Citizens, formerly Executive Director, RASSA, Washington, D.C., 16 April 1976.

⁶ Interview with Mark Schneider, Legislative Assistant to Senator Kennedy, Washington, D.C., 16 April 1976.

⁷ Interview with Jack Jennings, Counsel to Subcommittee on Elementary and Secondary Education, Representative Carl Perkins, Chairman, Washington, D.C., 7 May 1976.

⁸ U.S., Congress, House, Education Amendments of 1974: House calls for Conference with Senate, 93rd Cong., 2nd sess., 5 June 1974, H.R. 69, Congressional Record: 120: H4783; U.S., Congress, Senate, Education Amendments of 1974: Senate agrees to Conference with the House, 93 Cong., 2nd sess., 6 June 1974, H.R. 69, Congressional Record 120: S9926.

⁹ Ibid. (On 5 June 1974 the House appointed as Conferees the following Democratic Representatives: Carl Perkins of Kentucky, Lloyd Meeds of Washington, William Ford of Michigan, Augustus Hawkins of California, Patsy Mink of Hawaii, Shirley Chisholm of New York, William Lehman of Florida, John Brademas of Indiana. The Following Republican Representatives were appointed: Albert Quie of Minnesota, Alphonzo Bell of California, John Ashbrook of Ohio, Edwin Forsythe of New Jersey, and William Steiger of Wisconsin.)

(On 6 June 1974 the Senate appointed as Conferees the following Democratic Senators: Claiborne Pell of Rhode Island, Harrison Williams of New Jersey, Jennings Randolph of West Virginia, Edward M. Kennedy of Massachusetts, Walter Mondale of Minnesota, Alan Cranston of California, Thomas Eagleton of Missouri and William Hathaway of Maine. The following Republican Senators were appointed: Peter Dominick of Colorado, Jacob Javits of New York, Richard Schweicker of Pennsylvania, J. Glenn Beall of Maryland and Robert Stafford of Vermont.)

¹⁰ "Group Ratings: Trends to Liberatization Seen, ADA and ACA Reports," Congressional Quarterly, 22 February 1975, pp. 387-391, p. 402.

¹¹ Ibid.

¹² Ibid.

¹³ Interview with Alphonzo Bell, U.S. Representative from California, Washington, D.C., 22 July 1976.

¹⁴ Interview with Jonathan Steinberg, Counsel to Subcommittee on Human Resources, Senator Alan Cranston, Chairman, Washington, D.C., 20 April 1976.

¹⁵U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 69 Conference Action - 6 June 1974 to 22 July 1974, 93rd Cong., 2nd sess. (Typewritten.)

¹⁶Interview with Richard Smith, Professional Counsel, Committee for Full Funding, formerly Associate Counsel to Subcommittee on Education, Senator Claiborne Pell, Chairman, Washington, D.C., 4 May 1976; Interview with Albert Quie, U.S. Representative from Minnesota, Washington, D.C., 21 June 1976.

¹⁷Interview with Christopher Cross, Minority Senior Educational Consultant, House Committee on Education and Labor, Representative Albert Quie, Ranking Minority Republican, Washington, D.C., 27 April 1976.

¹⁸Interview with Janet Kuhn, Lawyer for Steptoe and Johnson Law Firm, formerly Legislative Assistant fo Representative Bell, Washington, D.C., 28 June 1976.

¹⁹Interview with Charles Lee, Executive Director, Committee for Full Funding, formerly Professional Staff member to Senator Wayne Morse, Senate Labor and Public Welfare Committee, Washington, D.C., 4 May 1976.

²⁰Interview with Charles Cooke, Deputy Assistant Secretary, DHEW, 5 May 1976.

²¹Ibid.

²²Ibid.

²³U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 69 Conference Action - 12 June 1974, 13 June 1974 and 17 June 1974.

²⁴Ibid.

²⁵Interview with Shirley Downs, Chisholm staff, 16 April 1976.

²⁶U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 60 Conference Action - 12 June 1974, 13 June 1974 and 17 June 1974.

²⁷U.S., Congress, House and Senate Legislative Counsel and Committee Staff of House Education and Labor Committee and Senate Labor and Public Welfare Committee, Conference Committee Print, June 4, 1974: Comparing Titles V - VIII and Titles X - XV of H.R. 69 with Appropriate Portions of the Senate Amendment Thereto (Washington, D.C.: U.S. Government Printing Office, 4 June 1974), pp. 26-50; U.S., Congress, House and Senate Legislative Counsel and Committee Staff, Commentary to Accompany Conference Committee Print, June 5 1974: Comparing Titles V - VII and Titles X - XV of H.R. 69 with Appropriate Portions of Senate Amendment Thereto (Washington, D.C.: U.S. Government Printing Office, 5 June 1974), pp. 12-23.

²⁸U.S., Congress, Senate, Education Amendments of 1974, Conference Report, S. Rept. 1026 to Accompany H.R. 69, 93rd Cong., 2nd sess., 1974, p. 147; U.S., Congress, House, Education Amendments of 1974, Conference Report, H.R. Rept. 1211 to Accompany H.R. 69, 93rd Cong., 2nd sess., 1974, p. 147. (The recommendations of the Conferees are incorporated in a written Conference Report and a Joint Statement of Managers, made in duplicate, both of which must be signed by a majority of the Conferees of each house. When both the Senate and the House adopt the Conference Report in its entirety without changes, the legislative action on the bill is completed and the bill is sent to the President to be signed into law.)

²⁹Office of the Assistant Secretary for Legislation, Office of the Secretary, DHEW, Memorandum to Conferees, 7 June 1974, Gary Aldrich Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

³⁰Mark Schneider, Memorandum to Senator Kennedy, 10 June 1974, Mark Schneider Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

³¹U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 148.

³²U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 149.

³³U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 149.

³⁴Education Amendments of 1974, Public Law 93-380 (Slip Law), sec. 702(a), 20 (21 August 1974); Bilingual Education Act of 1974, Public Law 93-380 (Slip Law), secs. 701-742, 20-29 (21 August 1974). (After their passage, bills and joint and current resolutions are cited as Public Laws which are printed individually in "slip form." The "slip laws" passed during a calendar year are collected and published by the U.S. Government Printing Office in a bound volume, the Statutes at Large, approximately two calendar years later.

³⁵Interview with Jonathan Steinberg, Cranston staff, 20 April 1976.

³⁶Education Amendments of 1974, Pub. L. 93-380, secs. 702(a) - 702(b), 20-21.

³⁷U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 148.

³⁸Ibid.

³⁹Interview with Cecilia Cosca, Staff Director, Bilingual Education Study, U.S. Commission on Civil Rights (on leave), Washington, D.C., 16 May 1976; U.S. Commission on Civil Rights, Memorandum to Senator Kennedy, 10 June 1974, Mark Schneider Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

⁴⁰U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 148.

⁴¹Office of the Assistant Secretary for Legislation, DHEW, Memorandum to Conferees, 7 June 1974.

⁴²U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 69 Conference Action - 12 June, 13 June and 17 June 1974.

⁴³Interview with Roy Millenson, Representative, Association of American Publishers, Inc., formerly Minority Staff Counsel to Subcommittee on Education, Senator Jacob Javits, Member, Washington, D.C., 19 May 1976; Interview with Jonathan Steinberg, Cranston staff, 20 April 1976.

- ⁴⁴ Interview with Mark Schneider, Kennedy staff, 20 April 1976; U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, pp. 28-32.
- ⁴⁵ Education Amendments of 1974, Pub. L. 93-380, sec. 703(a), 22.
- ⁴⁶ Education Amendments of 1974, Pub. L. 93-380, sec. 703(a), 22.
- ⁴⁷ U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, pp. 148-149.
- ⁴⁸ U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, p. 30
- ⁴⁹ Interview with Mark Schneider, Kennedy staff, and Jonathan Steinberg, Cranston staff, 20 April 1976.
- ⁵⁰ Education Amendments of 1974, Pub. L. 93-380, sec. 703(a), 22.
- ⁵¹ U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 149.
- ⁵² Interview with Jonathan Steinberg, Cranston staff, 20 April 1976; U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, p. 30
- ⁵³ Interview with Jonathan Steinberg, Cranston staff, 20 April 1976; Education Amendments of 1974, Pub. L. 93-380, sec. 703(a), 22.
- ⁵⁴ Ibid.
- ⁵⁵ U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 149.
- ⁵⁶ Interview with Christopher Cross, Quie staff, 27 April 1976.

⁵⁷U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, p. 27

⁵⁸Education Amendments of 1974, Publ. L. 93-380, sec. 702(b), 21.

⁵⁹U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 148.

⁶⁰Education Amendments of 1974, Pub. L. 93-380, sec. 702(b), 21.

⁶¹U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, pp. 149-150.

⁶²Ibid., pp. 152-153.

⁶³Education Amendments of 1974, Pub. L. 93-380, sec. 721(c), 24.

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⁶⁵U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, pp. 34-36; Office of the Assistant Secretary for Legislation, DHEW, Memorandum to Conferees, 7 June 1974.

⁶⁶Education Amendments of 1974, Pub. L. 93-380 sec. 721(b), 23.

⁶⁷U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 153.

⁶⁸Education Amendments of 1974, Publ L. 93-380, sec. 721(b), 23.

⁶⁹U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69 p. 151.

⁷⁰Education Amendments of 1974, Pub. L. 93-380, sec. 721(c), 24.

⁷¹U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, p. 39

⁷²U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 151.

⁷³Ibid.

⁷⁴U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 69 Conference Action - 12 June, 13 June and 17 June 1974.

⁷⁵Office of the Assistant Secretary for Legislation, DHEW, Memorandum to Conferees, 7 June 1974.

⁷⁶Interview with Gary Aldrich, Cranston staff, 9 April 1976; Elmer Staats, Comptroller General of the United States to Senator Kennedy, 31 May 1974, Mark Schneider Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

⁷⁷Interview with Thomas Jolly, Counsel to Subcommittee on Agriculture and Labor, Representative William Ford, Chairman, Washington, D.C., 28 June 1976; U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, pp. 41-42.

⁷⁸Interview with Mark Schneider, Kennedy staff, 20 April 1976.

⁷⁹U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, pp. 42-42.

⁸⁰Education Amendments of 1974, Pub. L. 93-380, sec. 723(a), 25-26.

⁸¹U.S., Congress, House, and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 153.

⁸²Education Amendments of 1974, Pub. L. 93-380, sec. 723(b), 26.

⁸³U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 150.

⁸⁴Ibid.

⁸⁵Education Amendments of 1974, Pub. L. 93-380, sec. 721(b), 24.

⁸⁶Ibid.

⁸⁷Bilingual Education Act of 1967, Statutes at Large 81, sec. 702, 817 (1968).

⁸⁸Interview with Mark Schneider, Kennedy staff and Jonathan Steinberg, Cranston staff, 20 April 1976.

⁸⁹U.S., Congress, House and Senate Legislative Counsel, Conference Committee Print, June 4, 1974, p. 53.

⁹⁰U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 153.

⁹¹U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 69 Conference Action - 12 June, 13 June and 17 June 1974.

⁹²Office of the Assistant Secretary for Legislation, DHEW, Memorandum to Conferees, 7 June 1974.

⁹³Ibid.

⁹⁴Interview with Charles Cooke, Deputy Assistant Secretary, DHEW, 5 May 1976.

⁹⁵Education Amendments of 1974, Pub. L. 93-380, sec. 742(d), 29.

⁹⁶ Interview with Gary Aldrich, Cranston staff, 9 April 1976.

⁹⁷ Education Amendments of 1974, Pub. L. 93-380, sec. 722(c), 25.

⁹⁸ U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 151.

⁹⁹ Interview with Trudy Wright, Legislative Assistant to Representative Meeds, Washington, D.C., 23 June 1976.

¹⁰⁰ U.S., Congress, House and Senate, Education Amendments of 1974, Conf. Rept. H.R. 1211 and S. 1026 to Accompany H.R. 69, p. 152.

¹⁰¹ Education Amendments of 1974, Pub. L. 93-380, sec. 731(c), 26.

¹⁰² Ibid., pp. 26-27.

¹⁰³ Interview with Jonathan Steinberg, Cranston staff, 20 April 1976.

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¹⁰⁵ Office of the Assistant Secretary for Legislation, DHEW, Memorandum to Conferees, 7 June 1974; U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 69 Conference Action - 12 June, 13 June and 17 June 1974.

¹⁰⁶ Interview with Charles Cooke, Deputy Assistant Secretary, DHEW, 5 May 1976.

¹⁰⁷ Office of the Assistant Secretary for Legislation, DHEW, Memorandum to Conferees, 7 June 1974. (The General Education Provisions Act of 1970, Title IV of Publ. L. 91-230, required that an annual report from all advisory councils be submitted with the Commissioner of Education's report to Congress on 31 March of each year.)

108 Interview with Jean Fujimoto, Legislative Assistant to Patsy Mink, Washington, D.C., 20 April 1976; Interview with William Steiger, U.S. Representative from Wisconsin, Washington, D.C., 25 June 1976; U.S., Congress, House, Committee on Education and Labor, Minutes of Executive Sessions on H.R. 69 Conference Action - 12 June, 13 June and 17 June 1974.

109 Mark Schneider, Memorandum to Senator Kennedy, 11 June 1974, Mark Schneider Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

110 Education Amendments of 1974, Pub. L. 93-380, sec. 731(a), 26.

111 Interview with John Molina, Director, Office of Bilingual Education, Office of Education, DHEW, Washington D.C., 6 May 1976.

112 Education Amendments of 1974, Pub. L. 93-380, sec. 607(a), 95.

113 Ibid., sec. 832, 120.

114 Ibid., sec. 833, 121-122.

115 Ibid., sec. 841(c), 123-124.

116 Ibid., sec. 841(c), 124.

117 Interview with Christopher Cross, Quie staff, 27 April 1976.

118 Education Amendments of 1974, Pub. L. 93-380, sec. 191, 124.

119 Interview with Pepe Barron, Director, Spanish-Speaking Fomento: El Congreso Nacional de Asuntos Colegiales, American Association of Community and Junior Colleges, Washington, D.C., 7 May 1976.

120 Interview with Manuel Fierro, RASSA, 16 April 1976; RASSA Position Paper on Bilingual-Multicultural Education, 12 June 1974, Manuel Fierro Papers, File "Bilingual Education Legislation," National Congress of Hispanic American Citizens, Washington, D.C.

121 Interview with Kenneth Young, Assistant Director, Department of Legislation, American Federation of Labor, Washington, D.C., 17 May 1976; Interview with Richard Warden, Legislative Director, United Auto Workers, Washington, D.C., 17 May 1976.

122 Council of Chief State School Officers Staff, Memorandum to H.R. 69 Conferees, 12 June 1974, Mark Schneider Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

123 Interview with Cecilia Cosca, U.S. Commission on Civil Rights, 4 May 1976.

124 John Buggs, Staff Director, U.S. Commission on Civil Rights to Representative Carl Perkins, 10 June 1974, Gary Aldrich Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

125 Interview with Greg Humphries, Co-Director, Department of Legislation, American Federation of Teachers, Washington, D.C., 29 April 1976; Interview with Linda Chavez, Assistant Director, Department of Legislation, American Federation of Teachers, Washington, D.C., 29 April 1976.

126 Interview with Stanley McFarland, Director, Government Relations, National Education Association, Washington, D.C., 4 May 1976; National Education Association Position Paper on H.R. 69, 4 June 1974, Jonathan Steinberg Papers, File "Bilingual Education," Dirksen Senate Office Building, Washington, D.C.

127 Interview with August Steinhilber, Assistant Executive Director, National School Board Association, Washington, D.C., 3 May 1976; National School Board Association to Conferees, 11 June 1974, Mark Schneider Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

128 Chairman, Cabinet Committee on Opportunities for Spanish Speaking People Position Paper on Bilingual Education, 11 June 1974, Gary Aldrich Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.

129 Ibid.

130 Interview with Rosa Morales, Equal Opportunities Specialist, Office of Program Policy Review, U.S. Commission on Civil Rights, Washington, D.C., 19 May 1976.

131 U.S., Congress, Senate, Education Amendments of 1974: Remarks by Senator Pell, 93rd Cong., 2nd sess., 24 July 1974, H.R. 69, Congressional Record 120: S13349.

132 Ibid.

133 U.S., Congress, Senate, Education Amendments of 1974: Debate Prior to Passage, 93rd Cong., 2nd sess., 24 July 1974, H.R. 69, Congressional Record 120: S13349-13385.

134 U.S., Congress, Senate, Education Amendments of 1974: Remarks by Senator Dominick, 93rd Cong., 2nd sess., 24 July 1974, H.R. 69, Congressional Record 120: S13351.

135 U.S., Congress, Senate, Education Amendments of 1974: Remarks by Senator Cranston, 93rd Cong., 2nd sess., 24 July 1974, H.R. 69, Congressional Record 120: S13375.

136 U.S., Congress, Senate, Education Amendments of 1974: Presiding Officer of the Senate Calls for the Vote, 93rd Cong., 2nd sess., 24 July 1974, H.R. 69, Congressional Record 120: S13385.

137 U.S., Congress, House, Education Amendments of 1974: Remarks by Representative Perkins, 93rd Cong., 2nd sess., 31 July 1974, H.R. 69, Congressional Record 120: H7394.

138 Ibid., p. H7395.

139 U.S., Congress, House, Education Amendments of 1974: Debate Prior to Passage, 93rd Cong., 2nd sess., 31 July 1974, H.R. 69k Congressional Record 120: H7394-7419.

140 U.S., Congress, House, Education Amendments of 1974: Remarks by Representative Quie, 93rd Cong., 2nd sess., 31 July 1974, H.R. 69, Congressional Record 120: H7398.

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145 U.S., Congress, House, Education Amendments of 1974: Presiding Officer of the House Calls for the Vote, 93rd Cong., 2nd sess., 31 July-1974, H.R. 69, Congressional Record 120: H7419.

146 U.S., Congress, House, Education Amendments of 1974: Speaker of the House Signs Bill, 93rd Cong., 2nd sess., 8 August 1974, H.R. 69, Congressional Record 120: H7981.
(When the two houses reach a complete agreement on all the amendments and approve the Conference Report, the papers are delivered to the Enrolling Clerk of the house where the bill originated. The bill is prepared in the form as finally agreed upon by the two houses and it is sent to the Government Printing Office for "enrollment." Upon receipt of an "enrolled bill" from the Government Printing Office the bill is certified by the originating house and sent first to the Speaker of the House and then to the Senate where it is signed by the Vice President or the Acting President Pro Tempore of the Senate. The bill is then sent to the President who has ten days to approve or veto the bill.)

147 U.S., Congress, Senate, Education Amendments of 1974: Acting President Pro Tempore of Senate Signs Bill, 93rd Cong., 2nd sess., 9 August 1974, H.R. 69, Congressional Record 120: S14671.

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150 Interview with Charles Cooke, Deputy Assistant Secretary, DHEW, 5 May 1976.

151 Interview with Charles Cooke, Deputy Assistant Secretary, DHEW, 5 May 1976.

152 Interview with John Lively, Education and Budget Examiner, Human Resources Division, Office of Management and Budget, Washington, D.C., 7 July 1976; Interview with William Fisher, Assistant Director of Human Resources, Congressional Budget Office, U.S. Congress, formerly Deputy Associate Director, Human Resources Division, Office of Management and Budget, 27 July 1976.

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164 Interview with Michael O'Malley, Acting Director, Bilingual Multicultural Division, National Institute of Education, Education Division, DHEW, Washington, D.C., 30 July 1976.

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167 Senator Cranston to T. H. Bell, U.S. Commissioner of Education, 12 February 1975, Gary Aldrich Papers, File "Bilingual Education," Russell Senate Office Building, Washington, D.C.; Senator Kennedy to Caspar Weinberger, Secretary of DHEW, 10 March 1975, Mark Schneider Papers, File Bilingual Education," Russell Senate Office Building, Washington, D.C.

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CHAPTER EIGHT

SUMMARY, ANALYSIS AND IMPLICATIONS OF THE 1974 BILINGUAL EDUCATION AMENDMENTS

Summary

This dissertation examined in detail the legislative history of the 1974 Bilingual Education Act, Section 105 of the Education Amendments of 1974, Public Law 93-380. It investigated how the various forces--Congressional, Senatorial, lobbying, judicial, minority group and Administration--affected the development and the character of the 1974 Bilingual Education Act. Using the case study method, the dissertation explored the answers to a series of research questions: How did the 1974 Act view the appropriate Federal role in meeting the needs of linguistic minorities? Did the 1974 Act commit the Federal government to be a direct service provider of bilingual-bicultural education or did the Act limit the Federal role to one of secondary support? Did the 1974 law continue the transitional approach of the 1968 statute or did it permit a maintenance model to be adopted? What direction did the 1974 Act chart for the future of bilingual-bicultural education? Finally, was the 1974 Act revolutionary, reactionary or reformist in nature?

In exploring these questions, the researcher studied the literature in the field of bilingual-bicultural education legislation and Congressional and Administration documents, memoranda and reports. Interviews were conducted with the key Representatives and Senators, Congressional staff, Administration officials, lobbyists and educators who participated in the legislative process and who were available. Material also included personal files made available to the researcher, permitting an understanding of the strategies and positions of the various participants in the legislative process.

Chapter One explained the scope and purpose of the dissertation, offered appropriate definitions, reviewed the limitations of the study and listed the sources of data.

Chapter Two of the dissertation traced the contributing forces that preceded the 1974 Act by examining the literature as it related to the history of linguistic minorities in the United States and the response of the public schools to their particular needs. It noted the growing national attention to the importance of equal educational opportunity and the reasoning and findings in the landmark Supreme Court case, Lau v. Nichols. The discussion also covered the historical development of the bilingual-bicultural approach, recent research and the growing international attention to this phenomenon.

The dissertation summarized in Chapter Three the legislative forerunners of the 1974 Bilingual Education Amendments and described a changing national attitude toward the role of the Federal government in education.

The pioneer Bilingual Education Act of 1968 was examined as the first specific legislation authorizing Federal support to bilingual-bicultural education. The subsequent modifications of that law and other Federal programs providing support for bilingual-bicultural education were summarized. The chapter also outlined the divisions over the philosophy and goals of bilingual-bicultural education and the Federal role in its promotion.

Chapter Four traced the Senate bilingual-bicultural education provisions from the first staff preparation of proposed bills to the final adoption of the Omnibus Education Amendments of 1974 by the Senate.

The legislative process was chronicled to permit a better understanding of the developing philosophy toward the appropriate Federal role in bilingual-bicultural education. The broad reform of the Title VII program written into the final Senate bill was detailed.

Chapter Five described the development of the House provisions on bilingual-bicultural education and the strategies of both proponents and opponents of expanded bilingual-bicultural provisions. The critical decision of proponents to adopt a "low profile" strategy was disclosed and the

consequences of that decision were examined.

The development of the Administration position and its effect on the legislative process in both the House and Senate were the major subjects reviewed in Chapter Six. The internal disputes within the Administration and the changing goals of the Administration during the course of the legislation's development were considered. The interplay between the Administration and other participants in the legislative process also was described.

Chapter Seven concentrated on the Conference between the Senate and House, where the differing bilingual-bicultural proposals were finally juxtaposed. The impact of a changing Administration position, of lobbyists and of the idiosyncratic political situation of 1974 were examined as they related to the achievement of a consensus on compromise bilingual-bicultural provisions.

Finally, the chapter described how specific provisions of the two versions were changed during the course of the Conference, and the implications of those changes on the underlying Federal role and philosophy toward assisting limited English-speaking children.

The brief but intense debate within the new Ford Administration over whether or not to sign the measure also was described and some of the subsequent practical results of the measure's enactment were noted.

Conclusions: Bilingual Education
and the Legislative Process

The dissertation disclosed how personality, political interest, institutional constraint and outside lobbying groups affected the legislative process and determined the character of the end product of that process, the 1974 Bilingual Education Act.

The researcher found that individual Senators and Congressmen with large numbers of limited English-speaking constituents both echoed their constituents' support for bilingual-bicultural education and communicated their positions to those groups. Senator Edward M. Kennedy, Democrat of Massachusetts, with Puerto Rican, Portuguese and French-speaking communities in his own state and a national constituency including other limited English-speaking ethnic minorities, was predisposed favorably toward bilingual-bicultural education. Senator Alan Cranston, Democrat of California, representing a state with a large Mexican American constituency as well as smaller but outspoken limited English-speaking Asian minorities, also responded to the requests for more affirmative Federal action in the area of bilingual-bicultural education. However, the conduct of Senator Peter Dominick, Republican of Colorado, underlined this finding. Despite expressing obvious doubts concerning the value of bilingual-bicultural education, Senator Dominick

supported the Senate bill's Title VII provisions. He also wanted a provision in the area of bilingual-bicultural education which he could call his own. His conservative philosophy, calling for a limited role for the Federal government and adherence to the "melting pot" theory of American society, was overridden by his perception of his constituents' support for Federally-supported bilingual-bicultural education programs.

The researcher also discovered that Congressional staff responsibility encompassed all aspects of the legislative process. They prepared draft legislation, organized hearings, wrote statements and issue papers and developed detailed explanations and rebuttals for their principals. In addition, they frequently were the point of contact for lobbying groups and Administration officials. They were not only privy to negotiations; but, in the Senate particularly, they conducted those negotiations on behalf of their principals. Thus, while the initial decision to become identified with the bilingual-bicultural education program was made by the Senators and while they were kept informed of the pace of negotiations, much of the day-to-day strategy planning and legislative activity rested with the staff.

A third finding of the researcher was that ethnic minority interest groups were a significant force affecting the outcome of the legislation, even though they were competing for influence with other much more powerful lobbying

groups, such as national education organizations and labor organizations. Raza Association of Spanish Surnamed Americans (RASSA) for instance, managed to secure a pivotal role by being active in the preparation of the legislation, by limiting its concerns to the single issue of the bilingual-bicultural section, and by appealing to the broad commitment to equal educational opportunity of the other, basically liberal lobbying organizations.

The researcher found that all of the interest groups had access, expertise and personal relationships with both staff and members of Congress. These factors enabled them to present their views in person. Where there were no conflicting forces in the decision-making process, the finding of the researcher was that those views prevailed. Where there were divergences of opinion, then both the relative power of each competing group and the individual views of the legislators determined the final decision.

The importance of Congressional courtesy and the personal relationships of legislators with their colleagues also was found by the researcher to have had a major impact on the legislative process. Avoidance of confrontation and resolution of differences through compromise characterized the legislative process. Representative Carl Perkins, Democrat of Kentucky, and Chairman of the House Education and Labor Committee sought out Senator Kennedy to inform him of the delicate path the Chairman would have to walk to

maintain the support of Representative Albert Quie, Republican of Minnesota, for the final Conference Report. Chairman Perkins said that he endorsed the Senate position but requested, on a personal basis, the understanding of Senator Kennedy as to why the House Conferees would have to go along with some of Representative Quie's objections.

Similarly, although Representative Quie had a considerable amount of leverage, he did not seek or expect to delete major Senate bilingual-bicultural provisions. He did not confront Senate Conferees with an ultimatum; rather, he sought to achieve a compromise limiting each of the Senate provisions as much as possible.

The researcher also found that the existence of a divided government--a Republican President and a Democratic Congress--significantly affected this legislative outcome. The initial Administration approach of a revenue-sharing concept was defeated before it was even introduced when Democrats and key Republicans rejected it. The second Administration position supporting a one-year extension of Title VII was doomed by the decision taken by the Democratic-controlled committees. With Republican-controlled committees, it might well have been possible to obtain a single-year extension. The Democrats controlled the timing of action on the bill, the scope of the measure, and the direction of each of the legislation's major elements.

The outcome of the legislative process also was affected by the threat of a veto and the leverage this gave to the Republican Congressmen whose votes would be crucial in the event a veto occurred and a vote to override that veto was necessary. Without the factor of a Republican President, it is likely the Senate version would have been adopted completely.

The researcher also found sharp differences of view within the Administration throughout the legislative process. The Administration spoke not with one voice but with many voices, and the differing views continued until the bill was signed into law.

In that interplay, the Office of Management and Budget stressed the budgetary implications of the proposed law and its underlying potential for future expansion. It was most negative toward bilingual-bicultural education. Within the Department of Health, Education and Welfare (DHEW), it was the Division of Bilingual Education which was most supportive of an expanded Federal role; but its view had little impact. Far more important was the Office of Planning and Evaluation with direct access to the Under Secretary.

Within the Administration, personalities also affected the outcome. A forceful stand by DHEW Under Secretary Frank Carlucci ultimately placed the Administration in a more

responsive stance toward the needs of limited English-speaking students.

The researcher also found that the Supreme Court decision of Lau v. Nichols, while merely supporting the Senate determination to produce an expansion of bilingual-bicultural education, was of more importance in influencing the House to move more positively toward bilingual-bicultural education and the administration to be more receptive as well.

The researcher found that the House and Senate Committees responsible for the legislation were more liberal than the House or Senate as a whole. As a result, they were more receptive to minority concerns about equal educational opportunity and to an active Federal role in supporting bilingual-bicultural education programs.

Finally, with regard to the 1974 Act, the researcher found public opinion had a minimal influence on the legislative outcome. The general public awareness of the legislation's development also appeared negligible. The major issues of dispute were debated in then secret executive sessions of the Senate Committee and ultimately resolved behind the closed doors of the Conference. Interest groups, Administration officials and Congress were the active participants in the process. A more open process is now in effect. Whether it would have affected the legislative outcome, however is not clear.

Although these were the major findings with regard to the legislative process itself, the researcher did discover additional important insights into the Federal perception of bilingual-bicultural education.

The researcher found that the thrust of Federal support to bilingual-bicultural education related directly to a general acceptance by Congress of the goal of equal educational opportunities. In this regard, the role of the U.S. Commission on Civil Rights in highlighting past inequalities of opportunity experienced by limited English-speaking groups was crucial. The U.S. Commission on Civil Rights' past reputation for accurate research related to racial equality gave its findings in the area of equal educational opportunity unquestioned credibility. Those findings, the testimony of ethnic group spokesmen and the Lau v. Nichols decision supported the conclusion that limited English-speaking children had been denied equal educational opportunity in the past and bilingual-bicultural education was a means to redress that denial.

It is noteworthy that no one at any time throughout the legislative process argued with the new Title VII policy statement that bilingual-bicultural programs were being supported to promote equal educational opportunity.

The researcher also found that the legitimacy of Federal support for bilingual-bicultural education rested in part on its similarity to compensatory education for the

economically disadvantaged. If it was appropriate for the Federal government to compensate for educational retardation caused by the economic poverty of one's background, then it was appropriate for the Federal government to be equally concerned when some students--because of their language backgrounds--could not cope with the school system. Bilingual-bicultural education proponents argued during the legislative process that Federal bilingual-bicultural education programs were extensions of the past precedent of Federal compensatory education programs.

Revolution, Reaction, Reform: An Analysis

The 1974 Bilingual Education Act represented the Federal response to the educational needs of limited English-speaking children. The researcher found that the 1974 Act resolved many philosophical issues concerning the Federal role in bilingual-bicultural education. Those resolutions permit a determination whether the Act itself constituted a revolution, a reaction or a reform of past practices.

A continuing Federal role in assisting states and localities in meeting the needs of limited English-speaking students was contained within the 1974 Act. Although the Federal government was not committed by the legislation to provide direct services to all eligible students, it did expand the number of local classroom projects and institute a major new Federal role in providing the resources--teachers,

paraprofessionals, curricula, research--to enable localities and states to provide those services.

The 1974 Act diluted the transitional limitations of the previous 1968 law, permitting bilingual-bicultural education programs to be funded through high schools, although the emphasis remained on elementary school instruction. The Act also made a full bilingual-bicultural approach the likely outcome in all instances, and specifically denied the sufficiency of an English-as-a-second-language program. All of these resolutions of issues concerning bilingual-bicultural education contributed to understanding the nature and character of the 1974 Act.

When measured against the role of the Federal government in 1960, the 1974 Act might well be termed a revolution in Federal policy and philosophy. However, when viewed as the third in a series of alterations of the legislation enacted in 1968, the 1974 Act loses credibility as revolutionary legislation. When compared with the Compensatory Education legislation of Title I and the Bilingual Education Act of 1968, it seems evident to this researcher that there was no "Winter Palace" under attack during the 1974 legislative process.

Given the year 1974, under what circumstances would one have been justified in describing legislative action in bilingual-bicultural education as revolutionary? Characterization as a revolutionary law would have been appropriate

only if the Congress had approved and the President had signed legislation committing the Federal government to be the educator of last resort for all limited English-speaking children who were not being offered full bilingual-bicultural programs from pre-school through high school.

It is noteworthy that the law did plant the seeds for the Federal government to assume a responsibility in the future to fund full bilingual-bicultural programs for all limited-English speakers. First, it called for a study of the national need for bilingual-bicultural education and then an assessment of the educational resources--teachers books, materials, administrative personnel--needed to provide full bilingual-bicultural programs to them. Second, the law avoided the stress on the demonstration aspect of the classroom projects being carried out. Instead of specifically talking of demonstration projects, the law uses the word only once during the policy statement. A deletion of that portion of the policy statement and a multiplication of the authorizations by thirty-fold would create a Federally-funded service approach. However, in light of levels of authorizations sufficient to fund programs serving only a small percentage of those eligible, the inclusion of the demonstration concept, and the limitations--however pro forma in practice--on the bilingual-bicultural requirement, the 1974 Act clearly was not revolutionary.

If it was not a revolutionary document, perhaps it reflected a reaction against the pressure of minority groups for special treatment. However, if one examines the increased levels of spending, the expanded authority for Federal intervention in the field of bilingual-bicultural education, then reaction must be rejected as a conclusion.

A reactionary piece of legislation would have been one that totally deleted the Federal program or one which adopted the Administration's initial proposal of folding Title VII and other categorical programs into a special revenue sharing approach. In that instance, the onus for bilingual-bicultural education programs would have been removed from the Federal government since the decision on the level of expenditures for bilingual-bicultural education and the extent of its bilingual or bicultural content would have been a proposal to meet the problems of the limited English-speaking not with a bilingual-bicultural approach, but rather with English-as-a-second-language without any mandated cultural content.

None of these results is found within the 1974 Act, Instead there was an expansion of authorized activities and spending levels, an affirmation of the Federal responsibility to assure equal educational opportunity for the limited English-speaking, and a defense of the legitimacy of their native language and culture. Thus, the new law filled gaps in existing Federal programs where the bilingual nature of

the programs often was minute, and the bicultural content often minimal. The law extended the Federal government's support of bilingual-bicultural programs and it expanded the authority to require the preparation of bilingual teachers, paraprofessionals and administrators. It also extended the bilingual-bicultural approach to other educational programs, such as adult education and vocational education. The law also stressed the need for greater research, greater priority for the program within the Office of Education and the first beginning steps toward discovery of the ramifications of any future decision to accept a total responsibility for the education of the limited English-speaking.

The law dealt vaguely with the philosophical questions of the Federal role. It accepted somewhat more than the strictly transitional approach of its predecessor, permitting maintenance programs into the secondary years, although concentrating its attention on the elementary grades. Similarly, while there were limitations on the bilingual-bicultural approach, they were not linked directly to English language competence. Instead, a new standard of relative learning capability was employed in which the use of the native language in all classes would continue until the individual could progress as well as his English-speaking peers in the educational process. Until that time, native language course instruction was not only legitimate, it was

mandated in Federally-funded Title VII programs, along with cultural appreciation.

When these factors are examined, it is apparent that the 1974 Bilingual Education Act represented a reform of existing law and existing Federal practice in the field of bilingual-bicultural education. It would be difficult to make a quantitative measurement of that reform. The proponents of such reform in the Congress and Administration were enthusiastic. The opponents were somewhat dissatisfied but not, other than the Office of Management and Budget, outraged. The lobbyists viewed the final compromise as having achieved some desirable goals, but not all. However, all shared the sense that the law presented a continuing and expanding Federal role in bilingual-bicultural education.

Implications for Future Research

The decision-making process and the operation of governmental systems is a new area for research as it relates to bilingual-bicultural education. The types of forces that have led to the creation of bilingual-bicultural programs in the United States, the policy perspective and the ideological and philosophical basis for these decisions need to be studied further.¹

As the Bilingual Education Act comes up for further Congressional review in 1977, legislators, educators and

the public will again be debating the goals of bilingual-bicultural education. That debate will examine again the appropriate Federal role and the efficacy of bilingual-bicultural education. Understanding the legislative process and how policy decisions affecting bilingual-bicultural education are made can help affect the outcome.

Also, the impact that education research had on legislative decisions is yet to be determined. There is a continuing need to isolate those forces which are most important to a legislator in the field of education legislation.²

More comparative research on current bilingual-bicultural programs needs to be undertaken under sufficiently well-monitored conditions so that the results are more than a glimpse into an individual program's operations. They also should be conducted over a sufficient period so that absenteeism and educational attainment can be evaluated for limited English-speaking students who have been taught both with the bilingual-bicultural approach and with other approaches.³

When the first Federal bilingual-bicultural education Act was passed in 1968, little serious research had been undertaken. By 1973, the Center for Applied Linguistics was stating:

. . . Lacking such research, the first years of bilingual programs have been devoid of real direction. At best, this has resulted in programs with different philosophies, varied emphases and limited development efforts. Bilingual programs in many cases have been prevented from reaching their full potential by lack of solid information regarding the nature of bilingual education.⁴

There is validity in this statement even in 1976. Therefore, it is likely that a heated debate will reoccur over the future of bilingual-bicultural education. In part, controversy in such a debate will be due to the lack of thoroughly convincing longitudinal studies of program results.

However, while the controversy will rage, the reality is that limited English-speaking students have been denied an effective opportunity in the past to acquire the skills necessary to contribute and to participate fully in the American society. Bilingual-bicultural education may not be the total answer to adding the limited English-speaking to achieve an equal educational opportunity; however, the 1974 Act demonstrated that Congress viewed all other methods as inadequate to meet the standard of equal educational opportunity. The Federal government, hesitantly to be sure, committed its prestige, power and resources to support the bilingual-bicultural approach.

CHAPTER EIGHT INTERVIEW NOTES

Joshua Fishman, Institute for Advanced Studies,
Princeton University, New Jersey.

Rudolph Troike, Director, Center for Applied Lin-
guistics, Arlington, Virginia.

G. Richard Tucker, Professor McGill University,
Montreal, Canada.

CHAPTER EIGHT NOTES

¹Interview with Joshua Fishman, Institute for
Advanced Studies, Princeton University, New Jersey, Washing-
ton, D.C., 8 June 1976.

²Interview with Rudolph Troike, Director, Center
for Applied Linguistics, Arlington, Virginia 14 January 1976.

³Interview with G. Richard Tucker, Professor, McGill
University, Montreal, Canada, Washington, D.C., 13 August
1976.

⁴U.S., Congress, Senate, Committee on Labor and
Public Welfare, Education Legislation 1973, Hearings Before
Subcommittee of Senate Committee on Labor and Public Welfare
on S. 1539, 93rd Cong., 1st sess., 1973, (Testimony of Gil-
bert Chavez, Director, Bilingual Education Program, Center
for Applied Linguistics, Arlington, Virginia), pp. 3141-3144.

APPENDIX A

LAU V. NICHOLS

SUPREME COURT DECISION

LAU v. NICHOLS

Syllabus

LAU ET AL. v. NICHOLS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 72-6520. Argued December 10, 1973—Decided January 21, 1974

The failure of the San Francisco school system to provide English language instruction to approximately 1,800 students of Chinese ancestry who do not speak English, or to provide them with other adequate instructional procedures, denies them a meaningful opportunity to participate in the public educational program and thus violates § 601 of the Civil Rights Act of 1964, which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance," and the implementing regulations of the Department of Health, Education, and Welfare. Pp. 565-569.

483 F. 2d 791, reversed and remanded.

DOUGLAS, J., delivered the opinion of the Court, in which BRENNAN, MARSHALL, POWELL, and REHNQUIST, JJ., joined. STEWART, J., filed an opinion concurring in the result, in which BURGER, C. J., and BLACKMUN, J., joined, *post*, p. 569. WHITE, J., concurred in the result. BLACKMUN, J., filed an opinion concurring in the result, in which BURGER, C. J., joined, *post*, p. 571.

Edward H. Steinman argued the cause for petitioners. With him on the briefs were *Kenneth Hecht* and *David C. Moon*.

Thomas M. O'Connor argued the cause for respondents. With him on the brief were *George E. Krueger* and *Burk E. Delventhal*.

Assistant Attorney General Pottinger argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Bork*, *Deputy Solicitor General Wallace*, *Mark L. Evans*, and *Brian K. Landsberg*.*

*Briefs of *amici curiae* urging reversal were filed by *Stephen J. Pollak*, *Ralph J. Moore, Jr.*, *David Rubin*, and *Peter T. Galiano* for

OCTOBER TERM, 1973

Opinion of the Court

414 U. S.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The San Francisco, California, school system was integrated in 1971 as a result of a federal court decree, 339 F. Supp. 1315. See *Lee v. Johnson*, 404 U. S. 1215. The District Court found that there are 2,856 students of Chinese ancestry in the school system who do not speak English. Of those who have that language deficiency, about 1,000 are given supplemental courses in the English language.¹ About 1,800, however, do not receive that instruction.

This class suit brought by non-English-speaking Chinese students against officials responsible for the operation of the San Francisco Unified School District seeks relief against the unequal educational opportunities, which are alleged to violate, *inter alia*, the Fourteenth Amendment. No specific remedy is urged upon us.

the National Education Assn. et al.; by *W. Reece Bader* and *James R. Madison* for the San Francisco Lawyers' Committee for Urban Affairs; by *J. Harold Flannery* for the Center for Law and Education, Harvard University; by *Herbert Teitelbaum* for the Puerto Rican Legal Defense and Education Fund, Inc.; by *Mario G. Obledo*, *Sanford J. Rosen*, *Michael Mendelson*, and *Alan Ezelrod* for the Mexican American Legal Defense and Educational Fund et al.; by *Samuel Rabinove*, *Joseph B. Robison*, *Arnold Forster*, and *Elliot C. Rothenberg* for the American Jewish Committee et al.; by *F. Raymond Marks* for the Childhood and Government Project; by *Martin Glick* for *Efrain Tostado et al.*; and by the Chinese Consolidated Benevolent Assn. et al.

¹ A report adopted by the Human Rights Commission of San Francisco and submitted to the Court by respondents after oral argument shows that, as of April 1973, there were 3,457 Chinese students in the school system who spoke little or no English. The document further showed 2,136 students enrolled in Chinese special instruction classes, but at least 429 of the enrollees were not Chinese but were included for ethnic balance. Thus, as of April 1973, no more than 1,707 of the 3,457 Chinese students needing special English instruction were receiving it.

OCTOBER TERM, 1973

Opinion of the Court

414 U. S.

Moreover, § 8573 of the Education Code provides that no pupil shall receive a diploma of graduation from grade 12 who has not met the standards of proficiency in "English," as well as other prescribed subjects. Moreover, by § 12101 of the Education Code (Supp. 1973) children between the ages of six and 16 years are (with exceptions not material here) "subject to compulsory full-time education."

Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.

Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.

We do not reach the Equal Protection Clause argument which has been advanced but rely solely on § 601 of the Civil Rights Act of 1964, 42 U. S. C. § 2000d, to reverse the Court of Appeals.

That section bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance." The school district involved in this litigation receives large amounts of federal financial assistance. The Department of Health, Education, and Welfare (HEW), which has authority to promulgate regulations prohibiting discrimination in federally assisted school systems, 42 U. S. C. § 2000d-1, in 1968 issued one guideline that "[s]chool systems are responsible for assuring that students of a particular race, color, or national origin are not denied the

LAU v. NICHOLS

Opinion of the Court

opportunity to obtain the education generally obtained by other students in the system." 33 Fed. Reg. 4956. In 1970 HEW made the guidelines more specific, requiring school districts that were federally funded "to rectify the language deficiency in order to open" the instruction to students who had "linguistic deficiencies," 35 Fed. Reg. 11595.

By § 602 of the Act HEW is authorized to issue rules, regulations, and orders² to make sure that recipients of federal aid under its jurisdiction conduct any federally financed projects consistently with § 601. HEW's regulations, 45 CFR § 80.3 (b)(1), specify that the recipients may not

"(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

"(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program."

Discrimination among students on account of race or national origin that is prohibited includes "discrimination . . . in the availability or use of any academic . . . or

² Section 602 provides:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. . . ." 42 U. S. C. § 2000d-1.

OCTOBER TERM, 1973

Opinion of the Court

414 U. S.

other facilities of the grantee or other recipient." *Id.*, § 80.5 (b).

Discrimination is barred which has that *effect* even though no purposeful design is present: a recipient "may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination" or have "the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin." *Id.*, § 80.3 (b)(2).

It seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by the regulations.³ In 1970 HEW issued clarifying guidelines, 35 Fed. Reg. 11595, which include the following:

"Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."

"Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational deadend or permanent track."

Respondent school district contractually agreed to "comply with title VI of the Civil Rights Act of 1964 . . . and all requirements imposed by or pursuant to the

³ And see Report of the Human Rights Commission of San Francisco, Bilingual Education in the San Francisco Public Schools, Aug. 9, 1973.

LAU v. NICHOLS

STEWART, J., concurring in result

Regulation" of HEW (45 CFR pt. 80) which are "issued pursuant to that title . . ." and also immediately to "take any measures necessary to effectuate this agreement." The Federal Government has power to fix the terms on which its money allotments to the States shall be disbursed. *Oklahoma v. CSC*, 330 U. S. 127, 142-143. Whatever may be the limits of that power, *Steward Machine Co. v. Davis*, 301 U. S. 548, 590 *et seq.*, they have not been reached here. Senator Humphrey, during the floor debates on the Civil Rights Act of 1964, said: *

"Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination."

We accordingly reverse the judgment of the Court of Appeals and remand the case for the fashioning of appropriate relief.

Reversed and remanded.

MR. JUSTICE WHITE concurs in the result.

MR. JUSTICE STEWART, with whom THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN join, concurring in the result.

It is uncontested that more than 2,800 schoolchildren of Chinese ancestry attend school in the San Francisco Unified School District system even though they do not speak, understand, read, or write the English language, and that as to some 1,800 of these pupils the respondent school authorities have taken no significant steps to deal with this language deficiency. The petitioners do not contend, however, that the respondents have affirmatively or intentionally contributed to this inadequacy, but only

* 110 Cong. Rec. 6543 (Sen. Humphrey, quoting from President Kennedy's message to Congress, June 19, 1963).

OCTOBER TERM, 1973

STEWART, J., concurring in result 414 U.S.

that they have failed to act in the face of changing social and linguistic patterns. Because of this laissez-faire attitude on the part of the school administrators, it is not entirely clear that § 601 of the Civil Rights Act of 1964, 42 U. S. C. § 2000d, standing alone, would render illegal the expenditure of federal funds on these schools. For that section provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

On the other hand, the interpretive guidelines published by the Office for Civil Rights of the Department of Health, Education, and Welfare in 1970, 35 Fed. Reg. 11595, clearly indicate that affirmative efforts to give special training for non-English-speaking pupils are required by Tit. VI as a condition to receipt of federal aid to public schools:

"Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."¹

¹ These guidelines were issued in further clarification of the Department's position as stated in its regulations issued to implement Tit. VI, 45 CFR pt. 80. The regulations provide in part that no recipient of federal financial assistance administered by HEW may

"Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program; [or]

"Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program." 45 CFR § 80.3 (b) (1) (ii), (iv).

LAU v. NICHOLS

BLACKMUN, J., concurring in result

The critical question is, therefore, whether the regulations and guidelines promulgated by HEW go beyond the authority of § 601.² Last Term, in *Mourning v. Family Publications Service, Inc.*, 411 U. S. 356, 369, we held that the validity of a regulation promulgated under a general authorization provision such as § 602 of Tit. VI³ "will be sustained so long as it is 'reasonably related to the purposes of the enabling legislation.' *Thorpe v. Housing Authority of the City of Durham*, 393 U. S. 268, 280-281 (1969)." I think the guidelines here fairly meet that test. Moreover, in assessing the purposes of remedial legislation we have found that departmental regulations and "consistent administrative construction" are "entitled to great weight." *Trafficante v. Metropolitan Life Insurance Co.*, 409 U. S. 205, 210; *Griggs v. Duke Power Co.*, 401 U. S. 424, 433-434; *Udell v. Tallman*, 380 U. S. 1. The Department has reasonably and consistently interpreted § 601 to require affirmative remedial efforts to give special attention to linguistically deprived children.

For these reasons I concur in the result reached by the Court.

MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, concurring in the result.

I join MR. JUSTICE STEWART's opinion and thus I, too, concur in the result. Against the possibility that the Court's judgment may be interpreted too broadly, I

² The respondents do not contest the standing of the petitioners to sue as beneficiaries of the federal funding contract between the Department of Health, Education, and Welfare and the San Francisco Unified School District.

³ Section 602, 42 U. S. C. § 20001-1, provides in pertinent part:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way

OCTOBER TERM, 1973

BLACKMUN, J., concurring in result 414 U. S.

stress the fact that the children with whom we are concerned here number about 1,800. This is a very substantial group that is being deprived of any meaningful schooling because the children cannot understand the language of the classroom. We may only guess as to why they have had no exposure to English in their preschool years. Earlier generations of American ethnic groups have overcome the language barrier by earnest parental endeavor or by the hard fact of being pushed out of the family or community nest and into the realities of broader experience.

I merely wish to make plain that when, in another case, we are concerned with a very few youngsters, or with just a single child who speaks only German or Polish or Spanish or any language other than English, I would not regard today's decision, or the separate concurrence, as conclusive upon the issue whether the statute and the guidelines require the funded school district to provide special instruction. For me, numbers are at the heart of this case and my concurrence is to be understood accordingly.

of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. . . ."

The United States as *amicus curiae* asserts in its brief, and the respondents appear to concede, that the guidelines were issued pursuant to § 602.

JUSTICES
OF THE
SUPREME COURT
DURING THE TIME OF THESE REPORTS

WARREN E. BURGER, CHIEF JUSTICE.
WILLIAM O. DOUGLAS, ASSOCIATE JUSTICE.
WILLIAM J. BRENNAN, JR., ASSOCIATE JUSTICE.
POTTER STEWART, ASSOCIATE JUSTICE.
BYRON R. WHITE, ASSOCIATE JUSTICE.
THURGOOD MARSHALL, ASSOCIATE JUSTICE.
HARRY A. BLACKMUN, ASSOCIATE JUSTICE.
LEWIS F. POWELL, JR., ASSOCIATE JUSTICE.
WILLIAM H. REHNQUIST, ASSOCIATE JUSTICE.

RETIRED

EARL WARREN, CHIEF JUSTICE.
STANLEY REED, ASSOCIATE JUSTICE.
TOM C. CLARK, ASSOCIATE JUSTICE.

OFFICERS OF THE COURT

ELLIOT L. RICHARDSON, ATTORNEY GENERAL.
WILLIAM B. SAXBE, ATTORNEY GENERAL.
ROBERT H. BORK, SOLICITOR GENERAL.
MICHAEL RODAK, JR., CLERK.
HENRY PUTZEL, jr., REPORTER OF DECISIONS.
FRANK M. HEPLER, MARSHAL.
EDWARD G. HUDON, LIBRARIAN.

APPENDIX B

BILINGUAL EDUCATION ACT OF 1968:

TITLE VII ESEA

PUBLIC LAW 90-247--JAN. 2, 1968

TITLE VII--BILINGUAL EDUCATION PROGRAMS

FINDINGS OF CONGRESS

SEC. 701. The Congress hereby finds that one of the most acute educational problems in the United States is that which involves millions of children of limited English-speaking ability because they come from environments where the dominant language is other than English; that additional efforts should be made to supplement present attempts to find adequate and constructive solutions to this unique and perplexing educational situation; and that the urgent need is for comprehensive and cooperative action now on the local, State, and Federal levels to develop forward-looking approaches to meet the serious learning difficulties faced by this substantial segment of the Nation's school-age population.

AMENDMENT TO ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

79 Stat. 55;
80 Stat. 1294.
20 USC 881
886.

SEC. 702. The Elementary and Secondary Education Act of 1965 is amended by redesignating title VII as title VIII, by redesignating sections 701 through 707 and references thereto as sections 801 through 807, respectively, and by inserting after title VI the following new title:

"TITLE VII--BILINGUAL EDUCATION PROGRAMS

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"DECLARATION OF POLICY

"SEC. 702. In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs. For the purposes of this title, 'children of limited English-speaking ability' means children who come from environments where the dominant language is other than English.

"AUTHORIZATION AND DISTRIBUTION OF FUNDS

"SEC. 703. (a) For the purposes of making grants under this title, there is authorized to be appropriated the sum of \$15,000,000 for the fiscal year ending June 30, 1968, \$30,000,000 for the fiscal year ending June 30, 1969, and \$40,000,000 for the fiscal year ending June 30, 1970.

"(b) In determining distribution of funds under this title, the Commissioner shall give highest priority to States and areas within States having the greatest need for programs pursuant to this title. Such priorities shall take into consideration the number of children of limited English-speaking ability between the ages of three and eighteen in each State.

Source: Elementary and Secondary Education A-
mendments of 1967, Statutes at Large
81, secs. 701-706, 816-820.

PUBLIC LAW 90-247—JAN. 2, 1968

"USES OF FEDERAL FUNDS"

"Sec. 701. Grants under this title may be used, in accordance with applications approved under section 705, for—

"(a) planning for and taking other steps leading to the development of programs designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below \$3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, including research projects, pilot projects designed to test the effectiveness of plans so developed, and the development and dissemination of special instructional materials for use in bilingual education programs; and

42 USC 401-428.

"(b) providing preservice training designed to prepare persons to participate in bilingual education programs as teachers, teacher-aides, or other ancillary education personnel such as counselors, and inservice training and development programs designed to enable such persons to continue to improve their qualifications while participating in such programs; and

"(c) the establishment, maintenance, and operation of programs, including acquisition of necessary teaching materials and equipment, designed to meet the special educational needs of children of limited English-speaking ability in schools having a high concentration of such children from families (A) with incomes below \$3,000 per year, or (B) receiving payments under a program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, through activities such as—

"(1) bilingual education programs;

"(2) programs designed to impart to students a knowledge of the history and culture associated with their languages;

"(3) efforts to establish closer cooperation between the school and the home;

"(4) early childhood educational programs related to the purposes of this title and designed to improve the potential for profitable learning activities by children;

"(5) adult education programs related to the purposes of this title, particularly for parents of children participating in bilingual programs;

"(6) programs designed for dropouts or potential dropouts having need of bilingual programs;

"(7) programs conducted by accredited trade, vocational, or technical schools; and

"(8) other activities which meet the purposes of this title.

"APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

"Sec. 705. (a) A grant under this title may be made to a local educational agency or agencies, or to an institution of higher education applying jointly with a local educational agency, upon application to the Commissioner at such time or times, in such manner and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purpose set forth in section 704 and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

PUBLIC LAW 90-247—JAN. 2, 1968

79 Stat. 27;
80 Stat. 1198.
20 USC 241a
note.

"(3) set forth a program of such size, scope, and design as will make a substantial step toward achieving the purpose of this title;

"(4) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds (including funds made available under title I of this Act) that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 704, and in no case supplant such funds;

"(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title;

"(6) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(7) provide assurance that provision has been made for the participation in the project of those children of limited English-speaking ability who are not enrolled on a full-time basis; and

"(8) provide that the applicant will utilize in programs assisted pursuant to this title the assistance of persons with expertise in the educational problems of children of limited English-speaking ability and make optimum use in such programs of the cultural and educational resources of the area to be served; and for the purposes of this paragraph, the term 'cultural and educational resources' includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

"(b) Applications for grants under title may be approved by the Commissioner only if—

"(1) the application meets the requirements set forth in subsection (a);

"(2) the program set forth in the application is consistent with criteria established by the Commissioner (where feasible, in cooperation with the State educational agency) for the purpose of achieving an equitable distribution of assistance under this title within each State, which criteria shall be developed by him on the basis of a consideration of (A) the geographic distribution of children of limited English-speaking ability, (B) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in paragraph (c) of section 704, and (C) the relative ability of particular local educational agencies within the State to provide those services and activities;

"(3) the Commissioner determines (A) that the program will utilize the best available talents and resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (B) that, to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which this program

PUBLIC LAW 99-247—JAN. 2, 1968

is intended to meet, provision has been made for participation of such children; and

"(f) the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"Sec. 706. (a) The Commissioner shall pay to each applicant which has an application approved under this title an amount equal to the total sums expended by the applicant under the application for the purposes set forth therein.

"(b) Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"ADVISORY COMMITTEE

"Sec. 707. (a) The Commissioner shall establish in the Office of Education an Advisory Committee on the Education of Bilingual Children, consisting of nine members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary. The Commissioner shall appoint one such member as Chairman. At least four of the members of the Advisory Committee shall be educators experienced in dealing with the educational problems of children whose native tongue is a language other than English.

"(b) The Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the development of criteria for approval of applications thereunder. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful and necessary in carrying out the functions of the Advisory Committee.

"(c) Members of the Advisory Committee shall, while serving on the business of the Advisory Committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

Members.
Compensation;
travel expenses.

80 Stat. 499.

"LABOR STANDARDS

"Sec. 708. All laborers and mechanics employed by contractors or subcontractors on all minor remodeling projects assisted under this title shall be paid wages at rates not less than those prevailing on similar minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)."

49 Stat. 1011;
78 Stat. 238.

64 Stat. 1267.

63 Stat. 108.

CONFORMING AMENDMENTS

SEC. 703. (a) That part of section 801 (as so redesignated by section 702 of this Act) of the Elementary and Secondary Education

Ante. p. 816.

PUBLIC LAW 90-247-JAN. 2, 1968

Act of 1965 which precedes clause (a) is amended by striking out "and VI" and inserting in lieu thereof "VI, and VII".

(b) Clause (j) of such section 801 as amended by this Act is further amended by striking out "and VI" and inserting in lieu thereof "VI, and VII".

AMENDMENTS TO TITLE V OF THE HIGHER EDUCATION ACT OF 1965

79 Stat. 1258.
20 USC 1111;
Ante. p. 93.

SEC. 704. (a) The third sentence of section 521 of the Education Professions Development Act (title V of the Higher Education Act of 1965) is amended (1) effective for the fiscal year ending June 30, 1968 only, by inserting after "a career of teaching in elementary or secondary schools" a new phrase as follows: "a career of teaching children of limited English-speaking ability", and (2) effective with respect to subsequent fiscal years, by inserting "and including teaching children of limited English-speaking ability" after "including teaching in pre-school and adult and vocational education programs".

20 USC 1112.

(b) Effective for the fiscal year ending June 30, 1968, only, section 522 (a) of such Act is amended by striking out "ten thousand fellowships for the fiscal year ending June 30, 1968" and inserting in lieu thereof "eleven thousand fellowships for the fiscal year ending June 30, 1968".

20 USC 1118.

(c) (1) Section 528 of such Act is amended, effective with respect to fiscal years ending after June 30, 1967, by striking out "\$275,000,000" and inserting in lieu thereof "\$285,000,000"; striking out "\$195,000,000" and inserting in lieu thereof "\$205,000,000"; striking out "\$240,000,000" and inserting in lieu thereof "\$250,000,000"; and striking out "July 1, 1968" and inserting in lieu thereof "July 1, 1970".

Ante. p. 94.

(2) The amendments made by this subsection shall, notwithstanding section 9 (a) of Public Law 90-35, be effective with regard to fiscal years beginning after June 30, 1967.

Ante. p. 92.

(d) Section 531 (b) of such Act is amended by redesignating clauses (8) and (9) thereof as clauses (9) and (10), respectively, and by inserting immediately after clause (7) the following new clause:

"(8) programs or projects to train or retrain persons engaging in special educational programs for children of limited English-speaking ability;".

AMENDMENTS TO TITLE XI OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

78 Stat. 1107;
79 Stat. 1254.
20 USC 591.

SEC. 705. (a) Section 1101 of the National Defense Education Act of 1958 is amended by striking out "and for each of the two succeeding fiscal years" and inserting in lieu thereof "and for the succeeding fiscal year, and \$51,000,000 for the fiscal year ending June 30, 1968".

79 Stat. 1228.

(b) Such section is further amended by striking out the period at the end of clause (3) and inserting in lieu thereof a comma and the word "or", and by inserting after such clause a new clause as follows:

"(4) who are engaged in or preparing to engage in special educational programs for children of limited English-speaking ability."

AMENDMENTS TO COOPERATIVE RESEARCH ACT

68 Stat. 533;
79 Stat. 44.
20 USC 331
note.

SEC. 706. Subsections (a) and (b) of section 2 of the Cooperative Research Act are each amended by inserting "and title VII" after "section 503(a) (4)".

Approved January 2, 1968.

APPENDIX C

AUTHORIZATIONS AND APPROPRIATIONS:

FY 1968-1976

TITLE VII PROGRAMS:

FY 1969-1976

AUTHORIZATIONS AND APPROPRIATIONS: FY 1968-1976

Authorizations and Appropriations for Title VII Programs, ESEA
(Dollar Amounts)

Fiscal Year	Congressional Authorizations	Initial Presidential Budget Request	Senate Appropriations	Final Appropriations
1968	15,000,000	-----	-----	-----
1969	30,000,000	5,000,000	10,000,000	7,000,000
1970	40,000,000	10,000,000	25,000,000	21,250,000
1971	80,000,000	10,000,000	25,000,000	25,000,000
1972	100,000,000	25,000,000	50,000,000	35,000,000
1973	135,000,000	41,130,000	60,000,000	45,000,000
1974	146,750,000	35,000,000	55,000,000	58,350,000*
1975	147,250,000	35,000,000	90,000,000	85,000,000
1976	152,750,000	70,000,000	100,270,000	94,970,000

*Note: \$9,870,000 of this appropriation was impounded and then released on December 19, 1973. Of this amount released \$170,000 was to be outlayed in fiscal year 1974 and \$9,700,000 in fiscal year 1975.

Source: The Budget. Senate Committee on Appropriations Reports and related Conference Reports. (FY 1968-FY 1976.)

TITLE VII PROGRAMS: FY 1969-1976

Data on the Number of Pupils Served and the Number of Title VII ESEA Projects
Fiscal Years 1969-1976

Fiscal Years	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
Number of Pupils Served	26,521	51,918	96,154	108,816	129,380	339,595	268,497	273,000 (estimated)
Number of Projects	76	131	164	217	209	383	379	425*

FY 1976 -- Office of Bilingual Education: \$25,375 million for training:
 \$12 million for dissemination and assessment, resource
 and materials development centers
 \$9.375 million for classroom training projects
 \$4 million for fellowships

FY 1976 -- National Institute of Education: \$6 million for bilingual-bicultural education research

*Note: Projected by 30 September 1976. 479 projects projected for FY 1977.

Source: John Molina, Director, Office of Bilingual Education, DHEW.
 Rudy Muniz, Director, Division of Bilingual Education and Secondary Programs, Office of
 Bilingual Education, Office of Education, DHEW.
 Juliet Rendely, Program Officer, Office of Bilingual Education, Office of Education, DHEW.
 Michael O'Malley, Director, Bilingual Multicultural Education, National Institute of
 Education, Education Division, DHEW.

APPENDIX D

EDUCATION AMENDMENTS OF 1974:

SENATE REPORT 93-763

Section 105--Bilingual Educational Programs

LEGISLATIVE BACKGROUND

The Federal bilingual education effort--title VII of the Elementary and Secondary Education Act--was initiated in 1967 pursuant to Public Law 90-247. In the 1967 Act, the Congress sought to provide an approach to the education of the non-English speaking or limited English speaking child that was more successful than existing modes, such as English-As-A-Second Language (ESL) or Remedial Reading.

As envisioned in Public Law 90-247--and as reiterated in S. 1539--bilingual education involves the use of two languages, one of which is English, as mediums of instruction to assist children of limited English-speaking ability. Both languages are used for the same student population--not as an isolated effort, but as a key component of a program embracing the total curriculum.

Rather than an objective in itself, bilingual education is part of a much larger goal: Encouraging a child of limited English-speaking ability to develop fully his individual skills and talents. It is the use of the child's native language and respect for his cultural background that best distinguished bilingual education from programs more narrowly focused, such as ESL and remedial reading.

The sole objective of ESL courses is to make non-English speakers more competent in English. Use of the child's native language is withheld and no effort is made to provide continued instruction in other subjects in a language the child can understand until the child is fully able to learn these subjects in English.

Remedial reading courses are even more limited in scope. The program addresses itself to just one aspect of the language problem, poor reading achievement, and in no way provides for alterations in the school curriculum or special training of teachers to meet the specific needs of the bilingual child.

The effectiveness of strict ESL or remedial reading approaches is questionable. Testimony before the Senate Education Subcommittee and the findings of the recent U.S. Civil Rights Commission report--*Toward Quality Education for Mexican-Americans*--challenge these approaches as inadequate. In spite of their prevalence in schools, fifty percent of Spanish-speaking students in California drop out by the eighth grade; 87 percent of Puerto Ricans over 25 years of age in New York City have not completed high school; the average number of school years completed by the Mexican-American in Southwest is 7.1 years; in Boston, over half of the 10,000 Spanish-speaking school-age children are not in school at all; and in Chicago, the dropout rate for the Spanish-speaking is approximately 60 percent.

Perhaps most disturbing, the testimony and the findings of various studies, including the U.S. Civil Rights Commission report, reveal that children have been placed in classes for mentally-retarded children because of their limited English-speaking ability.

Mindful of these data, and of original Congressional objectives, the Committee's consideration of the Education Amendments of 1974 included the first comprehensive review of the title VII program since its inception. The review began on February 26, 1973, when the Subcommittee on Education held a joint field hearing in Los Angeles with the Special Subcommittee on Human Resources, on the general topic

Source: U.S., Congress, Senate, Education Amendments of 1974, S. Rept. 763 to Accompany S. 1539, 93rd Cong., 2nd sess., 29 March 1974, pp. 42-48.

of bilingual education, health, and manpower programs. On October 31, 1973, the Subcommittee on Education heard testimony from 19 witnesses, including the former director of the title VII program, State bilingual directors, bilingual education teachers, program directors, and teacher trainers as well as from the U.S. Commission on Civil Rights on S. 2552 and 2553, legislation to reform the bilingual education program. An amalgam of these measures was reported as part of S. 1539.

BILINGUAL EDUCATION PROGRAM BACKGROUND

In spite of the perennial lack of sufficient funding, the bilingual education program has been able to serve a growing number of bilingual constituencies: In fiscal 1974, title VII projects sought to help children from Spanish-speaking, Eskimo and American Indian, Portuguese, and Chinese backgrounds. In addition, programs were carried out assisting Guam, the Trust Territories, and Puerto Rico.

Nevertheless, much remains to be done. The short-fall of services and projects is alarming. Conservative estimates indicate that there are at least five million children in the United States who await bilingual services. Yet, in fiscal year 1973, an appropriation of \$41,000,000, just 147,000 children were served in the 217 projects funded under the title.

In its review, the Committee was pleased to note that State efforts to provide bilingual instruction have increased since title VII was enacted in 1967, although over-all State progress remains limited. The Civil Rights Commission report found that only 6.5 percent of 500 school districts in the Southwest had bilingual programs. Testimony indicated that in 5 States surveyed, bilingual programs served barely 5 percent of the Puerto Rican children classified as of limited English-speaking ability.

The Committee also is deeply concerned over what appears to be a continuing inertia on the part of the Office of Education in developing a comprehensive set of goals, directions, and policies for the title VII effort. Very likely, some of the difficulties may be traced to inadequate appropriations, although each annual Congressional appropriation for the bilingual program has exceeded the Administration request, at times by over one-hundred percent.

Other undeveloped facets of the bilingual education program envisioned in 1967 are equally disappointing to the Committee. For example, despite specific authorities for teacher training and professional development, virtually no title VII funds have been spent for these purposes. Neither has the percentage earmarked for bilingual teacher training under the Education Professions Development Act been activated. In addition, the Administration has recommended no appropriations for EPDA in fiscal year 1975.

Further, while the development of model bilingual curricula would seem to be a valuable and appropriate Federal contribution to the field, there is little evidence that an adequate effort is being made in this area. Very slow progress has been made in stimulating curriculum and materials development for language groups other than Spanish-speaking.

Evaluation efforts are few and inconclusive, and the lack of research leadership in bilingual education on the part of the National Institute of Education is especially disappointing.

Other gaps in Federal attention to bilingual needs and services occur in vocational education, adult education, and library services—a situation the Committee has sought to remedy by providing new bilingual emphasis in the statutes underlying these programs.

Finally, the continuity and stability of the Title VII program itself has been jeopardized by frequent administrative reorganizations in the Office of Education. These restructurings have tended to lessen the program's visibility and have eroded its development. Within the organizational chart of the Department, the Division of Bilingual Education is on the lowest rung of the administrative hierarchy.

With these observations in mind, the Committee has rejected the Administration's request for a simple one-year extension of the current Title VII program, unchanged. Instead, the Committee finds it both necessary and desirable to provide more specific mandates and directions to enable the Office of Education to move more rapidly toward the demonstration of comprehensive models and examples of bilingual education, toward the development of the requisite quantity and quality of bilingual education personnel and curricula, and thus realize the Federal leadership in bilingual education first called for by the Congress in 1967.

For these reasons, the Committee has extended the revised program through June 30, 1978.

MAJOR BILINGUAL EDUCATION PROVISIONS IN REPORTED BILL

The Committee bill would replace the current title VII bilingual education program. Its major provisions—those the Committee feels are of greatest importance—are described below.

Policy Declarations.—The Committee has used the term “children of limited English-speaking ability” merely to facilitate discussion; in no way is the term intended to imply any sense that children who share a linguistic and cultural background different from the majority of students are somehow inferior. Thus, the Congressional findings in the bill include: “that many of such children have a cultural heritage which differs from that of English-speaking persons; that a primary means by which a child learns is through the use of such child's language and cultural heritage; that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and that, in addition, all children benefit through the fullest utilization of multiple language and cultural resources.”

The decision of the U.S. Supreme Court in *Lau et al. v. Nichols et al.*, of January 21, 1974, holds that title VI of the Civil Rights Act of 1964 demands that school districts respond to the needs of their limited English-speaking students. The Court relied heavily on the May 25, 1970, guidelines of HEW which state: “Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.”

Thus, it is to assist in the provision of equal educational opportunity that the Committee has resolved to provide more and—hopefully—

better demonstration projects in bilingual education, with a wider range of support activities and coordination with other Federal educational activities, and an expanded program of training of teachers and other bilingual education personnel. These activities, together with in-depth research by the National Institute of Education and a thorough national survey of bilingual programs and needs, are mandated in the bill to give school districts across the country new material, new learning data, and the personnel necessary to build sound bilingual programs.

The goal of the program in the Committee bill is to permit a limited English-speaking child to develop the proficiency in English that permits the child to learn as effectively in English as in the child's native language—a vital requirement to compete effectively in society. This requires continuation of basic education instruction in both languages until that level of proficiency in English is achieved. The culmination of the process cannot be projected precisely in terms of a stated duration; therefore, the Committee does not believe it would be in keeping with the over-all program goal to set a cut-off for a bilingual program.

Bilingual Education Goals and Methods.—In its policy statement, the Committee has made clear its intent that bilingual education programs funded under the Act are to be programs involving use of both English and the native language as mediums of instruction in the basic school curriculum and including the study of the history and culture associated with the native language. The comprehensive program included in the bill is designed to develop and reinforce the child's self-esteem and to foster a legitimate pride in both cultures. This approach is based on sound educational principles which were well-summarized in testimony before the Subcommittee as:

(1) Using the native language to teach other subjects allows the education of the child to continue uninterrupted from home to school, thus preventing his retardation in subject matter while he learns English.

(2) Teaching a child to read first in the language he brings with him when he enters school facilitates his learning to read and write in a second language because the basic skills of reading are generally transferable from one language to another.

(3) Curriculum which incorporates the student's familiar experiences, community, history, and cultural heritage will help build pride and self-confidence in the student, and by being more relevant to the student's personal experiences, heighten his interest and motivation in school.

(4) By integrating the language and cultural background of all students, bilingual-bicultural education reinforces and increases the communication between home and school, thus improving the student's motivation and achievement.

In an effort to provide states and localities with every possible assistance in developing bilingual education programs to meet individual state and local needs, the Committee has directed the Commissioner of Education to develop recommendations, in the form of suggested model guidelines, setting forth desirable characteristics of potentially successful bilingual education programs, for appropriate voluntary use by local and state education agencies.

The Committee bill also makes provision for participation in bilingual education programs for eligible children attending non-public schools and certain assistance in connection with bilingual education programs for students at non-public schools. Examples of such assistance are the provision of teacher training services for faculty members of the non-public school or to the sharing of materials and equipment necessary to establish and carry out a bilingual program for non-public school students.

Although the major thrust of the program is aimed at elementary school programs, where the greatest need exists at this time and where the greatest benefits can be achieved, the Committee bill does provide for pre-school programs, and programs at the secondary level where maintenance of successful elementary school programs and special programs can be provided to focus on a particular need; for example, the presence of large numbers of recently immigrated students might necessitate a special program at the secondary level.

National Assessment.—Mindful of the critical need for accurate data for use in bilingual education policy-making, the Committee bill mandates an annual report to the President and the Congress on the condition of bilingual education in the Nation, the administration of the Title VII program and other Federal bilingual programs, a statement of activities current and projected, and an estimate of educational personnel needed to carry out the objectives of the Act.

The Committee bill also requires a national survey of the number of children and adults with limited English-speaking ability—and the extent to which they are being served by Federal, State, and local programs—to be completed by July 1, 1976.

Further, the Committee has mandated the preparation of a five-year plan for extending bilingual education services—through cooperative and voluntary arrangements among States, localities, and the Federal government, and through other means—to those persons determined by the survey to be in need of such services.

The Committee expects this information to be published and made available as a public document.

Educational Personnel Development.—The Committee viewed the lack of adequately trained bilingual education professional personnel—including teachers, counselors, administrators, teacher aides and other paraprofessionals—and the virtual non-existence of programs to produce those personnel, as a major failure in our teacher training system and the major obstacle to the immediate development of fully bilingual programs where they are needed.

In a sampling of the title VII projects across the country, the total need for trained bilingual teachers in those projects was found to be 35,117. In contrast, there are presently 9,448 teachers in title VII projects. Similar deficiencies were found in the numbers of bilingual counselors, administrators and trained paraprofessionals.

Because of these dramatic shortfalls, the Committee emphasized the preparation of education personnel specially trained to carry out bilingual education programs. The reported bill earmarks 15 percent, the current ratio, of each bilingual education grant for in-service and pre-service training and preparation of education personnel, and earmarks 50 percent of appropriations above \$35 million but not more than \$60 million, principally for the provision of new bilingual teachers, ad-

administrators, counselors, and other educational personnel, and the development of appropriate graduate education programs for these purposes. One-third of appropriations in excess of \$60 million also was earmarked for these purposes. To help increase the available supply of bilingual education professionals, the Committee bill also directs the Commissioner to provide a bilingual education fellowship program of from 200 to 500 fellowships each year.

Bilingual Education Research and the National Institute of Education.—In terms of priority needs, the Committee ranks bilingual research and development (R&D) at a high level. Ideally, good bilingual teachers and sound bilingual programs are inseparable.

As in the development of bilingual educators, the Federal government's efforts in bilingual R&D fall far short of the need. Since enactment of P.L. 92-318 in 1972, the responsibility for research in education has belonged to the National Institute of Education. Regrettably, the Committee's review of NIE's progress toward bilingual-bicultural R&D has revealed little evidence that the Institute has viewed research in bilingual education with the priority regard the Committee feels it warrants. The Committee—recognizing that the Federal responsibility for research in bilingual education rests, by law, with NIE—expects leadership from the Institute in attaining the objectives mandated by the Committee bill. These objectives include the identification of elements of a successful bilingual education program, an examination of current testing patterns and the projection of new and more suitable ones, the publication of R&D findings, the development of curriculum materials and teaching aids, and the dissemination of bilingual-bicultural education techniques and methodologies for use by schools at their discretion.

What is at stake here is the future of the Federal bilingual education effort. R&D leadership by NIE must be forthcoming. Therefore, the Committee bill allocates a specific amount of NIE's expenditures to bilingual-bicultural R&D programs and mandates several objectives for NIE to pursue in moving toward a more comprehensive, well-directed Federal bilingual education program.

National Advisory Council on Bilingual Education.—The recent reactivation of an Advisory Council on the Education of Bilingual Children is encouraging, although the Committee notes that the legislation creating such a Council was enacted in 1967 as part of the original Bilingual Education Act, and that between 1970 and 1974 the Council did not meet.

The Committee envisions a strong and active Advisory Council. The reported bill specifies the appointment of fifteen members, to terms of varied length, drawn from the ranks of both lay and professional persons interested and experienced in the education of bilingual persons. Classroom teachers, teacher trainers, and school board members are among the categories of persons to be appointed to the Council.

The Council is directed to submit an annual report on its own, to the President and the Congress, covering and evaluating the current status and projected directions for bilingual education and other Federal bilingual programs in the Nation, as observed from the Council's unique vantage point.

Federal Support of State Bilingual Activities.—The current Title VII statute, which would be replaced by the Committee bill, does not

provide a role for State education agencies in the Federal bilingual effort. In the past, Federal monies have been granted to local education agencies and to organizations and institutions supporting LEA activities, but not to the State agencies themselves. The Committee bill provides for a wider range of State activities especially in training, and includes authority for the Commissioner to grant some funds to the State educational agencies for supportive and technical services.

Also, the Committee bill calls for consultations by the Commissioner with State education agencies, and others, in the development of suggested model bilingual education statutes, curricula, and teacher certification processes that might voluntarily be adapted for use in a variety of locations.

The Committee is aware that the recent decision of the Supreme Court in *Lau v. Nichols et al.* will require far greater efforts by State educational agencies to provide bilingual education opportunities to non-English speaking students. The Committee intends to review the participation of State education agencies in the programs funded under Title VII during the course of its oversight activities in this area.

APPENDIX E

ELEMENTARY AND SECONDARY EDUCATION

AMENDMENTS OF 1974:

HOUSE REPORT 93-805

ELEMENTARY AND SECONDARY EDUCATION
AMENDMENTS OF 1974
HOUSE REPORT 93-805

BILINGUAL EDUCATION

The Bilingual Education Act, Title VII of the Elementary and Secondary Education Act, is designed to meet the special educational needs of children who have limited English-speaking ability. Funds are available, on a project grant basis, for programs in schools having high concentrations of children from low-income families.

Bilingual education involves the use of two languages, one of which is English, as the media of instruction in a comprehensive school program. There is evidence that use of the child's mother tongue as a medium of instruction concurrent with an effort to strengthen his command of English acts to prevent retardation in academic skill and performance. The program is also intended to develop the child's self-esteem and a legitimate pride in both cultures. Accordingly, bilingual education normally includes a study of the history and culture associated with the mother tongue.

For fiscal year 1974, the appropriation is \$53,000,000. In fiscal year 1973 (the last year for which program data is available), 111,000 children participated in the 217 projects funded under this Act. Thirty-five million dollars were expended that year for these projects. These 217 projects served 24 different language groups. Eighty percent of the projects served Spanish groups only. Eight percent of the projects served native Americans (Indians and Eskimos), and the remaining 12 percent served other language groups such as Portuguese, Chinese, French, and Russian, or combinations of language groups.

The following chart shows the distribution of the 1973 funds among the States.

*Actual project costs per State, title VII ESEA, bilingual education program,
fiscal year 1972-73*

Alaska	\$170,170
Arizona	983,150
California	10,540,693
Colorado	938,803
Connecticut	405,750
Florida	1,010,293
Idaho	75,270
Illinois	570,738
Indiana	247,987
Louisiana	543,000
Maine	334,368

Source: U.S., Congress, House, Elementary and Secondary Education Amendments of 1974, H. Rept. 805 to Accompany H.R. 69, 93rd Cong., 2nd sess., 21 February 1974, pp. 66-69.

Massachusetts	\$783,784
Michigan	458,177
Montana	379,259
New Hampshire	158,500
New Jersey	819,866
New Mexico	1,353,209
New York	4,544,963
Ohio	120,771
Oklahoma	465,780
Oregon	125,640
Pennsylvania	675,275
Puerto Rico	85,000
Rhode Island	241,098
South Dakota	130,577
Texas	6,117,766
Utah	129,432
Virgin Islands	115,000
Washington	301,347
Wisconsin	158,913
Guam	189,528
Mariana Islands	75,000

Source: U.S. Office of Education.

The bilingual education program, which was enacted in 1967, has, within that short period of time, brought about a significant national awareness of the need for bilingual education. Ten States have passed legislation since 1967 permitting languages other than English to be used as media for instruction in the classroom. Prior to 1969, many of these States had laws expressly prohibiting such use.

Massachusetts has even passed legislation mandating bilingual education wherever there are concentrations of children with limited English-speaking ability. Four States have passed legislation authorizing funds for the development of bilingual education. Another nine States have budget line items for bilingual education, even though there is no special State legislation.

Although the Bilingual Education Act has been a force in achieving this success in the short years of its existence, the need for further bilingual education is still enormous. The Office of Education estimates that there are at least 5 million school children who come to school with English-speaking deficiencies. As already stated, this program reached only 111,000 of those children last year.

The U.S. Commission on Civil Rights has found that less than 3 percent of the Mexican-American student population is being reached by any bilingual education programs. In three States—Arizona, Colorado, and New Mexico—bilingual programs are reaching less than 1 percent of the Chicano student population. While California has more bilingual programs than any other State, it still is reaching less than 2 percent of its Mexican-American students.

The lack of bilingual education programs undoubtedly has a great deal to do with the disproportionate drop-out rate among children with limited English-speaking ability. In the Southwest, it is estimated that 40 percent of the Mexican-American students do not finish high school. In Boston, it is estimated that 90 percent of the Puerto Rican students drop out before they even reach high school.

The Committee believes that the basic problem with Federal efforts does not relate to the programmatic substance of the authorizing legis-

lation. Rather, it is the failure to provide adequate funds for the program. The committee, however, has recognized that some improvements must be made in the authorizing legislation.

Accordingly, the first amendment adopted by the Committee to the Bilingual Education Act expands the eligibility of schools which can be funded under the Act to include those not having high concentrations of children from families with incomes less than \$3,000 a year or receiving AFDC payments. Under the present law, only schools meeting those income requirements are eligible for funds.

This amendment allows a school district to fund programs in schools other than those with the poorest children if the needs of students in schools with the high concentrations of poor children have been fully satisfied. The Commissioner of Education is to publish criteria by which school districts are to provide services for the poorest first before they can move to progressively higher income groups. There has been a particularly severe problem in the nation's large cities where few families meet the strict income requirements in the present law, while many families are extremely poor relative to income levels of those cities.

The Committee has also adopted an amendment authorizing the Commissioner to make grants from bilingual education funds to any public or nonprofit agency for the purpose of operating research and demonstration projects, projects designed to disseminate instructional materials, and programs designed to provide pre-service or in-service training. These amendments have been adopted with the idea of giving the Office of Education sufficient flexibility to provide programs which can better meet the special needs of the children for whom they were intended.

The Committee has found one of the greatest failures of the present bilingual education program to be the lack of adequate teacher preparation. The Office of Education, in a study of 76 of its bilingual programs, found extensive incidence of inadequately prepared teachers. More broadly, the U.S. Commission on Civil Rights has estimated the percentage of teachers in Texas involved in any bilingual programs who are participating in in-service training for bilingual education to be only 1.2 percent of the total. It also found that four of the Southwestern States showed only one half of 1 percent or less of the teachers involved in any bilingual programs to be participating in in-service training.

In addition, there is a serious scarcity of trained bilingual teachers. For example, in order to bring the ratio of teachers up to the ratio of Spanish-speaking students, the National Education Association estimates that at least 84,500 Spanish-speaking teachers are needed. Relative shortages are equally as acute among teachers who speak native American languages, Portuguese, Chinese, French, Russian, and other languages.

This shortage of bilingual teachers shortchanges not only students, but their parents. In a study conducted by Valle Consultants, Ltd. entitled "What Holds Sami Back? A Study of Service Delivery in a Puerto Rican Community," 60 percent of the parents' contact with schools were totally in English, although 88 percent of those interviewed would have preferred to speak in Spanish.

The Committee would also like to take this opportunity to comment upon the proposed regulations for the Bilingual Education Act which

were published in the Federal Register of October 1, 1973. The Committee believes that the requirement contained in section 123.13(c) of the proposed regulations that no program may be funded for more than five years is in violation of section 421(c) of the General Education Provisions Act, the so-called "Cranston Amendment." That section prohibits any limitation being placed upon the use of funds in any O.E. program unless that limitation is contained in the authorizing legislation.

The committee encourages the allocation of State and local money and resources for bilingual/bicultural programs. However, it is recognized that federal participation in this area will have to continue for some years to come. The recent Supreme Court decision, *Lau v. Nichols*, which was handed down on January 21, 1974 underscores the need for a continuing Federal commitment to bilingual education.

The Committee is pleased that the Advisory Committee authorized by Section 708 of the Bilingual Education Act has finally been appointed; but since that Committee was not appointed until January 4, 1974 and did not conduct its first meeting until January 10, 1974 it is clear that Section 708(b) has not been fulfilled.

Section 708(b) requires that "the Advisory Committee shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the development of criteria for approval of applications thereunder."

The lack of participation by the Advisory Committee in the development of the regulations which were placed in the Federal Register on October 1, 1973, clearly opens O.E. to a lawsuit on its lack of compliance with Section 708(b). It is hoped that O.E. will rectify this situation by having the Advisory Committee conduct a complete review of the proposed regulations and all other existing or proposed policy directives.

The committee is cognizant that the landmark *Lau v. Nichols* decision will have far reaching ramifications for all of the school systems serving children whose native tongue is other than English. In light of this, the committee recognizes the urgent need to hold oversight hearings to review existing authorities and current appropriation levels, for bilingual education as well as the interrelationship between the various Federal programs.

The committee would particularly like to mention its concern that the Office of Education is not giving proper consideration to the needs of the Filipino communities in Hawaii and San Francisco. Those communities which are relatively new to our country deserve attention as well as more established communities.

APPENDIX F

HOUSE COLLOQUY: REPRESENTATIVES
HERMAN BADILLO AND CARL PERKINS

HOUSE COLLOQUY: REPRESENTATIVES
HERMAN BADILLO AND CARL PERKINS

MR. BADILLO: Mr. Chairman, I move to strike out the last word. I should like to ask the chairman a question.

Mr. Chairman, I had prepared amendments designed to enhance and broaden the scope of the Bilingual Education Act, title VII of the bill before us. The amendments I am referring to would extend the act for 4 years instead of 3, with higher authorizations than those in the committee bill; establish a Bureau of Bilingual Education in USOE; expand the training of teachers for bilingual programs; and define the broad curriculum of cultural and historical studies required in any meaningful bilingual education program.

MR. PERKINS: Will the gentleman yield?

MR. BADILLO: I will be happy to yield to the distinguished chairman of the Education and Labor Committee.

MR. PERKINS: Was the gentleman offering these amendments in response to testimony in the recent bilingual hearings?

MR. BADILLO: The gentleman is correct. In 3 weeks of hearings in the General Subcommittee on Education, we have heard representatives of national education organizations and State departments of education from across the country testify to the inadequacy of Federal support for the more than 5 million children in our schools with limited English-speaking ability.

MR. PERKINS: I agree with the gentleman that these hearings have strengthened the case for expansion of bilingual education programs. Will my colleague from New York agree that the low level of the administration's budget requests, including a cutback of \$15 million in bilingual education funds for fiscal 1975, is an important part of the problem?

MR. BADILLO: No question about it.

MR. PERKINS: If the gentleman will yield further, I believe he knows that I have supported bilingual education and have made many efforts to get more funds released for the program. Ample evidence has been

Source: U.S., Congress, House, Bilingual Education Amendments: Remarks by Representatives Badillo and Perkins, 93rd Cong., 2nd sess., 27 March 1974, H.R. 1969, Congressional Record 120: H2253.

presented in the hearings to make a case for increased appropriations rather than less. I hope that we can convince the administration of the importance of these programs. However, because the committee has not had time to study the gentleman's amendments, I would like to offer at this time my assurances that an expansion of bilingual Education programs will be given full consideration in our deliberations for the remainder of the session, including during the conference on the pending legislation.

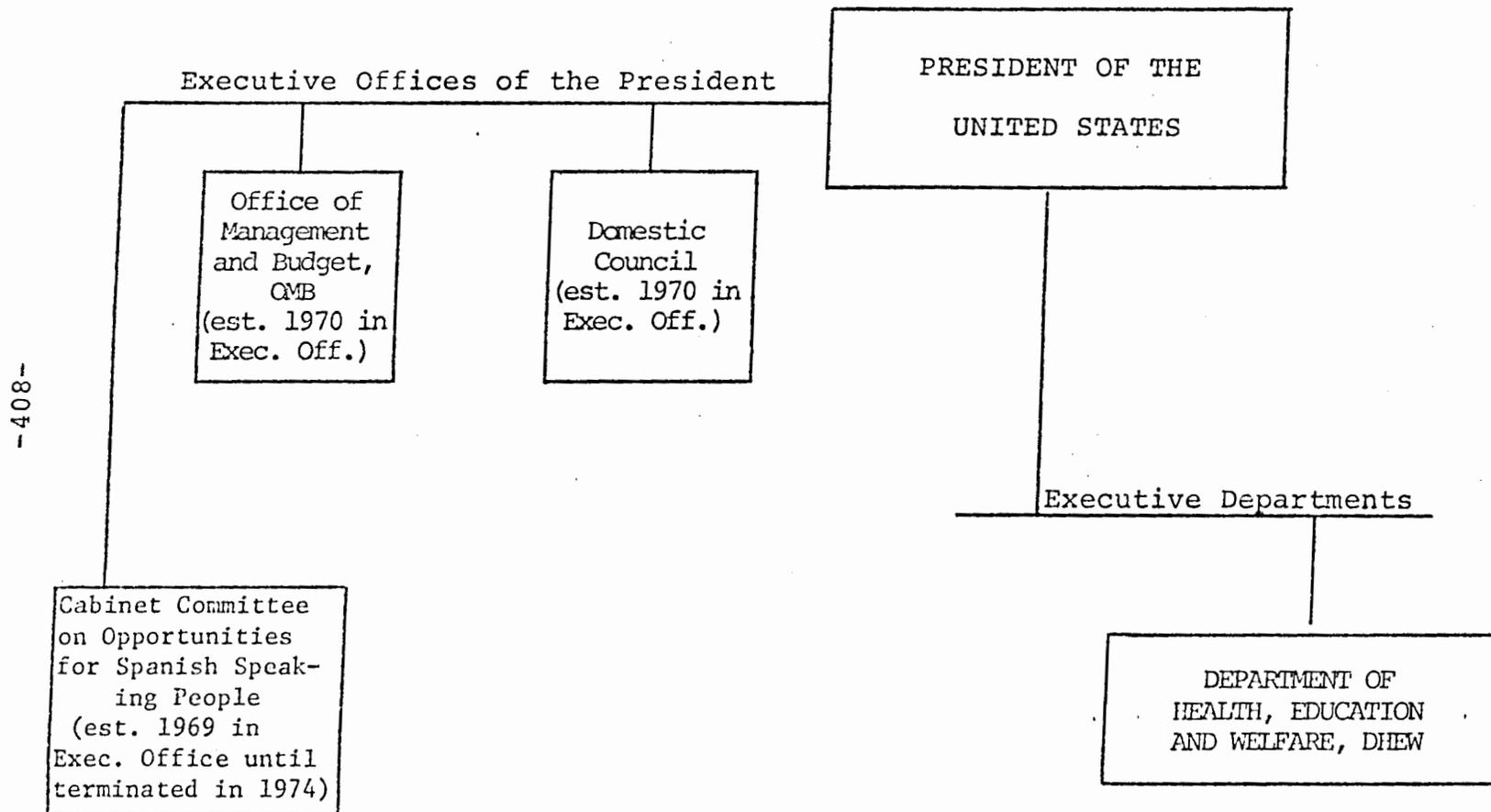
MR. BADILLO: I recognize the gentleman's long-term support for bilingual education.

I thank the chairman.

APPENDIX G

EXECUTIVE BRANCH REFERENCE CHARTS: 1974

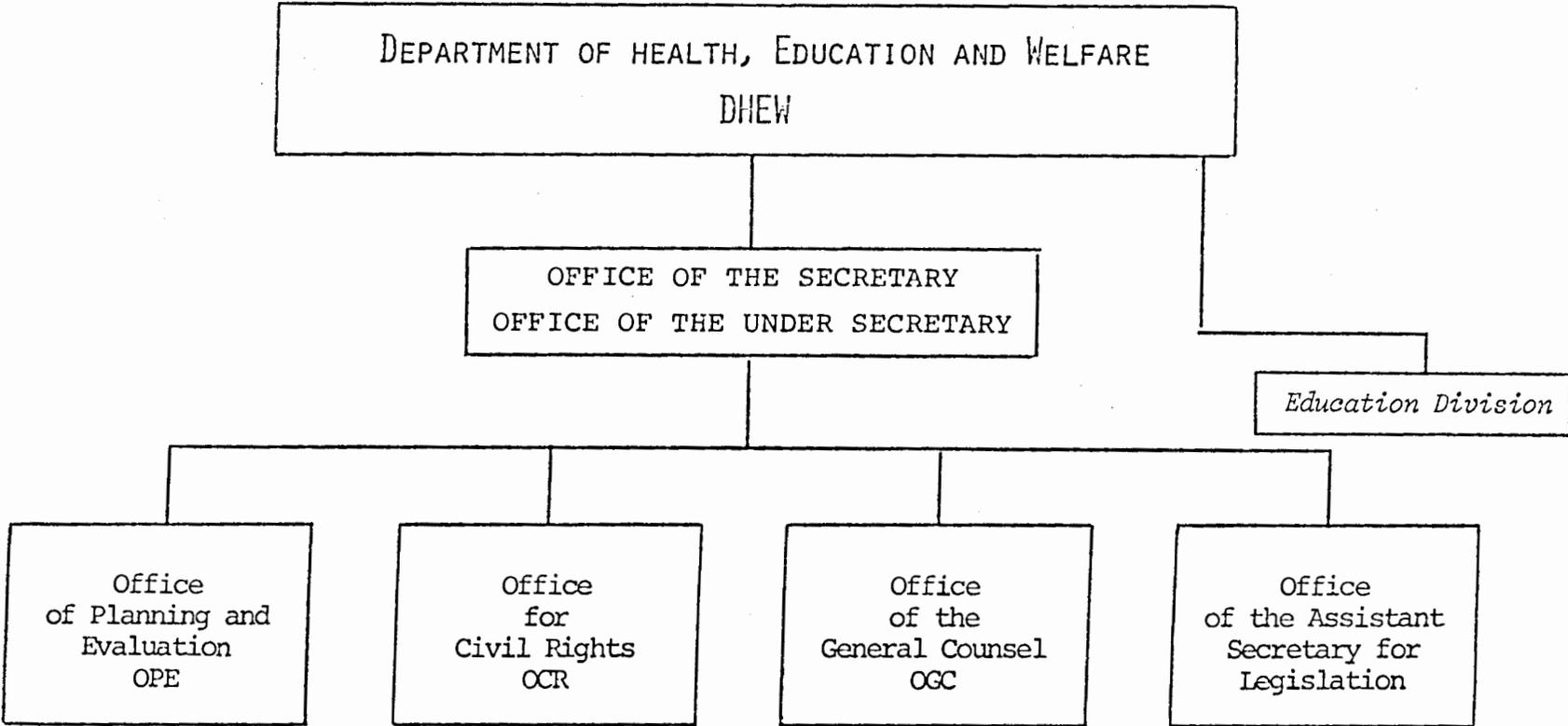
EXECUTIVE BRANCH REFERENCE CHART: 1974



Source: U.S., Office of Federal Register, United States Government Manual: 1974-1975 (Washington, D.C.: U.S. Government Printing Office, 1975).

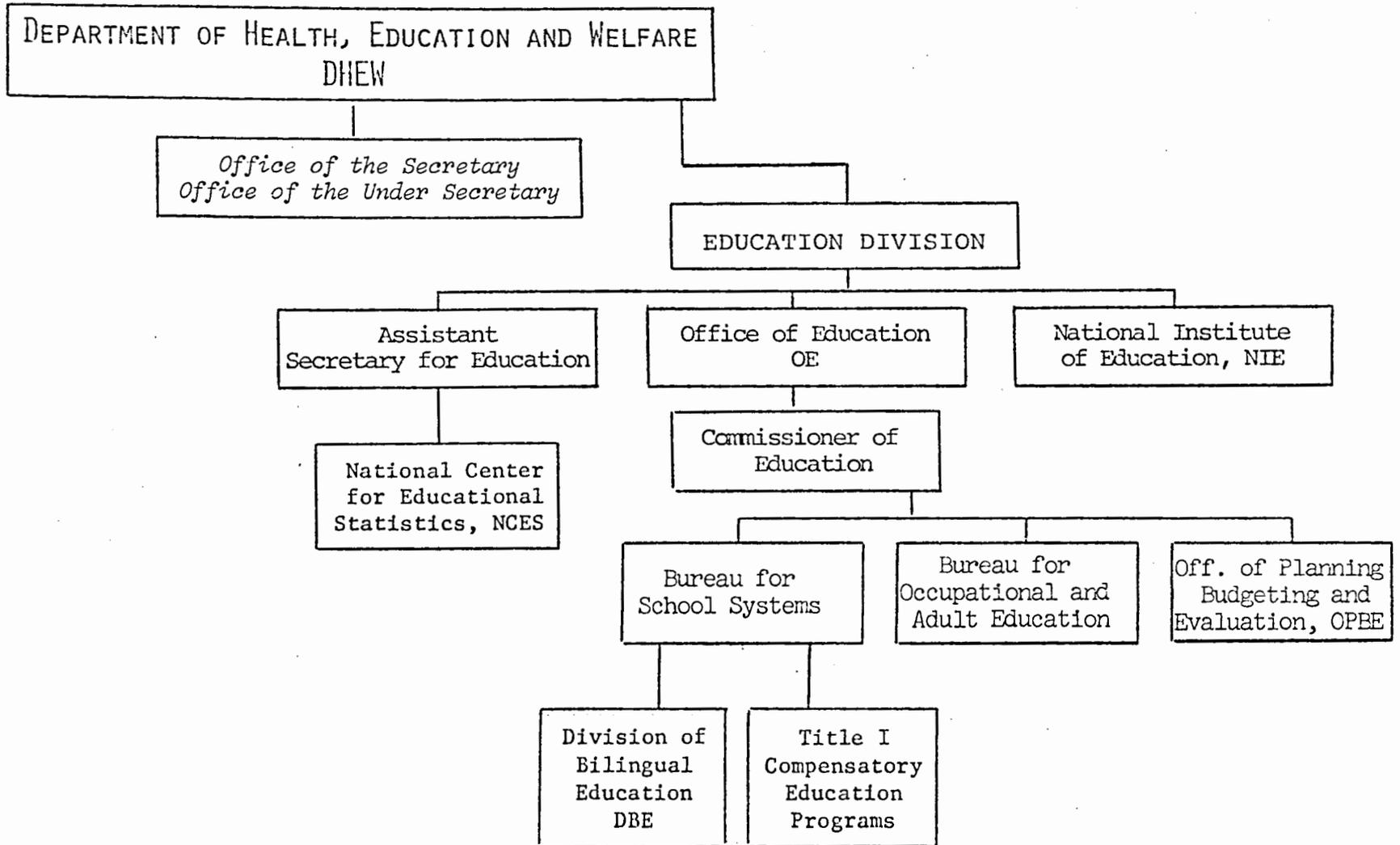
Department of Health, Education and Welfare Chart: 1974

Office of the Secretary



Department of Health, Education and Welfare Chart: 1974

Education Division



EXECUTIVE BRANCH PERSONNEL:

1974

PRESIDENT OF THE UNITED STATES:

Richard M. Nixon (20 January 1968 - 9 August 1974)
Gerald R. Ford (9 August 1974 --

EXECUTIVE OFFICES:

Office of Management and Budget:

- Director, Roy Ash;
- Associate Director for Human and Community Affairs, Paul O'Neill (appointed Director OMB December 1974); Appointed Associate Director, May 1876, Dan McGurk;
- Deputy Associate Director of Human Resources Division, William Fisher (became Assistant Director of Human Resources, U.S. Congressional Budget Office, January 1975);
- Education and Budget Examiner of Human Resources Division, John Lively.

Domestic Council:

- Deputy Director of Operations, James Cavanaugh (appointed Deputy Director of Domestic Council, January 1975).

Cabinet Committee on Opportunities for Spanish-Speaking People:

- Chairman, Henry Ramirez.

EXECUTIVE DEPARTMENTS:

Department of Health, Education and Welfare:

- Secretary, Caspar Weinberger;
- Under Secretary, Frank Carlucci.

Office of the Secretary:

Office of Planning and Evaluation (OPE):

- Assistant Secretary, William Morrill;
- Executive Assistant, Kathy Truex;
- Director of Elementary and Secondary Education, Alan Ginsburg;
- Office of Administration and Management, Sharon Patrick.

Office of the Assistant Secretary for Legislation:

- Deputy Assistant Secretary for Legislation (Education), Charles Cooke, (appointed Deputy Assistant Secretary OPE, December 1974).

Office for Civil Rights (OCR).

Office of General Counsel (OGC):

- Division of Civil Rights.

Education Division:

Office of the Assistant Secretary for Education:

National Center for Educational Statistics (NCES).

Office of Education (OE):

- Commissioner of Education, John Ottina.

Bureau for School Systems, Program Analyst,
Joseph Connor.

Division of Bilingual Education (DBE):
Director, John Molina.

Bureau for Occupational and Adult Education:

Division of Educational Systems Development,
Bruce Gaarder.

(Education Division, continued)

Office of Planning, Budgeting and Evaluation,
OPBE:

Deputy Commissioner, John Evans;
Associate Commissioner for Legislation, Al-
bert Alford.

National Institute of Education (NIE):

- Acting Director of Bilingual Multicultural Di-
vision, Michael O'Malley.

APPENDIX H

STATEMENT OF MANAGERS:

SENATE CONFERENCE REPORT 1026

HOUSE CONFERENCE REPORT 1211

Source:

U.S., Congress, Senate, Education Amendments of 1974,
Conference Report, S. Rept. 1026 to Accompany H.R. 69, 93rd
Cong., 2nd sess., 1974, pp. 149-154.

U.S., Congress, House, Education Amendments of 1974,
Conference Report, H.R. Rept. 1211 to Accompany H.S. 69,
93rd Cong., 2nd sess., 1974, pp. 149-154.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 69) to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes, submit the following joint statement to the House and the Senate in explanation to the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

CLAIBORNE PELL.
HARRISON A. WILLIAMS.
JENNINGS RANDOLPH.
EDWARD M. KENNEDY.
WALTER E. MONDALE.
ALAN CRANSTON.
THOMAS F. EAGLETON.
WILLIAM D. HATHAWAY.
PETER H. DOMINICK.
JACOB K. JAVITS.
RICHARD S. SCHWEIKER.
J. GLENN BEALL.
ROBERT STAFFORD.

Managers on the Part of the Senate.

CARL D. PERKINS.
LOYD MEEDS.
AUGUSTUS F. HAWKINS.
PATSY T. MINK.
SHIRLEY CHISHOLM.
WILLIAM LEJMAN.
JOHN BRADEMAS.
ALBERT H. QUTE.
ALPHONZO BELL.
EDWIN B. FORSYTHE.
WILLIAM A. STEIGER.

Managers on the Part of the House.

BILINGUAL EDUCATION ACT

Policy.—The Senate amendment, in amending the Bilingual Education Act, substitutes a new text for the existing text of such Act. The statement of policy of the Senate amendment recognizes the importance of bilingual educational methods and techniques, and declares the policy of the United States to be, in order to establish equal educational opportunity for all children, to encourage and assist such methods and techniques, from preschool through secondary school level.

The House bill contains no comparable provision. The House recedes, with an amendment clarifying that it is children of limited English-speaking ability who benefit through the fullest utilization of multiple language and cultural resources.

Extension of the Act; reservation of funds.—The House bill authorizes appropriations for the Bilingual Education Act of \$135,000,000 for each of the fiscal years 1974 through 1977. The Senate amendment authorizes \$135,000,000 for fiscal year 1974, \$145,000,000 for fiscal year 1975, \$155,000,000 for fiscal year 1976, and \$175,000,000 for each of fiscal years 1977 and 1978. For all such years, the Senate amendment authorizes such additional sums as Congress may determine.

The conference substitute authorizes \$135,000,000 for each of fiscal years 1974 and 1975, \$140,000,000 for fiscal year 1976, \$150,000,000 for fiscal year 1977, and \$160,000,000 for fiscal year 1978, with no additional amounts authorized for such years.

The Senate amendment also provides for the reservation of specific amounts of appropriated funds for training activities: 50% of the appropriation which is in excess of \$35 million but not in excess of \$60 million and 33 $\frac{1}{3}$ % of the appropriation which is in excess of \$60 million. Ten percent of the funds are also reserved for the National Advisory Council on Bilingual Education and the development of leadership capabilities in State educational institutions. The House recedes, with an amendment which sets aside for training purposes \$16,000,000 from the first \$70,000,000 appropriated and 33 $\frac{1}{3}$ % of amounts appropriated in excess of that figure. One percent of the appropriation is reserved for the Advisory Council. For State coordination of technical assistance, \$6.75 million is authorized for fiscal year 1974, \$7.25 million for fiscal year 1975, \$7.75 million for fiscal year 1976, \$8.75 million for fiscal year 1977, and \$9.75 million for fiscal year 1978.

Definitions.—The Senate amendment, but not the House bill or existing law, defines the terms "limited English-speaking ability", "native language", "low-income", "Bureau", "Director", and "Council" for purposes of the Bilingual Education Act. The House recedes, with an amendment which defines the term "native language" of an individual of limited English-speaking ability to mean the language normally used by such individuals or, in the case of a child, by the parents of the child. In adopting this definition, the conferees intend that normal usage of a language in a child's environment may also determine that child's native language.

The Senate amendment requires that a bilingual education program be a full-time program of instruction, designed for children of limited English-speaking ability in elementary and secondary school, in which there is instruction in both the native language of such children and in English, given with appreciation of the cultural heritage of such children, and in which, with respect to elementary schools, such instruction is to the maximum extent feasible to be in all courses which are required of the child pursuant to State law.

The House recedes to the Senate on the definition of a "bilingual education program" with an amendment to emphasize the conferees' concern that the new definition not be misinterpreted to indicate that an ultimate goal of the program is the establishment of a "bilingual society." However, the conferees agreed that the bilingual education

program must include use of the native language of the child of limited English-speaking ability in the acquisition of skills and knowledge as well as—either through the development of literacy in, or the transfer of literacy from, his native language to literacy in English—in the acquisition of English language competence. The conferees acted to insure that the limited English-speaking child would progress effectively through the educational system. Thus, a limited English-speaking child should receive his instruction in whichever language is necessary to insure that he has the same opportunity to learn and develop his skills as a non-limited English-speaking child during the time that he is building his English competence to a level equivalent with his non-limited English-speaking peers. The conferees also agreed in the amendment to maintain the requirement that all instruction be given with appreciation of the culture of the limited English-speaking student. This also was designed to encourage the appropriate study of the history and culture of the nation, territory, or geographical area with which the native language of the child of limited English-speaking ability is associated, and of the history and culture of the United States.

The Senate amendment also provides that a bilingual education program shall provide for the voluntary enrollment to a limited degree of children whose language is English, but priority must be given in participation to children whose language is other than English.

The conference substitute changes this provision from a requirement to a permitted activity of such a program, provides that the enrollment of English-speaking students need not be on a full-time basis, and provides that in no event shall such a program be designed for the purpose of teaching the foreign language to such students.

The Senate amendment also requires that a bilingual education program require that in courses of art, music and physical education, the program shall provide for the participation of children of limited English-speaking ability in regular classes; and provides that children enrolled in such a program be placed in classes with children of approximately the same age and level of educational attainment.

The House recedes.

The Senate amendment further requires that an application for a bilingual education program be developed in open consultation with parents of children of limited English-speaking ability, teachers and students, including public hearings and full participation of a committee composed of, and selected by, such parents, teachers and, in the case of secondary schools, students.

The conference substitute provides that an application shall be developed in consultation with parents of such children, teachers, and students in the areas to be served, and that the application shall give assurances that after the application has been approved, a committee will be established composed of and selected by parents, and secondary school students, where appropriate.

Regulations.—The Senate amendment provides that the Commissioner, after receiving recommendations from State and local educational agencies and groups involved in bilingual education, shall establish and publish suggested model guidelines containing recommendations for State and local educational agencies with respect to factors affecting the quality of instruction offered in bilingual education programs, such as student-teacher ratios and teacher qualification

cations. Neither the House bill nor existing law contains a comparable provision.

The conference substitute requires the Commissioner to distribute suggested models, with respect to such factors, but does not require State and local educational agencies to consult with the Commissioner about such models to achieve maximum voluntary conformity.

Financial assistance for bilingual education programs.—The Senate amendment but not the House bill expands the description in existing law of the uses to which funds available for grants under the Bilingual Education Act may be put in assisting bilingual education programs and adds new requirements for applications for such funds by local educational agencies.

The House bill contains no comparable provisions. The House recedes with an amendment combining all training program references in the language of the Senate amendment.

It is the intent of this legislation that the eligible children enrolled in non-public schools share equitably in the benefits of this program. This can be accomplished not only by sharing in teacher training programs and by utilizing special materials and equipment but through the provision of specially trained public school personnel who would be necessary for the implementation of a quality bilingual education program.

State program of coordination of bilingual education programs.—The Senate amendment provides that if in any fiscal year the Commissioner determines for any State that (1) the State educational agency has developed high quality leadership capabilities for coordination of programs of bilingual education; (2) there is in effect for such State a statute under the State constitution or a decision of the highest court of the State or of the United States requiring equal educational opportunity for children of limited English-speaking ability of such State; (3) local educational agencies in such State operate bilingual education programs serving a substantial number of children of limited English-speaking ability; (4) the expenditures for such fiscal year from State revenues for bilingual education programs constitute not less than 15% in the first year for which a State receives payments for State coordination activities, 20% in the second year, and 25% in each succeeding year, of the entitled expenditures for bilingual education programs in the State; and (5) local educational agencies in the State will be paid under the Bilingual Education Act amounts at least equal to the amounts received in fiscal 1973, the Commissioner shall upon application from the State educational agency provide for the submission and approval of a program for the coordination by such State educational agency of, and the provision by such State agency of technical assistance to, bilingual education programs assisted under this Act. The Commissioner shall pay to each State educational agency, for each program approved, such sums which may be necessary for the proper and efficient conduct of the State program. The amount paid shall not exceed an amount which, when added to the amount which the State receives for development of its leadership capabilities, equals 5% of the amounts paid to local educational agencies within the State for bilingual education. Such sums as may be necessary are authorized to be appropriated for State coordination and technical assistance activities.

There is no comparable provision in the House bill or existing law. The conference agreement provides that, upon application from a State educational agency, the Commissioner shall provide for the submission and approval of a State program for the coordination by such agency of technical assistance to programs of bilingual education in the State. The State program shall contain assurances that Federal funds will supplement and not supplant State funds for bilingual education, including technical assistance from the State. The amount paid to a State agency shall not exceed 5 percent of the aggregate of payments to local educational agencies in the State in the preceding fiscal year.

The Senate amendment contains a new limitation on the amount of funds which can be used in schools with ungraded classes and in secondary schools.

The House bill contains no comparable provision. The Senate recedes.

The Senate amendment provides that the funds must be distributed equitably in all areas of the United States while giving priority to States within such areas having the greatest need for programs.

The House bill contains no comparable provision. The conference substitute adopts the provision of the Senate amendment, with an amendment that the Commissioner is directed to give priority to areas having the greatest need for programs assisted under the Act.

The Senate amendment contains a new authorization for the Commissioner to approve applications from the Commonwealth of Puerto Rico for children who live in Puerto Rico, but are of limited Spanish-speaking ability.

The Senate recedes. In deleting this item, the conferees wish to emphasize that this is done without prejudice and with the knowledge that under the Bilingual Education Act programs are presently being conducted in Puerto Rico for children of limited Spanish-speaking ability. The conferees do not believe that this authority needs to be expressly stipulated in legislation.

Indian children in schools.—The Senate amendment changes the provisions of the Bilingual Education Act with respect to Indian children, so that certain reports on assistance to such children under such Act and on the needs of such children with respect to the purposes of such Act will be made to Congress and the President by the Secretary of the Interior.

The House bill contains no comparable provision. The House recedes.

Training.—The Senate amendment, but not the House bill or existing law, provides that the Commissioner shall, in carrying out his duties under the program of assistance for bilingual education programs, provide for policies and programs related to training of personnel in connection with such programs, including provision for 200-500 fellowships for study leading to an advanced degree for persons planning to pursue a career in bilingual education. The Commissioner may not award less than 200 such fellowships unless he certifies in the Federal Register and to the authorizing committees that applications from 200 qualified applicants were not submitted.

The conference substitute adopts this provision, with amendments so as to provide in fiscal year 1975 for not less than 100 fellowships in the field of training teachers in bilingual education. It is the conferees' expectation that recipients of such fellowships will remain in the field of training such vitally needed personnel. The Commissioner is directed, in awarding these fellowships among eligible applicants, to award them in proportion to the needs of the various groups of limited English-speaking ability in the country.

Bureau of Bilingual Education.—The Senate amendment establishes in the Office of Education a Bureau of Bilingual Education headed by a GS-18 Director to whom the Commissioner must delegate all of his delegable functions relating to bilingual education.

Neither the House bill nor existing law contain a comparable provision.

The conference substitute establishes an Office of Bilingual Education in the Office of Education, without the creation of supergrade positions.

Annual report on the condition of bilingual education.—The Senate amendment provides for an annual report on the condition of bilingual education submitted by the Director through the Commissioner and the operation of the Bilingual Education Act, including an assessment of needs, a survey of the number of persons of limited English-speaking ability, and a plan for extension of programs of bilingual education and bilingual vocational and adult education programs, a detailed estimate of necessary expenditures by Federal, State, local, and private sources, an assessment of the educational personnel necessary, and a description of personnel in regional offices dealing with bilingual education. If reports are delayed beyond their due date by the Office of Management and Budget, the Director shall immediately submit them to Congress in the form they were submitted to the Office of Management and Budget. The Senate bill also provides for a survey, to be completed by July 1, 1976, of all children and persons of limited English-speaking ability in the United States. The study shall be conducted by the National Center for Education Statistics.

The House bill contains no comparable provision.

The conference substitute provides that this report will be made by the Commissioner, and that it will include cost estimates. The conference substitute requires that such report is due twice: November 1, 1975, and November 1, 1977. The provision relating to delays in submission of the reports is omitted from the conference substitute, but the conferees expect that such reports will be submitted when statutorily required.

National Advisory Council on Bilingual Education.—The Senate amendment revises existing law to specify the membership of the National Advisory Council on Bilingual Education.

The House bill continues the provisions of existing law. The House recesses.

Grants for bilingual education.—The House bill adds to section 704 of the Bilingual Education Act a provision whereby if a local educational agency determines, in accordance with criteria provided by the Commissioner of Education, that the needs of schools having high concentrations of students of limited English-speaking ability from families with incomes below \$3,000 per year have been adequately

met, it may carry out programs under that title in other schools where, in accordance with criteria of the Commissioner, there is a major need for bilingual education programs.

The Senate amendment contains no comparable provision. The House recesses.

The House bill also amends section 705(a) of such Act to provide that grants may be made to an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies.

The Senate amendment provides in its new section 723 that training grants may be made to such institutions which apply after consultation with, or jointly with, local educational agencies.

The Senate recesses, with an amendment which provides that training grants may be made to such institutions without joint application with local educational agencies.

Supportive services and activities for bilingual education.—The Senate amendment provides that certain supportive services and activities in connection with bilingual education shall be administered by the Assistant Secretary, in consultation with the Commissioner (through the Bureau of Bilingual Education) and with the Director of the National Institute of Education. Such services and activities include a program of research in the field of bilingual education, operation of a national clearinghouse of information, and a program for the development in State education agencies of leadership capabilities in such field; \$5 million is authorized to be appropriated to the National Institute of Education for bilingual research and demonstration projects. If such appropriations do not reach \$5 million, 5 percent of the National Institute of Education's appropriation, but no less than \$3 million, is earmarked.

The House bill contains no comparable provisions, except that the House bill does provide the Commissioner with authority under the Bilingual Education Act to make grants for research or demonstration projects in the field of bilingual education, for projects designed to disseminate instructional materials for use in bilingual education programs, and for projects designed to provide preservice or inservice training for bilingual education personnel.

The conference substitute adopts the provisions of the Senate amendment, but requires that contracts thereunder be competitive, and deletes those provisions of the Senate amendment requiring models of bilingual education programs and model State statutes. Such requirements are considered to be unnecessary in view of section 703(b) of the Bilingual Education Act, as contained in the conference substitute, which requires the Commissioner to establish, publish, and disseminate models with respect to bilingual education programs. The conferees intend that such section 703(b) includes development of models (including model bilingual and bicultural curricula) for bilingual education programs and for other activities for which funds may be used under subsection (a) of section 721 of the Bilingual Education Act, and model State statute or statutes designed to promote equal educational opportunity for children of limited English-speaking ability through bilingual education practices, techniques, and methods.

The conference substitute retains the clearinghouse function but drops the language of the Senate amendment which designated the clearinghouse as a "Center for Bilingual Education." eliminates the program for the development of leadership capabilities in State educational agencies, and eliminates the earmarking of the National Institute of Education funds for these supportive services and activities. In deleting the earmarking for NIE, the conferees wish to indicate that their opposition is to the precedent that such earmarking would establish for NIE, rather than opposition to the expenditure of funds for bilingual education research by the Institute.

APPENDIX I

SUMMARY OF DIFFERENCES BETWEEN
H.R. 69 AND S. 1539 ON TITLE VII:
BILINGUAL EDUCATION ACT

SUMMARY OF DIFFERENCES BETWEEN H.R. 69 AND S. 1539:

BILINGUAL EDUCATION ACT

Source: U.S., Congress, House and Senate Legislative Counsel and Committee Staff of House Education and Labor Committee and Senate Labor and Public Welfare Committee, Conference Committee Print, June 4, 1974, Comparing Title VII of H.R. 69 with Appropriate Portions of Senate Amendment Thereto (Washington, D.C.: U.S. Government Printing Office, 4 June 1974), pp. 26-50.

Comparison of the Provisions of the Elementary and Secondary Education Amendments of 1974, as Embodied in H.R. 69, Passed by the House of Representatives on March 27, 1974, and the Education Amendments of 1974, S. 1539 as Reported by the Senate Labor and Public Welfare Committee on March 29, 1974, with Current Law

ACT/TITLE/PROVISIONS	CURRENT LAW	H.R. 69 AS PASSED BY THE HOUSE OF REPRESENTATIVES	S. 1539 AS REPORTED	SUMMARY OF DIFFERENCES
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ELEMENTARY AND SECONDARY EDUCATION ACT

Title VII: Bilingual Education Act

I. Policy

To provide Federal aid to school districts for programs for students whose primary language is other than English. [Sec. 702]

No change in current law.

Declaration of policy to encourage bilingual education practices, techniques and methods and to provide financial assistance to states and LEAs to develop and implement bilingual programs to meet the needs of children with limited English speaking ability so that they can achieve English language competence. [Sec. 105(a)(1), deleting current Title VII and creating new provisions Sec. 702(a)]

H.R. 69 retains current statement of purpose while S. 1539 declares it a Congressional policy to encourage bilingual education.

ACT/TITLE/PROVISIONS	CURRENT LAW	H.R. 69	S. 1539	SUMMARY OF DIFFERENCES
II. Definition of Bilingual Education Program	No provision.	No provision.	Bilingual Education program is defined as a full-time instructional program, either elementary or secondary, with instruction in both native language and English and including instruction in the history and culture of both parent nation and U.S. Provides for limited voluntary enrollment of English speaking children provided that priority be given to non-English speakers. [Sec. 703(a)]	Neither current law nor H.R. 69 defines bilingual education. S. 1539 defines it to be a full-time instructional program, conducted in English and native language, with priority given to the participation of children with limited English ability and limited voluntary participation of English-speakers.
III. Expiration	June 30, 1973. [Sec. 703(a)] [Extended by Sec. 413(c) of the General Education Provision Act]	June 30, 1977. [Sec. 801 amending Sec. 703 (a)]	June 30, 1978, with current law extended through June 30, 1975 and Part A provisions to take effect July 1, 1975. [New Sec. 702(b) with extension provisions in Sec. 105(a)(2) (A)]	H.R. 69 provides for a three year authorization and S. 1539 a four year authorization.

ACT/TITLE/PROVISIONS	CURRENT LAW	H.R. 69	S. 1539	SUMMARY OF DIFFERENCES
IV. Authorization	FY 68 -- \$15 million FY 69 -- \$30 million FY 70 -- \$40 million FY 71 -- \$80 million FY 72 -- \$100 million FY 73 -- \$135 million [Sec. 703(a)]	\$135 million for each year of authorization. [Sec. 801 amending Sec. 703(a)]	FY 74 -- \$135 million FY 75 -- \$145 million FY 76 -- \$155 million FY 77 -- \$175 million FY 78 -- \$175 million	H.R. 69 specifies an annual authorization of \$135 million with S. 1539 providing for annual increases in authorizations up to \$175 million in FY 78.
V. Distribution of Funds	Grants are made on a competitive basis to states and school districts within those states which have the greatest need for such programs and to schools in which there is a high concentration of children from families with incomes less than \$3000 and AFDC payments above \$3000. Grants are to be used for research, pilot projects, bilingual materials, development, preservice and inservice training for teachers, equipment, and the development and implementation of school-based programs. [Sec. 703(b) and 704] Grants	Retains provisions of current law and adds that when schools eligible for Title VII grants under the poverty criteria (\$3000) have been served, then other schools in which there is a major need for bilingual education programs may qualify. [Sec. 802(a) amending Sec. 704] Amends Sec. 705 to specify junior and community colleges as institutions of higher education and therefore, eligible for grants when applying cooperatively with school districts. [Sec. 802(b) amending Sec. 705 (a)] Adds a new sub-section	New act provides authorizing legislation for 1) grants to LEAs for programs; grants to LEAs and higher education institutions (including community and junior colleges) for training, planning grants; grants for community and educational activities, and grants for SEA technical assistance (Part A); 2) the creation of a Bureau of Bilingual Education in USOE to be headed by a grade 18 director; an annual report including assessment, evaluation, detailed five year plan and cost estimates; main-	Grants are made, according to current law and H.R. 69, to eligible applicants for variety of activities with the choice of which activities to undertake left up to the applicant. S. 1539 specifies how available appropriations shall be distributed across 4 general grant areas (LEAs, SEAs, Training, Research and Demonstration).

ACT/TITLE/PROVISIONS

CURRENT LAW

H.R. 69

S. 1539

SUMMARY OF DIFFERENCES

Distribution of
Funds
(cont'd)

can be made also to
higher education
institution applying
jointly with school
districts. [Sec.
705(d)]

(d) providing for di-
rect grants to nonprofit
and public agencies for
research and demonstra-
tion projects, the
provision of training
and dissemination of
materials. [Sec. 802(b)
adding new sub-section
(d) to Sec. 705]

taining advisory council
(Part B); and 3) resear-
ch and demonstration
projects by NIE and
public and private non-
profit agencies (Part
C). [These are detailed
below]

VI. LEA Grants

No specific provis-
ions or authorizations;
included in suggested
activities.

No specific provision.

'Retains provisions re-
garding priority to
states and LEAs with
greatest need based on
relative number of
children with limited
English ability; re-
lative abilities of
LEAs to provide bilin-
gual programs; and re-
lative number of child-
ren from low-income
families as counted in
Title I. Limits a-
mounts available for
ungraded elementary
programs and secondary
programs to 10% of
first \$35 million and
15% of appropriations
in excess of \$35 million.
Specifies Puerto Rico
eligibility. [Sec.
721]

S. 1539 provides specific-
ly for grants to LEAs and
defines eligibility in-
cluding changing the pro-
visions which specify that
funds must be expended in
schools having a high
concentration of low-income
children so that it is only
one of several criteria for
determining relative need
for bilingual programs.

ACT/TITLE/PROVISIONS

CURRENT LAW

H.R. 69

S. 1539

SUMMARY OF DIFFERENCES

VII. Training Grants

No specific provisions or authorizations in current law: included in suggested activities.

No specific provision.

Provides grants for inservice and preservice training including fellowships (no more than 500) and special programs to encourage reform, innovation and improvement. Eligible recipients include higher education institutions including community and junior colleges applying jointly with LEAs and SEAs (SEAs are limited to 10% of their Part A, Sec. 721 funds). Specifies that 50% of appropriations in excess of \$35 million and 33 1/3% of that in excess of \$60 million are to be used for training grants. [Sec. 723]

S. 1539 includes specific shares of appropriations for inservice and preservice training grants.

VIII. SEA Grants

No specific provisions
in current law.

No specific provision.

Specifies two types of state grants with no state to receive more than 5% of its aggregate LEA amounts. 1) Contracts with SEAs to develop leadership capability in bilingual education [Sec. 743] with total funds for this and advisory council not to exceed 10% of amount not reserved for training grants and 2) special grants if state has already developed leadership capability, has a state statute or court decision requiring equal educational opportunity for children with limited English ability, has a substantial number of LEA bilingual education programs in existence, and at least 15% in first year of eligibility, 20% in second year, and 25% thereafter of total. Bilingual education expenditures are derived from state revenues. [Sec. 721]

S. 1539 specifies an authorization/appropriations level for grants to state educational agencies and details two different types of grants for which SEAs may apply.

ACT/TITLE/PROVISIONS	CURRENT LAW	H.R. 69	S. 1539	SUMMARY OF DIFFERENCES
IX. Research and Demonstration Grants	No specific provisions in current law; included in suggested activities for which funds may be expended.	No specific provision.	Provides for three types of research and demonstration: 1) research by NIE to improve program effectiveness; 2) contracts with public and private nonprofit agencies to test NIE research findings and to demonstrate new practices including development of bilingual and bicultural curricula, development of suggested state statutes dealing with the provision of equal educational opportunity; and development, publication and dissemination of materials and equipment; and 3) the creation of a Center for Bilingual Education as a national clearinghouse for bilingual education information. Authorized \$5 million per year with no less than \$3 million or more than 5% of NIE's appropriations to be appropriated. [Sec. 742]	S. 1539 provides a specific authorization/appropriations level for three types of research and demonstration programs. NIE is to study ways to improve program effectiveness, nonprofit agencies are to demonstrate new practices, and a national clearinghouse for bilingual education is to be established.

ACT/TITLE/PROVISIONS	CURRENT LAW	H.R. 69	S. 1539	SUMMARY OF DIFFERENCES
X. Participation of Reservation School Children	Indian reservation schools can be counted as school districts for purposes of Title VII and Commissioner is authorized to make payments to Secretary of Interior. [Sec. 706]	No change in current law.	Retains current law but provides for report by Secretary of Interior by November 1 of each year. [New Sec. 722]	H.R. 69 retains current provisions regarding the participation of Reservation School children, and S. 1539 extends current provisions to include an annual report by the Secretary of the Interior.
XI. Advisory Committee	15 member national advisory committee to be appointed by the Commissioner and to advise him in the promulgation of regulations and the development of policy pursuant to Title VII. [Sec. 708]	No change in current law.	Changed to National Advisory Council on Bilingual Education with 15 members to be appointed by Secretary. Current duties are retained. [New Sec. 732(a)]	S. 1539 stipulates that the members of the council be appointed by the Secretary rather than the Commissioner.

ACT/TITLE/PROVISIONS	CURRENT LAW	H.R. 69	S. 1539	SUMMARY OF DIFFERENCES
XII. Administration	Not included in current law.	No provision.	Establishes Bureau of Bilingual Education in USOE to be headed by grade 18 director and 2 grade 17 assistants; and requires annual report to Congress and the President by November 1 of each year which will include a national needs assessment (with first nationwide survey to be completed by July 1, 1976); a five year plan for bilingual and bilingual vocational education programs; a phased-in training plan; detailed cost estimates for all participating levels of government and agencies; and evaluation.	S. 1539 establishes a Bureau of Bilingual Education with a grade 18 director and delineates its responsibilities including the submission of an annual report to Congress.

APPENDIX J

BILINGUAL EDUCATION ACT OF 1974:

TITLE VII ESEA

BILINGUAL EDUCATION ACT OF 1974:
TITLE VII ESEA



Public Law 93-380
93rd Congress, H. R. 69
August 21, 1974

An Act

88 STAT. 494

To extend and amend the Elementary and Secondary Education Act of 1965, 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 "Education Amendments of 1974".

Education Amend-
ments of 1974.
20 USC 821

BILINGUAL EDUCATIONAL PROGRAMS

81 Stat. 816;
84 Stat. 151.
20 USC 880b.

Bilingual Edu-
cation Act.
20 USC 880b
note.

SEC. 105. (a)(1) Title VII of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE VII—BILINGUAL EDUCATION

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Bilingual Education Act'.

"POLICY; APPROPRIATIONS

20 USC 890b.

"SEC. 702. (a) Recognizing—

"(1) that there are large numbers of children of limited English-speaking ability:

"(2) that many of such children have a cultural heritage which differs from that of English-speaking persons:

"(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage:

"(4) that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and

"(5) that, in addition, children of limited English-speaking ability benefit through the fullest utilization of multiple language and cultural resources.

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies

Source: Education Amendments of 1974, Public Law. 93-380, (Slip Law), secs. 701-742, 20,29 (21 August 1974).

August 21, 1974

Pub. Law 93-380

82 STAT. 504

to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language.

"(b) (1) Except as is otherwise provided in this title, for the purpose of carrying out the provisions of this title, there are authorized to be appropriated \$135,000,000 for the fiscal year ending June 30, 1974; \$135,000,000 for the fiscal year ending June 30, 1975; \$140,000,000 for the fiscal year ending June 30, 1976; \$150,000,000 for the fiscal year ending June 30, 1977; and \$160,000,000 for the fiscal year ending June 30, 1978. Appropriation.

"(2) There are further authorized to be appropriated to carry out the provisions of section 721(b) (3) \$6,750,000 for the fiscal year ending June 30, 1974; \$7,250,000 for the fiscal year ending June 30, 1975; \$7,750,000 for the fiscal year ending June 30, 1976; \$8,750,000 for the fiscal year ending June 30, 1977; and \$9,750,000 for the fiscal year ending June 30, 1978. Post, p. 507.

"(3) From the sums appropriated under paragraph (1) for any fiscal year—

"(A) the Commissioner shall reserve \$16,000,000 of that part thereof which does not exceed \$70,000,000 for training activities carried out under clause (3) of subsection (a) of section 721, and shall reserve for such activities 33 1/3 per centum of that part thereof which is in excess of \$70,000,000; and

"(B) the Commissioner shall reserve from the amount not reserved pursuant to clause (A) of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732. Post, p. 510.

"DEFINITIONS; REGULATIONS

"Sec. 703. (a) The following definitions shall apply to the terms 20 USC 820b-1. used in this title:

"(1) The term 'limited English-speaking ability', when used with reference to an individual, means—

"(A) individuals who were not born in the United States or whose native language is a language other than English, and

"(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulations:

and, by reason thereof, have difficulty speaking and understanding instruction in the English language.

"(2) The term 'native language', when used with reference to an individual of limited English-speaking ability, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 103 of title I of the Elementary and Secondary Education Act of 1965. Ante, p. 488.

"(4) (A) The term 'program of bilingual education' means a program of instruction, designed for children of limited English-speaking ability in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

"(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to progress effectively through

the educational system, the native language of the children of limited English-speaking ability, and such instruction is given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

“(ii) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

English-speaking children, enrollment.

“(B) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children.

“(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

“(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

Application.

“(E) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this title, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school students to be served.

Definitions.

“(5) The term ‘Office’ means the Office of Bilingual Education.

“(6) The term ‘Director’ means the Director of the Office of Bilingual Education.

“(7) The term ‘Council’ means the National Advisory Council on Bilingual Education.

Model programs.

“(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

“(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English-speaking ability, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

August 21, 1974

Pub. Law 93-380 89 STAT. 506

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"BILINGUAL EDUCATION PROGRAMS

"Sec. 721. (a) Funds available for grants under this part shall be used for— Grants.
20 USC 880b-7.

"(1) the establishment, operation, and improvement of programs of bilingual education;

"(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

80 Stat. 1191;
Post, p. 576.
20 USC 1201
note.

"(3) (A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

"(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

"(b) (1) A grant may be made under this section only upon application therefor by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3) (A) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and Application.

Post, p. 508.

"(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

"(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

"(2) An application for a grant under this part may be approved only if— Approval.

"(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English-speaking ability, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants

to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefitted by such programs;

“(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of section 721, the Commissioner determines that not less than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended for auxiliary and supplementary training programs in accordance with the provisions of clause (3) (B) of such subsection and section 723;

“(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children; and

“(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner.

“(3) (A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes described in this section, and in no case to supplant such funds.

“(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

“(c) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title.

“INDIAN CHILDREN IN SCHOOLS

“SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any

Post, p. 508.

Ante, p. 503.

August 21, 1974

Pub. Law 93-380

80 STAT. 503

such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

"(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

Payments.
Ante, p. 503.

"(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use during the preceding fiscal year of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

Annual report
to Congress
and Presi-
dent.

"(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

Assessment of
needs of Indi-
an children,
submittal to
Congress and
President.

49 Stat. 1458.

TRAINING

"Sec. 723. (a) (1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

20 USC 880b-9.
Ante, p. 506.

"(A) (i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

"(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

"(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual edu-

Fellowships.

Report to congressional committees.

For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English-speaking ability. For each fiscal year after June 30, 1975, and prior to July 1, 1978, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

Stipends.

"(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

Ante, p. 506.

"(5) An application for a grant or contract for preservice or inservice training activities described in clause (A) (i) (I) and clause (A) (ii) (I) and in subsection (a) (1) (B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a) (4) (E) of section 703.

Ante, p. 504. "Eligible applicants."

"(b) For the purposes of this section, the term 'eligible applicants' means—

- "(1) institutions of higher education (including junior colleges and community colleges) which apply, after consultation with, or jointly with, one or more local educational agencies;
- "(2) local educational agencies; and
- "(3) State educational agencies.

"PART B—ADMINISTRATION

"OFFICE OF BILINGUAL EDUCATION

Establishment. 20 USC 880b-10.

"SEC. 731. (a) There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the 'Office') through which the Commissioner shall carry out his functions relating to bilingual education.

"(b) (1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

Report to Congress and President.

"(c) The Commissioner, in consultation with the Council, shall prepare and, not later than November 1 of 1975, and of 1977, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this

August 21, 1974

Pub. Law 93-380

28 STAT. 510

title and of other programs for persons of limited English-speaking ability. Such report shall include—

Contents.

“(1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than July 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English-speaking ability, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

“(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

“(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

“(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English-speaking ability and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

“(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

“NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

“Sec. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English-speaking ability, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least three members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English-speaking ability and the geographic areas in which they reside.

Establishment.
20 USC 880b-11.
Post, p. 575.
Membership.

88 STAT. 511

Pub. Law 93-380

August 21, 1974

84 Stat. 172;
86 Stat. 326.
20 USC 1233e.
Duties.

Report to
Congress and
President.
Ante, p. 509.

Personnel
Procurement.

Post, p. 575.

"(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English-speaking ability. The Council shall prepare and, not later than November 1 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English-speaking ability.

"(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

"PART C—SUPPORTIVE SERVICES AND ACTIVITIES

"ADMINISTRATION

20 USC 880b-12.

"SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

"(1) the Commissioner, through the Office of Bilingual Education; and

"(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

in accordance with regulations.

86 Stat. 328.
20 USC 1225.

"(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

Infra.

"RESEARCH AND DEMONSTRATION PROJECTS

Bilingual
education
research.

"SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this title and other programs for persons of limited English-speaking ability.

Competitive
contracts.

"(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director and the Commissioner are authorized to make competitive contracts with public and private educational agencies, institutions, and organizations for such purpose.

"(c) In carrying out their responsibilities under this section, the Commissioner and the Director shall, through competitive contracts with appropriate public and private agencies, institutions, and organizations—

"(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective

August 21, 1974

Pub. Law 93-380

88 STAT. 512

conditions for, educating children of limited English-speaking ability;

"(2) develop and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

"(3) establish and operate a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

"(d) In carrying out their responsibilities under this section, the Commissioner and the Director shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

"(e) There is authorized to be appropriated for each fiscal year prior to July 1, 1978, \$5,000,000 to carry out the provisions of this section."

(2) (A) The amendment made by this subsection shall be effective upon the date of enactment of this Act, except that the provisions of part A of title VII of the Elementary and Secondary Education Act of 1965 (as amended by subsection (a) of this section) shall become effective on July 1, 1975, and the provisions of title VII of the Elementary and Secondary Education Act of 1965 in effect immediately prior to the date of enactment of this Act shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by this section.

(B) The National Advisory Council on Bilingual Education, for which provision is made in section 732 of such Act, shall be appointed within ninety days after the enactment of this Act.

(b) Section 703(a) of title VII of such Act is amended by adding at the end thereof the following:

"(8) The term 'other programs for persons of limited English-speaking ability' when used in sections 731 and 732 means the program authorized by section 708(c) of the Emergency School Aid Act and the programs carried out in coordination with the provisions of this title pursuant to section 122(a)(4)(C) and part J of the Vocational Education Act of 1963, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section 6(b)(4) of the Library Services and Construction Act."

Appropriations.

Effective date.
20 USC 980b
note.

Ante, p. 505.

81 Stat. 816;
84 Stat. 151.
20 USC 880b.

20 USC 880b-11
note.

Ante, p. 505.

"Other programs
for persons of
limited English-
speaking ability."
Ante, p. 504.

86 Stat. 360.
20 USC 1507.

Post, p. 607.
Post, p. 572.

Post, p. 609.

APPENDIX K

LETTER REQUEST AND INTERVIEW FORM:

SENATORS

LETTER REQUEST: SENATORS

21 April 1976

The Honorable Edward M. Kennedy
U.S. Senator from Massachusetts
431 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Kennedy:

I am writing my doctoral dissertation at the University of Maryland on the Bilingual Education Amendments of 1974, legislation which you co-sponsored. Although I know you are extremely busy, I would like to ask whether sometime in the next two months, it might be possible for you to spend a few minutes with me for a brief interview on this matter.

I previously have met with and discussed the details of the legislative process with your legislative assistant, Mark Schneider. If it is not possible for you to grant me a brief personal interview, would it be possible for you to respond to written questions which I am enclosing?

Thank you for your consideration in this matter. Your assistance would be greatly appreciated.

Sincerely,

Susan Schneider

Susan Schneider

cc: Senator Alan Cranston (Gary Aldrich, Jonathan Steinberg)
Senator Joseph Montoya (Doris Ullman)

Susan Schneider
815 Independence Ave. S.E.
Washington, D.C. 20003

INTERVIEW FORM: SENATORS

Name _____

Date _____

Interview Questions: Senators Alan Cranston and Edward M. Kennedy.

1. You were a chief author of the original legislation which later became the Bilingual Education Amendments of 1974, as part of the Elementary and Secondary Education Amendments of that year. Could you generally describe the reasons why you decided to introduce the legislation?

2. What were the key elements of that legislation and are you satisfied that they survived the Conference and became law?

3. Do you believe the Federal role in bilingual education should be that of providing transitional assistance for limited English-speaking or maintenance of the language and culture?

4. Do you believe the Federal government should be the basic funding source for service programs--as under Title I--or solely a source of model demonstration funding?

5. Do you believe the Federal government's role should be that of capacity-building, through teacher preparation and training, for example, or that of funding actual bilingual projects at the local level, or both?

6. Do you think the 1974 Act was an adequate response to the Lau v. Nichols Supreme Court decision of January 1974?

7. Do you believe the 1974 law reflected your views of the appropriate Federal role in bilingual education?

8. Do you believe the impact of the 1974 Act was revolutionary, reactionary or reformist in nature when viewed against the previous role of the Federal government in the funding of educational programs for limited-English speakers?

9. What do you think the Federal role in bilingual Education should be in the future?

APPENDIX L

INTERVIEW FORM:

SENATE STAFF

INTERVIEW FORM: SENATE STAFF

Name _____

Date _____

Interview Questions: Gary Aldrich, Cranston staff
Roy Millenson, formerly Javits staff
Mark Schneider, Kennedy staff
Richard Smith, formerly Pell staff
Jonathan Steinberg, Cranston staff
Doris Ullman, Montoya staff.

General Questions

1. Why and for what reasons did you decide to introduce bilingual-bicultural legislation?
2. How did you go about developing the legislation?
3. What were the major issues that you wanted the legislation to deal with?
4. What was the relationship between the Kennedy, Cranston and Montoya bills?
5. How did you develop a common piece of legislation?
6. How did the bill change through the legislative process?

Specific Questions

Prior to Introduction: 1972-1973

1. When did you begin thinking about legislation relating to bilingual Education?
2. Were you asked by your boss to investigate the need for such a program:
3. What were the substantive reasons and issues that you felt legislation could resolve?

4. What were the reasons you felt it in your Senator's interests to introduce such legislation?

5. What were the negative considerations that were examined?

6. What interest groups, if any, or other inputs were there prior to the decision urging the introduction of legislation?

7. Were there any such individuals or groups recommending against such action?

Introduction of Legislation: October 1973:

1. What were the final objectives in the legislation that was introduced?

2. Had there been any opportunity for interested groups to comment on or originate those objectives? If so, which, and in what manner?

3. Similarly, with regard to the specifics of the legislation, which groups were interested in specific provisions and how was their influence in the original legislation manifested?

4. Why was the decision made for separate legislation to be introduced by Senators Kennedy and Cranston?

5. Why was the decision made by Senator Montoya to sponsor the legislation?

6. Why was the decision made to join in a common amendment to the pending ESEA legislation?

7. What level of involvement did the Senators have in the process; decision to introduce legislation; decision on major issues; decision on specific issues; decision on procedures and tactics?

Hearings: October 1973:

1. What was the objective of the hearings?

2. What links were there between the hearings and the development of amended legislation?

3. Were the hearings successful?

Joint Amendment: October 1973:

1. Were there any conflicts to be resolved between the two originators in the development of a joint amendment?

2. How were the differences resolved?

3. What was the process by which a joint amendment was developed?

4. What links were there between the hearings and the development of the amended legislation?

5. Were others in the Senate involved in the initial development of a joint amendment? If so, who?

6. What were the objectives of those involved in the legislation regarding the main issues of the legislation and the specific provisions? How were their objectives regarding the main issues resolved?

7. Was the joint amendment, as ultimately attached to the legislation in subcommittee, substantially the same or substantially different than the earlier Kennedy-Cranston bills? In what way?

Full Committee on Labor and Public Welfare: May 1974

1. In general, how was the amendment altered in Subcommittee, and in Full Committee? What were the reasons for those changes?

2. What was the involvement of outside groups? Of the Administration?

3. In general, what was the difference between the House and the Senate position?

4. Did the Administration have an identifiable position? If so, what?

Conference: June 1974:

1. Who were the chief protagonists in the Conference as it related to the provisions of the bill?

2. How did the chief protagonists view the major issues?

3. What did the outside groups concern themselves with? How were they involved in the process of resolving the differences between the House and Senate provisions?

4. What was the Administration's role and how did its position, relative to that of the House and the Senate, come out in the end?

Conclusion and Passage: July-August 1974:

1. In viewing the results of the Conference, would you consider the Bilingual Education Act of 1974 to be revolutionary, reactionary, or reformist in nature, when viewed against the previous role of the Federal government in funding educational programs for limited-English speakers?

2. What do you think the Federal role in bilingual education should be in the future?

APPENDIX M

LETTER REQUEST AND INTERVIEW FORM:
REPRESENTATIVES

LETTER REQUEST: REPRESENTATIVES

22 April 1976

The Honorable Shirley Chisholm
U.S. Congresswoman from New York
Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Chisholm:

I am writing my doctoral dissertation at the University of Maryland on the Bilingual Education Amendments of 1974, Title VII of the Elementary and Secondary Education Act. I know that you are extremely busy, however, I would like to ask whether some time in the next two months, it might be possible for you to spend a few minutes with me for a brief interview on this subject.

I previously have met with and discussed the details of the legislative process with your former legislative assistant, Shirley Downs. The attached questions generally are those that I would like to discuss with you. If it is not possible for you to grant a brief personal interview, would it be possible for you to respond in writing to these questions?

Thank you for your consideration in this matter.
Your assistance would be greatly appreciated.

Sincerely,

Susan Schneider

Susan Schneider

cc Representative Alphonzo Bell (Sharon Holroyd)
Representative Herman Badillo (Ralph Hurtado)
Representative Patsy Mink (Jean Fujimoto)
Representative Carl Perkins (Jack Jennings)
Representative Albert Quie (Christopher Cross)
Representative William Steiger (Marilyn Monnette)

Susan Schneider
815 Independence Ave. S.E.
Washington, D.C. 20003

INTERVIEW FORM: REPRESENTATIVES

Name _____

Date _____

Interview Questions: Representatives Herman Badillo, Alphonzo Bell, Albert Quie, and William Steiger.

1. You were a chief participant in the Conference which ultimately approved the Bilingual Education Amendments of 1974 as part of the Elementary and Secondary Education Amendments of that year. Could you generally describe the reasons you supported the final compromise legislation on bilingual education?
2. What were the key elements of the Bilingual Education Amendments which you wanted to see enacted?
3. Do you believe the Federal role in bilingual education should be that of providing transitional assistance for limited English-speaking or maintenance of the language and culture?
4. Do you believe the Federal government should be the basic funding source for service programs--as under Title I--or solely a source of model demonstration funding?
5. Do you believe the Federal government's role should be that of capacity-building, through teacher preparation and training, for example, or that of funding actual bilingual projects at the local level, or both?
6. Do you think the 1974 Act was an adequate response to the Lau v. Nichols Supreme Court decision of January 1974?
7. Do you believe the 1974 law reflected your views of the appropriate Federal role in bilingual education?
8. Do you believe the impact of the 1974 Act was revolutionary, reactionary or reformist in nature when viewed against the previous role of the Federal government in funding educational programs for limited-English speakers?
9. What do you think the Federal role in bilingual education should be for the future?

APPENDIX N

INTERVIEW FORM:
HOUSE OF REPRESENTATIVES STAFF

INTERVIEW FORM:
HOUSE OF REPRESENTATIVES STAFF

Name _____

Date _____

Interview Questions: Christopher Cross, Quie staff
Shirley Down, formerly Chisholm staff
Jean Fujimoto, Mink staff
Sharon Holroyd, Bell staff
Jack Jennings, Perkins staff
Janet Kuhn, formerly Bell staff
Thomas Jolly, William Ford staff
Mira Luy, Badillo staff
Dan Maldonado, Roybal staff
Trudy Wright, Meeds staff

General Questions

1. Why and for what reasons did you decide to introduce bilingual-bicultural legislation?
2. How did you go about developing legislation?
3. What were the major issues that you wanted the legislation to deal with?
4. What was the relationship between the bills introduced, the Senate bills and ultimately the Senate amendment?
5. What was the process by which the House arrived at the bilingual-bicultural provisions?
6. Did the bill change between the decision to offer an amendment to the overall bill in Subcommittee and the versions that passed the House?

Specific Questions

Prior to Introduction: 1972-1973:

1. When did you begin thinking about legislation relating to bilingual education?

2. Were you asked by your boss to investigate the need for such a program?

3. What were the substantive reasons and issues that you felt legislation could resolve?

4. What were the reasons you felt it in your Congressperson's interests to introduce such legislation?

5. What were the negative considerations what were examined?

6. What interest groups, if any, or other inputs were there prior to the decision urging the introduction of legislation?

7. Were there any such individuals or groups recommending against such action?

Introduction of House Amendments in Education Subcommittee:
August - December 1973:

1. Was there any relationship between the bills introduced in the House and the Amendment that was introduced in Subcommittee?

2. Was there any relationship between the bilingual provisions of the Senate bill and the Bilingual provisions of the House bill?

3. Was there any opportunity for interested groups to comment on or originate the provisions of the House amendment. If so, which, and in what manner?

4. In Subcommittee, who were the key supporters of the bilingual provisions? Who were the chief opponents? What were the major arguments?

Hearings of Full Committee on Education and Labor:
March 1973:

1. What role did the hearings play?

2. Was there any relationship between the House hearings and the amendment offered in Subcommittee?

3. Was the bilingual provision in the House adopted in Subcommittee or in Full Committee?

4. Were there any changes in the Full Committee from what the Subcommittee did with regard to bilingual education?

5. What were the changes? Who were the proponents and opponents of those changes? Was there much debate?

Conference: June 1974:

1. Who were the chief protagonists in the Conference as it related to the provisions of the bill?

2. How did the chief protagonists view the major issues?

3. What did the outside groups concern themselves with? How were they involved in the process of resolving the differences between the House and the Senate provisions?

4. What was the Administration's role and how did its positions, relative to that of the House and the Senate, come out in the end?

Conclusion and Passage: July-August 1974

1. In viewing the results of the Conference, would you consider the Bilingual Education Act of 1974 to be revolutionary, reactionary or reformist in nature when viewed against the previous role of the Federal government in funding educational programs for limited-English speakers?

2. What do you think the Federal role in bilingual education should be in the future?

APPENDIX O

INTERVIEW FORM:
LOBBYISTS AND OTHER GROUPS

INTERVIEW FORM:
LOBBYISTS AND OTHER GROUPS

Name _____

Date _____

Interview Questions: Pepe Barron, American Association of
Community and Junior Colleges
Linda Chavez, American Federation of
Teachers
Cecilia Cosca, U.S. Commission on
Civil Rights
Manuel Fierro, National Congress of
Hispanic American Citizens, formerly
RASSA
Greg Humphries, American Federation of
Teachers
Charles Lee, Committee for Full Funding,
formerly Morse staff
Stanley McFarland, National Education
Association
Rosa Morales, U.S. Commission on Civil
Rights
August Steinhilber, National School
Board Association
Richard Warden, United Auto Workers
Kenneth Young, American Federation of
Labor.

General Questions

1. Why were you concerned with the issue of bilin-
gual-bicultural education?
2. What was your position?
3. What were the major issues you wanted the legis-
lation to deal with?
4. In reviewing the outcome of the legislation,
were your lobbying efforts effective?

Specific Questions

Lobbyists and the Senate: 1973-1974:

1. Did you have any opportunity to comment on or to originate provisions in the initial Kennedy and Cranston bill? If so, which and in what manner?
2. Which were the provisions you were most interested in?
3. Were these provisions included in the composite amendment?
4. How did Senator Montoya become involved?
5. Did you have any role in the development of the Senate hearings? If so, what?
6. Were the hearings successful?
7. Were you aware of any conflicts between Kennedy and Cranston in the development of the joint amendment?
8. Were you involved in the development of that amendment? If so, how and when?
9. What do you view as the differences between the joint amendment and the Kennedy and Cranston bills?
10. What were the difficulties in the adoption of the joint amendment in Subcommittee?

Lobbyists and the House: 1973-1974:

1. Did you have any opportunity to comment on or to originate provisions in the initial House bill? If so, which and in what manner?
2. Which were the provisions you were most interested in?
3. Were these provisions included in the composite amendment?
4. Which members of Congress were involved?

5. Did you have any role in the development of the House hearings? If so, what?
6. Were the hearings successful?
7. Were you aware of any conflicts between different members of Congress on the issues of bilingual-bicultural education?
8. What were the difficulties in the adoption of the Subcommittee of the joint amendment?

Lobbyists and the Administration: 1973-1974:

1. Did you have any contacts with Administration officials? Whom?
2. What was the Administration position prior to Conference? How did that position change?

Conference: June 1974:

1. Who were the chief protagonists in the Conference as it related to the provisions of the bill? Chief supporters?
2. How did the chief protagonists view the major issues?
3. What were the substantive issues you were concerned with?
4. How were you involved in resolving the differences between the House and the Senate?
5. What was the role of the Administration and how was the Administration's position relative to that of the House and the Senate resolved in the end?
6. What were the compromises in the final legislation?
7. How effective was your input?

Conclusion and Passage: July-August 1974:

1. In viewing the results of the Conference, would you consider the Bilingual Education Act of 1974 to be revolutionary, reactionary, or reformist in nature when reviewed against the previous role of the Federal government in funding educational programs for limited-English speakers?

2. What do you think the Federal role in bilingual education should be in the future?

APPENDIX P

INTERVIEW FORM: ADMINISTRATION

INTERVIEW FORM: ADMINISTRATION

Name _____

Date _____

Interview Questions: DHEW Personnel: Charles Cooke, Joseph Connor, Bruce Gaarder, Alan Ginsburg, John Molina, Rudy Muniz, Michael O'Malley, Sharon Patrick, Juliet Rendely, Kathy Truex;
OMB Personnel: William Fisher (formerly with OMB now with U.S. Congressional Budget Office), John Lively, Dan McGurk;

General Questions

1. What was the Nixon Administration position on the issue of bilingual-bicultural education?
2. What was the position of the Office of Management and Budget on bilingual-bicultural education? The position of the President's Domestic Council?
3. What was the position of DHEW on bilingual-bicultural education? Was there any internal disagreement between DHEW, the Office of Education, the Division of Bilingual Education and the National Institute of Education?
4. Do you believe the Federal role in bilingual education should be that of providing transitional assistance for limited English-speaking or maintenance of the language and culture?
5. Do you believe the Federal government should be the basic funding source for service programs--as under Title I--or solely a source of model demonstration funding?
6. Do you believe the Federal government's role should be that of capacity-building, through teacher preparation and training, for example, or that of funding actual bilingual projects at the local level, or both?

Specific Questions

The Development of the Administration Position:
1972-1974

1. Why did the Administration propose to consolidate categorical education programs under the Better Schools Act of March 1973 into a special revenue-sharing proposal? Was it budgetary?
2. Why was Title VII omitted from the Better Schools Act of 1973?
3. When did the Administration move from a one year extension to acceptance of a multi-year extension of Title VII? Why?
4. What role did key Administration personnel play in the development of the Administration position? (Weinberger, Carlucci, Ottina, Cavanaugh, Evans, Cooke.)
5. Were you in favor of the extension of Title VII? Why, or why not?
6. Were there specific issues that you wanted any extension of bilingual-bicultural education legislation to deal with?

The Senate and the Administration: 1973-1974:

1. What was your view of the Kennedy bill and the Cranston bill? What was your view on the joint amendment introduced into the Subcommittee print?
2. What was your view of the final Senate position?
3. What was your view on the basic issues of maintenance, upgrading to Bureau, NIE, vocational education, higher education, library services, capacity building versus
4. Did you contact any Senators or Senate staff?

The House and the Administration: 1973-1974:

1. What was your view of the House bill and its provisions?
2. In terms of the differences between the house and the Senate, what was your view on the differences?
3. Did you contact any Representatives or staff?

The Lobbyists and the Administration: 1973-1974:

1. Were you contacted by any lobbying groups? Which ones?
2. Did the lobbying groups have any effect on the Administration position?

Conference: June 1974

1. How did you go about attempting to influence the outcome during the Conference?
2. Who were your chief supporters and opponents in the Conference?
3. Did you favor the House or Senate position? Were you satisfied with the compromise?

Conclusion and Passage: July-August 1974

1. After the Conference, who was arguing for a Presidential veto of H.R. 69 on the basis of Title VII? Were there any White House meetings? What was the view of President Nixon and then President Ford on the Education Amendments of 1974?
2. In viewing the results of the Conference, would you consider the Bilingual Education Act of 1974 to be revolutionary, reactionary or reformist in nature when viewed against the previous role of the Federal government in funding educational programs for limited-English speakers.
3. What do you think the Federal role in bilingual education should be in the future?

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