UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF LEGISLATION AND CONGRESSIONAL AFFAIRS

THE ASSISTANT SECRETARY

June 12, 1995

TO: Senior Officers

FROM: Kay Casstevens

SUBJECT: Economic and Educational Opportunities Committee June 7, 1995 Hearing

Attached are copies of testimony from the Economic and Educational Opportunities Committee Hearing on June 7, 1995. Congressmen Boehner and Gunderson, along with Gordon Ambach from the Council of Chief State School Officers testified on Panel I and Mr. Riddle, Mr. Whittaker and Ms. Gladstone from the Congressional Research Service testified on Panel II.

I have also included floor statements from Congressmen Scarborough and Dornan, printed in the June 8, 1995 Congressional Record.

If you have any questions, please let me know.

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U.S. HOUSE OF REPRESENTATIVES
ECONOMIC AND EDUCATIONAL OPPORTUNITIES COMMITTEE

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NEWS RELEASE

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Wednesday, June 7, 1995

OPPORTUNITIES COMMITTEE LOOKS AT DOWNSIZING GOVERNMENT AND THE STATUS OF THE DEPARTMENT OF EDUCATION

WASHINGTON, DC -- The House Economic and Educational Opportunities Committee conducted a hearing today providing Members with a historical overview of the Department of Education (DOE), the Department of Labor (DOL), and the Equal Employment Opportunity Commission (EEOC). The Members also were able to review proposals being developed in the House which include merging the DOE, DOL, and the EEOC and to eliminate the DOE.

Opportunities Committee Member, Congressman Steve Gunderson (R-WI) testified on behalf of the merger proposal that would create a new, coordinated Department responsible for limited federal oversight for education, workforce preparation, workplace safety and modernization, and effective civil rights enforcement.

"The intent here is to become more productive while maintaining legitimate federal involvement in important areas, such as ensuring worker safety," said Gunderson. "The kind of fundamental reevaluation and reengineering of the federal government implied in this and other proposals currently under consideration is long overdue..... But bringing our education and employment programs and laws into the twenty first century is essential for our nation's competitiveness in the next century."

Republican Conference Chairman John Boehner (R-OH) outlined the proposal by Republican Freshmen Members of Congress to eliminate the Department of Education, focusing on dramatically scaling back federal involvement in education and moving responsibility and authority for education out of Washington, and back to parents, teachers, communities and States.

"The Department of Education elimination proposal is the first step in transforming the federal government's role in education, allowing parents and local communities to have full responsibility over their children's education," said Boehner.

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COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

HEARING ON DEPARTMENTAL REORGANIZATION

JUNE 7, 1995
1:00 P.M.
2175 RAYBURN HOUSE OFFICE BUILDING

Panel I

The Honorable John Boehner
Member of Congress
U.S. House of Representatives

The Honorable Steve Gunderson
Member of Congress
U.S. House of Representatives

Mr. Gordon Ambach
Executive Director
Council of Chief State School Officers
Washington, D.C.

Panel II

Mr. Wayne C. Riddle
Specialist in Education Finance
Education and Public Welfare Division
Congressional Research Service

Mr. William Whittaker
Specialist
Economics Division
Congressional Research Service

Ms. Leslie Gladstone
Specialist
Government Division
Congressional Research Service

Opening Statement by Chairman Goodling
Departmental Reorganization Hearing
June 7, 1995

The purpose of today's hearing is to gather information. On January 11 and 12 of this year, this Committee began a journey not often traveled by Congressional Committees. We undertook a process to re-examine every program and issue under our Committee's jurisdiction. As I stated then, our goal is to find out what programs we have on the books, how well they are doing, how many are outdated, how many should be changed, and finally, how many should be discarded.

Although we still have plenty of work ahead of us, I am pleased to report that we have been very successful in our efforts thus far. Later this week, this Committee will finish marking up the Careers Bill which consolidates and eliminates more than 150 programs under the Departments of Education and Labor. This piece of legislation is just one have been developed to re-evaluate the way the federal government is organized to provide service to States and communities. These proposals range from eliminating the Department of Education to merging the Departments of Education, Labor, and the Equal Employment Opportunity Commission.

Aside from shedding greater light on these proposals, I hope today's hearing will also give this Committee a better understanding of when and why the Departments of Education, Labor and the EEOC were first created. To help us with that task, we will have specialists from the Congressional Research Service provide us with a little history lesson on these agencies.

Ultimately, I hope this hearing will provide us with the information needed to continue our review and begin the dialogue on the future direction of the Committee.

U.S. REPRESENTATIVE JOHN A. BOEHNER (R-OH)
STATEMENT BEFORE THE HOUSE COMMITTEE ON
ECONOMIC AND EDUCATIONAL OPPORTUNITIES
JUNE 7, 1995

Mr. Chairman: I am pleased to be in front of this committee today, where I got my start in Congress, to share with you my thoughts on the "Back to Basics Education Reform Act."

I am here today because I realize most of our nation's schools are broken. We have tried to fix them with more government, more money, and more bureaucrats in Washington -- and we have failed.

Not too long ago, America's schools were second to none. There was a time when a student came to a class with an apple for his teacher. Today, kids come to schools with guns and drugs in their book bags. America's classrooms are in crisis and have been in trouble for some time. And what have America's lawmakers done? We've passed feel-good legislation and paid lip service to education problems. We created a big new bureaucracy we called the "Department of Education" -- proving to the world that we care so much about education, we fund a huge agency with the word "education" in its title. And to fill this big new bureaucracy we hired thousands and thousand of bureaucrats who will never teach a class or help a kid with his homework.

These are the failed solutions of yesterday. We need better solutions for tomorrow.

We can and must improve America's classrooms. And we can start right here in Washington. First by getting out of the way of our nation's teachers, parents, and local officials. Then by freeing up federal dollars currently spent to maintain and manage a bureaucracy and spend it where our kids need it most.

The money we have spent maintaining a federal Department of Education has not directly helped one child. Last year, the Department spent four-hundred and forty-four million, seven-hundred and eighty-three thousand dollars ($444,783,000) on administrative costs alone. $444,783,000! That's enough to pay the average cost of a yearly K through 12 education for seventy-three thousand, seven-hundred and eighteen (73,718) American public school kids.

To give you an idea of how much money that actually is, I brought with me a few 21st century school supplies.

With the money we spent to administer the Education's federal bureaucracy in this year alone, we could have purchased every public school student in the District of Columbia a new laptop computer, with a modem. And, a lifetime supply of computer disks. And still had enough money to hire 1,000 new teachers to teach them how to use this equipment. And set aside a $2,000 college scholarship for each child in DC public schools.

My friends, money spent on the federal education bureaucracy could clearly be put to better use.

Secretaries William Bennett and Lamar Alexander agreed with this sentiment when they appeared before Chairman Hoekstra's subcommittee in January to express their support for the rethinking of the federal role in education. Answering this call, a group of 21 freshmen and sophomores, as well as myself, joined together in a task force to develop a plan to do just that. After months of work, we have proposed the Back to Basics Education Reform Act.

We started work on this bill with one thing in mind -- improving the nation's education system so our children can compete in the global economy of the 21st Century. As a parent of two children in public schools, I do not believe we are heading down that path with the current federal education bureaucracy. In fact, I think we are in danger of condemning our children to mediocrity and an insecure future. It is clear that the current experiment of having the federal government heavily involved in education has failed and we must return to the ideal that people who are closer to the education system -- parents, teachers, school boards, states, and local communities -- can make decisions better than Washington.

The Department of Education currently administers a budget of $33 billion and has more than 5,100 employees. It has a multitude of costly regulations and mandates which require a mountain of paperwork from states and local school districts. Federal funding itself is spread over more than 240 programs, many of which are geared towards one special interest or another.

If we look at the state of education itself, we see that test scores have stagnated or deteriorated over the past sixteen years, while federal spending has increased from $14 billion to $33 billion a year. American children are falling behind their counterparts in other industrialized countries. It is clear that many of our children are not learning, especially those in the inner cities.

The current federal education bureaucracy doesn't work. It is foolish for us to maintain the status quo. For the sake of our children, we must find a better way.

We need local solutions, we need better books, we need caring teachers, we need parents who are empowered to improve their schools. We don't need more bureaucrats who couldn't find my home district, the Lakota Local School District, on a map -- let alone understand all of its problems. I would even suggest that we walk through the education bureaucracy and ask each employee, "is your job more important than a classroom teacher's? If it is not, then hit the road."

With all of this in mind, we on the Task Force asked ourselves several questions in developing our bill: what is the proper role for the federal government in education, if any? Which programs work? If a program doesn't work, can it be improved so that it does? Which services can be better performed by the states? Which services should be performed by parents, teachers, and local communities?

In answering these questions, we developed the following:

First, we consolidate hundreds of programs into two block grants -- a $9 billion grant for elementary and secondary education, and a $2 billion grant for post-secondary education. These grants have only one requirement -- that states send 98% of their funding to the local level. These block grants will give maximum flexibility to parents, states, and local communities to develop their education programs. Afterall, they are the ones who know what is best for their children and they can do it better than us in Washington.

We also maintain a handful of several existing programs. We decided these programs could be better administered by other agencies.

The Federal Family Education loan program, the Perkins Loan program, Pell Grants, the Individuals with Disabilities Education Act, and Howard University are transferred to the Department of Health and Human Services. In that Department, we have created an Office of Economic Opportunities within the Administration on Children and Families to administer these programs, as well as the two block grants. We also transfer Impact Aid to the Department of Defense and Indian Education to the Department of the Interior. Finally, we recommend that job training programs under the jurisdiction of the Department be consolidated into one or more block grants and transferred to the Department of Labor.

We also look ahead to the future of these programs. First, we ensure that no program is left on auto-pilot by having their authorizations end in the year 2000. We also propose that Congress evaluate whether some, if not all, federal funding in education can be replaced with a tax cut of equal value for parents and local communities. Local communities and states would rightfully be entrusted to find their own methods of school financing, instead of having parents send their hard-earned money to Washington, only to have it eaten up by the federal bureaucracy.

Let me make it clear that education will still be a national priority. But not every national priority needs a federal program and a federal department or agency. The federal government is not the sole repository of compassion or wisdom. I would argue that people in West Chester, Ohio; York, Pennsylvania; and St. Louis, Missouri, have more compassion and more wisdom because they are real people who make decisions for themselves and their children every day. They will come together, as they always have, in every community in this nation -- empowered to ensure their children receive the best possible education.

As a final thought, I want to thank you Mr. Chairman for your willingness to consider this proposal. I also want to thank my good friend, Steve Gunderson, for his valuable contribution to this debate. While the path his plan takes is different, its goal is the same -- a better education system for our children. Finally, I want to thank our colleague from Florida, Joe Scarborough, and my neighbor in Ohio, Steve Chabot, for their leadership on the task force, as well as our colleagues on this committee who served on the task force and gave much of their time and energy -- Sam Johnson, Tim Hutchinson, Mark Souder, Jim Talent, David Funderburk, Frank Riggs, and Lindsey Graham.

All of us share a common goal in ensuring that our nation's education system improves so our children can compete in the global economy of the 21st Century. We look forward to working with the members of the Committee in accomplishing this vital objective.

Thank you.

The Proper Federal Role in Workforce and Workplace Policy:

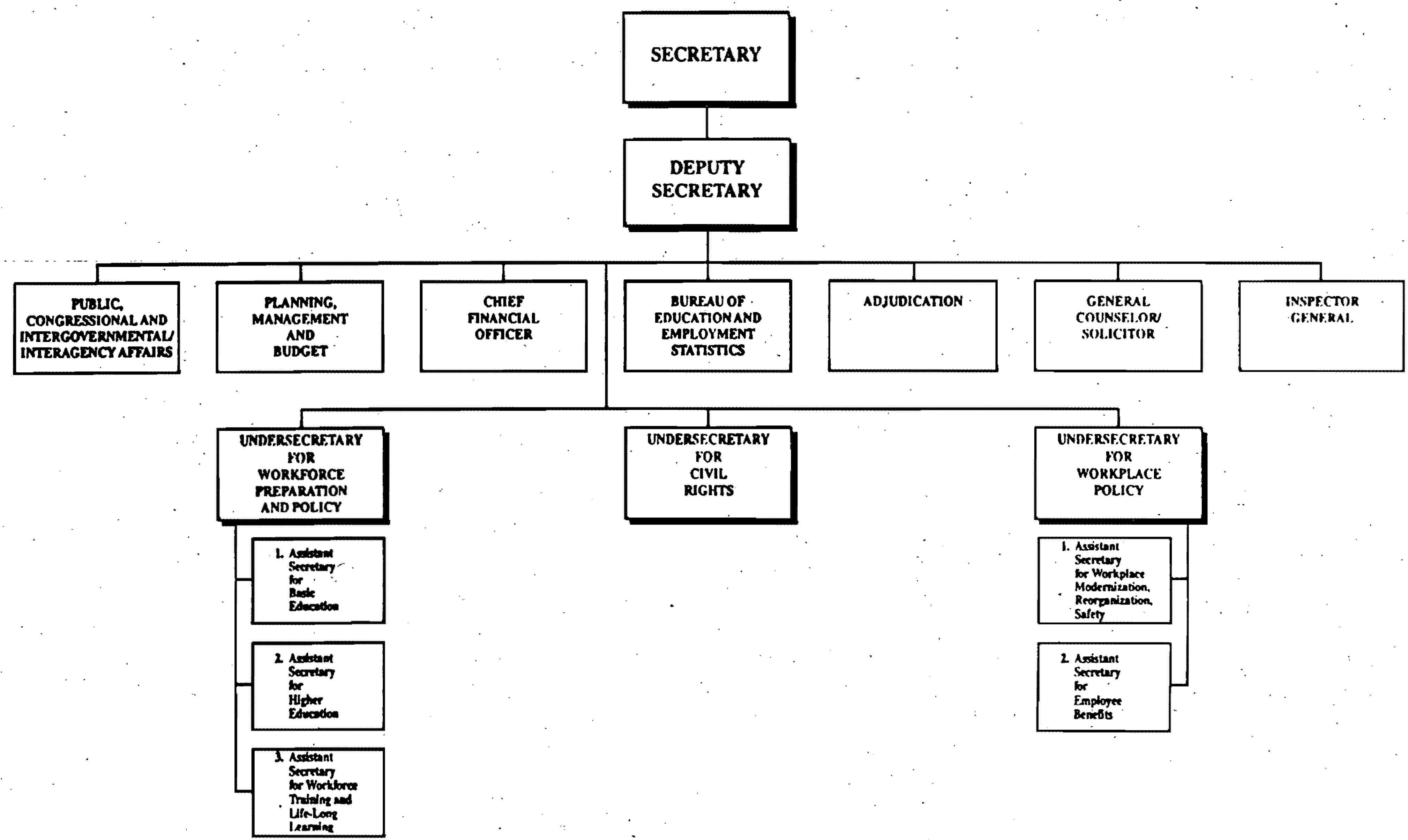
CREATING A DEPARTMENT OF EDUCATION AND EMPLOYMENT

Congressman Steve Gunderson

Testimony Before the House Committee on
Economic and Educational Opportunities

June 7, 1995

THE DEPARTMENT OF EDUCATION AND EMPLOYMENT



Thank you, Mr. Chairman, Mr. Clay and members of the Committee for the opportunity to come before you to discuss an initiative to fundamentally rethink the federal role in the areas of education and employment policy. After careful consideration of the fiscal implications of moving toward a balanced budget, Chairman Goodling and I have proposed to merge the Department of Education, the Department of Labor and the Equal Employment Opportunity Commission into a department presently titled the Department of Education and Employment.

In order to establish the context of the proposal, it is useful to lay out the framework in which the 104th Congress acts. There are four over-arching considerations that are driving policy in the 104th Congress. First, there is a need to end the unfortunate history of federal deficits that is saddling future generations of Americans with debt. Second, we need to address the desire of many citizens for a more limited federal government that would intrude less in a range of domestic policy areas that would be better handled by states and communities or by the private sector. Third, we need to question the need for the numerous, sometimes duplicative, traditional federal programs, thereby addressing many who regard the existence of these programs with an open-minded skepticism. Fourth, we need to commit to a more effective, streamlined and accountable delivery of those services that should be maintained. This proposal has been framed in the context of these realities and is intended to respond to each of them.

At the same time, the federal government has a responsibility to respond to increasingly fierce international competition in today's global economy. U.S. competitiveness in this arena rests on a three-legged stool, with commensurate federal responsibilities in each of these three areas. The first leg, tearing down barriers to trade, has been fortified with the passage of the General Agreement on Tariffs and Trade (GATT) and the North American Free Trade Agreement (NAFTA). The second leg, modernization of the workplace, will require careful reexamination of federal rules and regulations that impact private sector efforts to modernize and reorganize. The intent here is to become more productive while maintaining legitimate federal involvement in important areas, such as ensuring worker safety. The third leg, ensuring a highly skilled workforce, will not be simple, but it is essential if we are to succeed.

Strange as it may seem, the budget crisis has helped to encourage the kind of fundamental reevaluation that is necessary. Much as the threat of international competition forced American business to reengineer and downsize in the 1980s and early 1990s, current fiscal pressures may serve as the necessary, if unpleasant, spur to take on this complex task.

But a comprehensive restructuring is unavoidable, and the key to success is not merely in deciding to restructure but in how the task is accomplished. For if we have learned anything from the experience of U.S. corporations that have restructured, it is that simply slashing expenditures without reexamining basic goals, missions and structures can severely impact service. It is essential that we serve the dual imperatives of eliminating duplicative or unnecessary spending while developing a more efficient and effective delivery system.

The question arises, however, why consolidate instead of eliminate? We can only ensure that our workforce preparation system will be effective if it is organized and coordinated out of one Department. It is difficult to expect that coordination if programs are spun off to several departments and agencies, especially considering the turf wars that can often emerge between Executive Branch Departments. A well-chosen secretary with a vision for the department will ensure that our workforce is as prepared as possible to meet the challenges of the modern workplace.

ADDRESSING ECONOMIC REALITIES AND POLICY CONCERNS

Our proposal would merge the existing Department of Education, the Department of Labor and the Equal Employment Opportunity Commission to create a new, coordinated department responsible for workforce preparation, workplace safety and modernization and effective civil rights enforcement. It does far more than simply eliminating the Cabinet-level status of the Department of Education and the Department of Labor or the independent agency status of the Equal Employment Opportunities Commission (EEOC). Under the leadership of Chairman Goodling, this proposal provides a new framework for the Economic and Educational Opportunities Committee to review key areas in our education and employment policy. This proposal addresses the current budgetary, political, as well as economic, realities that determine the context in which we act.

While we don't expect to introduce implementing legislation until the latter part of June, let me outline our basic direction.

When it comes to general administrative offices, significant savings can be achieved while providing substantial benefits from improved coordination. A single department does not need two Secretaries, two Deputy Secretaries, or as many of the other kinds of general administrative offices that exist in two departments and a separate agency, nor does it need the duplicative staff that serves these offices. A unified leadership structure, however, would allow for the first time a truly coherent vision of workforce and workplace policy in the United States.

But serious reform must go beyond the general administrative offices and penetrate at the level of the programs and their administration. Three Undersecretaries would oversee the major offices. The Undersecretary for Workforce Preparation and Policy would be served by three Assistant Secretaries, one overseeing programs related to Basic Education, a second overseeing programs for Higher Education and a third with responsibility for Workforce Training and Life-Long Learning. The Undersecretary for Civil Rights would oversee coordinated enforcement of our laws prohibiting discrimination in education and the workplace. The Undersecretary for Workplace Policy would be served by two Assistant Secretaries, one with responsibility for Workplace Modernization, Reorganization and Safety, and the second overseeing Employee Benefits.

Such a fundamental reorientation of responsibilities and organization cannot be implemented by simply replacing the nameplates on the front of buildings or changing office titles, especially in the context of a need to attain substantial savings in spending on federal bureaucracy. Building on the lessons from successful corporate efforts to reengineer and downsize, our proposal synchronizes office missions with organizational goals, takes important steps in programmatic revision, consolidation, or elimination, and establishes a three-year, phased-in planning process for administrative implementation and streamlining.

Fundamental restructuring administrative offices means taking an outdated, bureaucratic dinosaur characterized by incoherence and inefficiency and replacing it with a department that is prepared for its legitimate role in the 21st century. For example, it is simply inconceivable that a modern, efficient department that takes full advantage of the information revolution, and is cognizant of proper limits on federal authority, would require the 1,200 field offices that are a part of these 3 agencies! Based on a careful evaluation of the planned restructuring, we expect that billions of dollars in administrative savings are achievable over a seven-year period. Release of a study by the General Accounting Office (GAO) documenting the precise nature of these savings is expected by mid-June.

THE OFFICE OF WORKFORCE PREPARATION AND POLICY

The establishment of the Office for Workplace Preparation and Policy would provide coordination for the development of a coherent national framework for the preparation of a highly skilled workforce. While accomplishing this goal is far from simple, it is vital to our national competitiveness. There truly is an anxious class in this country. While we have the lowest jobless rate in 25 years, and many high-paying and high-productivity jobs are being created--including many in manufacturing--these positions require highly-skilled workers. This proposal would establish a seamless web of major preschool, K-12, and postsecondary programs that would be managed from this office.

The need for improved federal coordination is clear. Today, there is a huge mismatch between the basic skills encouraged by federal basic education programs and the requirements of either sophisticated workforce training programs or of the job market. Further, vocational education programs managed by the Department of Education are administered under one set of regulations, while youth training programs, such as those established in Job Training Partnership Act's Title II (b and c), are administered under different regulations by the Department of Labor. Another example: adult education and literacy programs are managed under one set of regulations by the Department of Education while adult training programs come with a different set of regulations from the Department of Labor. This is just the kind of nonsensical bureaucracy and waste that the American public finds so frustrating about the federal government.

The CAREERS Act of 1995, introduced by Subcommittee Chairman Howard "Buck" McKeon and passed in this committee on a bipartisan basis, would begin to address the programmatic confusion. The bill would consolidate over eighty separate job training funding streams into four block grants. While I am a cosponsor of this important legislation, and I have worked on and supported similar legislation for years, such reforms cannot be fully or effectively implemented without also addressing underlying management structures. Administration by a single Assistant Secretary for Workforce Training and Life-Long Learning would match program changes with an effective coordination and delivery system.

At the same time, we must rethink administration of basic and higher education. While polls show that the overwhelming majority of the American public continues to value a significant federal role in education, the public, parents and teachers also have little faith in federal prescriptiveness or regulation in this area. The current excessive federal intrusion in managing education programs needs to shift toward a federal role more focused on monitoring success and encouraging state and local accountability. In conjunction with departmental reengineering and implementation planning, this proposal would require a comprehensive reexamination of federal regulation that would focus especially on this area and would lead to greater limits on future federal intervention.

THE OFFICE FOR CIVIL RIGHTS

The Office for Civil Rights is the second major office established under our proposal. This office would enforce all federal civil rights laws in education and employment currently handled by the Departments of Education and Labor, the Equal Employment Opportunities Commission (EEOC), and federal agencies' EEO offices. Presently, the EEOC is the agency charged with enforcement of our private employment nondiscrimination laws and forms the backbone of the Office for Civil Rights. We believe it is vital to maintain the federal priority of enforcing our nation's nondiscrimination laws in education and employment. Unfortunately, the present system of enforcing discrimination charges is broken and requires a fundamental rethinking of the charge process, not just tinkering around the edges. Current statistics from the agency support this position. In FY 1994, the EEOC received 91,189 charges of discrimination. That represents a 53% increase over FY 1990. At the end of last fiscal year, the EEOC had a backlog of nearly 100,000 charges, and it took an average of 328 days to process a charge. Considering that justice delayed <u>is</u> justice denied, the status quo represents anything but effective enforcement of our civil rights laws.

The reforms envisioned in our proposal would streamline management and require screening and prioritization of charges, ensuring that resources are dedicated to those charges most likely to include incidences of actual discrimination. The proposal would encourage voluntary mediation, similar to the recently adopted EEOC proposal, as an alternative to traditional enforcement. Administrative savings would allow mediation on a wider scale than the current EEOC proposal, however. These reforms should accelerate charge processing and allow for a gradual reduction in the bloated case inventory. For example, a recent pilot study of voluntary mediation in four EEOC regional offices showed that 52% of the charges that went to mediation were successfully settled.

The Office for Civil Rights would be governed by an Undersecretary for Civil Rights. Subordinate to the Undersecretary would be the General Counsel for Civil Rights (GCCR), who would be appointed by the Secretary of the Department. The GCCR would be dedicated exclusively to enforcement of our employment and education civil rights laws, but would allow the Undersecretary and the GCCR to work as a team, instead of at cross-purposes as presently occurs. Like the current General Counsel at the EEOC, the GCCR would recommend to the Undersecretary which cases to litigate and carry out the Undersecretary's decisions to litigate private sector charges in the courts. Under our proposed changes, the GCCR would also litigate Federal sector employment discrimination cases before the Federal District Courts and prosecute administrative fund terminations under Title VI of the Civil Rights Act of 1964.

We also intend to include a proposal by Employer-Employee Subcommittee Chairman Harris Fawell to reform the Federal-sector Equal Employment Opportunity process. The proposal would continue the process of informal employee-employer counseling in the Federal agencies, but each agency's charge investigation and resolution unit would be eliminated. Instead, Federal employees' charges would follow the same process as private sector charges, including charge screening prioritization and voluntary mediation. These changes would ensure an even playing field between the administrative processes involving Federal sector employees and private employees and would allow more resources to go toward charge processing.

The Commission would be retained in the office as a Presidentially-appointed panel, but its work would be more focused. Instead of making decisions on individual charges, the Commission would work with the Undersecretary to set long-term employment civil rights policy. The Commission would advise the Secretary -- through policy reports -- on suggested improvements in case administration, educational tools elaborating on the employment discrimination charge process for employees, employers and litigants, and suggestions for areas where an investigation of systemic charges would be helpful.

THE OFFICE OF WORKPLACE POLICY

The Office of Workplace Policy is the third major office established under this proposal. Within it, the Office of Employee Benefits would administer such programs as the Pension, Welfare and Benefits Administration (PWBA), the Federal Employees Compensation Act (FECA), and the Unemployment Trust Fund (UTF).

Also within this major Office, the Office for Workplace Modernization, Reorganization and Safety would include the functions carried out presently by the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA). Under legislation being developed by Chairman Cass Ballenger, the mission of this office would be reoriented away from an obsolete and rigid, sometimes even counter-productive, one-size-fits-all, rule-based enforcement system to one that focuses on the only results that should really count: improved workplace safety. We envision greater use and funding of flexible, voluntary and incentive-based compliance. At the same time, we envision more education and outreach to ensure that those managers and employees in more of our nearly 7 million workplaces understand their responsibilities under our mine and workplace safety laws and how to better comply. The goal of such a change would be to accommodate the modernization and reorganization of American workplaces that employers are undergoing, while maintaining important worker protections.

Implementing the Merger

As noted above, the key to successful restructuring is to provide for careful planning, implementation and evaluation. According to a 1993 study by the Wyatt Company of organizations that downsized in the early 1990s, 61% of the 531 organizations surveyed managed to reduce costs and 46% increased profitability. And while there are distinct differences between the private sector and the Federal government, the lessons are adaptable to the federal sector.

Our legislative proposal will include a planning and implementation component which will set the overall goals and mission of the new department. Included within this component will be the basic structural design of the department, cost savings and implementation spending targets, and implementation reporting requirements.

Implementation will require a planning task force comprised of those who know the departments and agencies best: the Secretaries of Education and Labor and the Chairman of EEOC, the Office of Management and Budget, appropriate White House personnel and the Administrator of the General Services Administration. These people will be responsible for managing the consolidation, pushing decision making down to the lowest administrative level possible while remaining true to the Congressional mission. We foresee frequent consultations with reorganization experts on how best to accomplish the goals set by Congress. Congress will serve as the overseer, reviewing the periodic progress reports completed by the task force. This will allow Congress to guide the task force if it strays off-track without micro-managing the implementation process.

CONCLUSION

The kind of fundamental reevaluation and reengineering of the federal government implied in this and other proposals currently under consideration is long overdue. Everything we've seen in our work so far suggests that this kind of effort won't be easy. But bringing our education and employment programs and laws into the modern era is essential for our nation's competitiveness in the next century.

This need not be a partisan exercise. Good ideas for fundamental reinvention of the federal government can come from both sides of the aisle. I would hope that the Clinton Administration and my colleagues on both sides of the aisle in both the House and Senate will be open-minded and will avoid reflexively defending the obsolete, bureaucratic structures of the status quo. We can only benefit from a truly bipartisan effort to create the kind of federal government that the American people admire for its modern, progressive structure and its service to the average taxpayer.

COUNCIL OF CHIEF STATE SCHOOL OFFICERS

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Resource Center on Educational Equity
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Testimony before the

House Committee on Economic and Educational Opportunities

Organization of the Federal Government for Education

Gordon M. Ambach
Executive Director
Council of Chief State School Officers

June 7, 1995

Mr. Chairman, Minority Leader Clay, members of the Committee, thank you for the opportunity to discuss the organization of the federal government for education and, particularly, the role of the United States Education Department. I am honored to join distinguished Members of Congress on this panel.

The Importance of Education for the Next Century

The central question for the Committee and for our country is what value and importance must our nation place on education for the 21st Century. One of our nation's most astute economic and social analysts, Peter Drucker, answers the question in a November 1994 Atlantic Monthly article. Drucker calls the 21st Century, the century of the knowledge society and writes: "Education will become the center of the knowledge society, and the school is the key institution." Knowledge, its distribution and the capacity of all members of our nation to use it, is the major asset. For individuals, for companies, for armies, for domestic government -- the key is knowledge. Attention to education and continuing learning to develop and use knowledge is central to assuring civic responsibility in our democratic republic; economic productivity and quality of life; security and capacity for world peace. Federal organization for education must help prepare our entire population for this future.

Each proposal for organizing the federal government for education must meet two tests. First, does the organization position a leader with the "voice" for education at a level which reflects the importance and value of education for the nation. Second, does the organization provide for coherent and efficient services to students, parents, and the educators who serve them.

The place of education in the federal government must reflect Drucker's vision. And, it must reflect the strong opinion of the American people in favor of federal investment in education and a Department of Education. Should there be a Cabinet level official representing education? Should federal education programs be placed in one agency which has the central purpose of education? The answer to both questions is "yes," whether or not there is a downsizing of federal funds for education and/or restructuring of programs during this Congress as, for example, in the proposed Careers Act and other potential block grants.

Mr. Chairman, I speak this afternoon on behalf of the state education agencies and their commissioners, superintendents, secretaries and directors throughout the United States. Our organization is non-partisan; it does not endorse or support candidates. We represent all state chiefs, whether they are elected or appointed, whether Republican or Democrat. For 75 years our purpose has been to provide advice and assistance to the

Congress and the Administration on how best the federal government can assist the states and localities, the students, parents, and educators to improve education.

I speak also on the basis of 40 years of experience in working with the federal government on education policy. My first experience in Washington was in the Eisenhower Administration. I served in three summer internships between 1956 and 1960 assisting with reports and speech writing for then-Commissioner Sam Brownell and in the implementation of the National Defense Education Act. I worked from 1961 to 1964 as a legislative specialist and program planner under U.S. Commissioners of Education Sterling McMurrin and Frank Keppel. For 20 years in New York State, I had major responsibility for operating federal programs as Executive Deputy and then Commissioner of Education for that state. I have served with our Council since 1987.

The value of federal initiatives in education is being challenged seriously. It is very important for this discussion to have a brief reminder of the long-term impact of federal interventions in education over two centuries. Consider the following contributions in chronological order: the early Land Grants of the Northwest Ordinance and other rights to timber and mining revenues which provided support for the spread of primary and secondary education across the land in the 18th Century; the Land Grant Acts of the 19th Century which established our entire state college and university system; Vocational Education and Vocational Rehabilitation Acts at the time of the first World War which provided the nation's earliest interventions to connect schools, businesses and farms for employment preparation; the GI Bill which enabled the single greatest expansion of access to post-secondary education the world has ever seen; the Act for construction of community colleges during the expansion of those institutions in the 1960s; the Elementary and Secondary Education Act, which provided for the first time either for states or for the national government, supplemental school revenues for extra services needed by economically disadvantaged children; Head Start; the impact of the Civil Rights Act against segregation and for opening opportunities; and, federal action for students with disabilities, which has resulted in more than a million students now being served than 20 years ago.

These federal initiatives have all had important, long-term impacts. The focus in the last 30 years on improving performance of economically disadvantaged children has led to substantial increases in high school graduation rates and, particularly, an increase in achievement levels for minority students that has closed the gap between minority and majority students by half. The results are not good enough, certainly not enough to prepare for international competition and to assure that all of our citizens are well-prepared for the knowledge society. But federal interventions have worked effectively for individuals and our nation. The most recent stress on standards and quality and pushing for excellence throughout the system is now the most important nation-wide education thrust. We must have a federal organizational structure to carry that mission.

A Department of Education and Secretary

Our Presidents, whether Republican or Democrat, need to have in their Cabinets a Secretary whose prime focus is education and who is co-equal with other Secretaries. The Education Secretary's role is to advise the President and the Congress on policy for education and to assure that the essential connections between education and economic development, education and security, education and welfare reform, education and health policy, education and environmental protection, education related to telecommunication and other governmental policies are effectively presented and implemented.

At the highest levels of Administration, there must be a spokesperson for our unique, vast, and decentralized education system with the capacity to advocate when federal action in education is appropriate to meet nationwide needs and when it is not. The spokesperson must be a voice for education to the nation and an advocate inside government on the connections among education and other services. The Secretary must help design the right partnership among local, state, and institutional authorities and the federal government to assure our education resources support national purposes when appropriate, while at the same time the government channels certain national resources to support local and state initiatives and improvement under state and local control.

The importance of a Department of Education and its Secretary is, first and foremost, advisor to the President and Congress providing co-equal status for education with other Cabinet portfolios. If the position of Education Secretary is to be eliminated or merged with another Cabinet authority, the message is loud and clear that in preparing for the 21st Century, the United States does not consider education to be important enough to be represented directly at the President's table. I know of no other nation, either industrialized or developing, planning to downgrade education in that way.

The second point to be considered for organizing the federal government for education is coherence and efficiency of the current or anticipated federal programs. Your Committee began this year with a broad review of federal programs. As you stated in January, Mr. Chairman, it was timely and appropriate to examine all of the current efforts and consider restructuring. Your Committee is doing that now in deliberations on the Careers Act. You will soon be considering some parts of the Individuals with Disabilities Education Act and, perhaps, other education block grants. The budget and appropriations processes include downsizing the federal government with provisions for reconsideration of the number of programs, their size and structure.

Anticipated Federal Education Responsibility

Usually the Congress first establishes the functions or roles of an agency and, then, designs an organizational structure to match them. Now both organizational structure and programs are being considered simultaneously. Deliberations on program review and restructuring will go on for several months, but it appears that even under the most sweeping proposals, the following functions and programs will remain:

1. Advocacy for the importance of education and the need for improving the quality of student achievement. This mission was central in the report, *"A Nation at Risk"* of President Reagan's Administration. It was reinforced with the establishment of national education goals under President Bush and further reinforced through bi-partisan action incorporating the goals and strategies to achieve them in legislation last year. The "bully pulpit" role has been practiced regularly by Republican Secretaries for 12 years and Democrat Secretaries for four years. Chairman Goodling in statements earlier this year urged a federal focus on excellence in our educational system as companion to the objective of equity. This federal role of advocacy is backed by continuing responsibility for collecting statistics, providing research on practice in education, and reporting on progress to the nation.

2. Targeting of federal funding to students who are economically disadvantaged, who have disabilities, who are immigrants or of limited English proficiency, or whose enrollment is related to a federal installation which causes a federal education "impact." This includes continuation of the major programs and concepts under Title I, the Improving America's Schools Act, IDEA, and Impact Aid.

3. Preparation of students for the work force, including encouragement for integrating academic and occupational education, and stronger connections between education and business.

4. Support of states and localities to improve student achievement through professional development, technology, and more challenging standards, curriculum development, and assessments.

5. Post-secondary student loans and grants.

6. Support for the research capacity for colleges and universities to expand knowledge and improving health, social, economic, environmental, and security practices.

7. Enforcement of civil rights and rights of disabled persons related to education.

Although not in each and every proposal for reform, these functions are likely to prevail through the 104th Congress with restructuring and downsizing or without. To administer them effectively, it is essential to organize them in a Department of Education and not scatter them among several agencies or subordinate them in a merged education and employment agency. Two reasons are important.

Organizing for Education Functions

First, it is essential that these several functions are coherently administered around the central mission of assisting states, localities and institutions to improve education quality and access to their services for all Americans. From the state and local perspective, it is essential to have as streamlined an administrative relationship with one federal agency for these several functions as is possible. The primary responsibility for education is with the states and the localities. The federal role is supplemental. States and localities must be enabled to link federal support and programs effectively with state and local resources. Great strides in consolidation were made in the last Congress which must be advanced.

Second, these functions need to be in a single department in order to attract top level educators and officials to administer the programs and advise the President and Congress. The level of position within the federal structure is important. I commented earlier about the necessity of Secretaries co-equal with other Secretaries to advise the President. Persons such as Secretary Ted Bell, Secretary Bill Bennett, Secretary Lamar Alexander, and Secretary Richard Riley would not likely have taken the position of leadership at the federal level in education if that position had not been at the Cabinet table. The key second tier leadership roles in education at the federal level will not attract top flight personnel, such as Deputy Secretaries David Kearns of Xerox, Ted Sanders Superintendent in Ohio and soon-to-be President of Southern Illinois University, or Governor Madeleine Kunin, unless their roles enable them to contribute significantly to the education challenges of the nation. Well-qualified leadership at the federal level is critical to the nation's best interest. To advance education excellence in America requires the best of our talent for leadership. The federal organizational structure must assure this.

The United States Department of Education has changed considerably during its 16 years. A report on the Department, its functions and its changes was made to the House Committee on Government Reform and Oversight, May 23, 1995 by Under Secretary of Education Marshall Smith. I urge members of the Committee to review that report with respect to the restructuring and improvement in capacity of the agency which has been downsized substantially since its establishment. From the state perspective, the administration of new programs authorized by Congress just last year has established a new and more productive partnership among the federal, state, and local levels of education. The Goals 2000 program has no regulations; it offers the superflex waiver provision and program consolidation. Within a year, that program has moved rapidly to implementation in 48 states and all of the extra-state jurisdictions. A 49th state will join the program shortly. Implementation of the School-to-Work Opportunities Act of the Improving America's School Act has also gone smoothly with minimum of paperwork and, with the former, an solid display of joint Department of Labor and Education administration.

Depending on additional legislation this year, further adjustments in the Department may be in order, but I urge the Committee to focus now on consolidating the education programs and organizing the federal education role within the Education Department, rather than moving to Department abolition or merger.

Comment on Two Proposals

Mr. Chairman, may I conclude my testimony by commenting on the organizational provisions of the two proposals discussed today. I have great respect for the members who have prepared these proposals and the work to prepare them, but I must respectfully disagree with major premises and provisions of both proposals. I have already addressed the two central points for organizing education at the federal level for preparing the "knowledge society." Let me note the ways in which the proposals will impair rather than advance federal education services to students, parents, and educators who serve them.

First, with respect to the proposed Back to Basics Education Reform Act which shuts down the Department, restructures programs, and reassigns them to several agencies. In this proposal, most programs go back to the Department of Health and Human Services. The proposal is in many respects a return to the pre-1979 Department of Health Education and Welfare (D/HEW), but without the "E." It does not recreate an Office of Education and a Commissioner of Education within HHS, but locates the education programs reassigned to HHS to the Director level under the Assistant Secretary for Children and Families. The proposal sends Impact Aid to the Defense Department; Indian Education to Interior; Civil Rights to Justice; and Job Training to Labor. Elementary and Secondary Education programs, now in one department, will be handled by six different federal agencies.

As your Committee has deliberated on the Careers Act and nutrition programs, and as the full House of Representatives has worked on the provisions of the "Contract," the majority has strongly advocated placing greater responsibility for federal programs with the states and localities. The federal role is meant to be streamlined and enable states and localities to function more effectively. If the Department of Education is broken up and the pieces scattered to six federal agencies, the net result is completely contrary to the objective of better serving states and localities. Dispersing the functions will cause incoherence, not consolidation. Instead of one coherent state plan, there will be burdensome, inefficient federal paperwork and multi-agency monitoring. Each state will have to negotiate for its local districts and schools six times over with no point for reconciliation on administrative issues over the full set of programs except to go all the way to the White House. This is not going to help parents, teacher, and local officials provide better services to third graders or any other students.

If you reduce the federal education role, do not downsize and disperse, downsize and consolidate administratively. Keep the functions within a single agency with a Secretary accountable for the local, state, federal partnership.

The Back to Basics Education Reform Act proposal has other features which require full debate, but this afternoon I focus only on the organizational issues. The summary of the Act is clear -- shut down the Department, disperse the reduced programs, review the remainders with the expectation of "replacing the funding with a comparable tax cut to families and students." I respectfully recommend that this solution does not match the needs of our nation in the 21st Century for either the right federal organization or investment in education.

Second, with respect to the proposal for merging the Departments of Labor and Education and the EEOC, I note that this proposal does provide consolidation rather than dispersal of education programs. The proposal is built around two premises: 1) that for the improved workforce preparation, it is necessary to merge the two agencies, and 2) that the role of the federal government in education is primarily workforce preparation. On the first premise, I suggest the current demonstration of joint administration of the School-to-Work Opportunities Act signals that workforce preparation programs of education and labor can be effectively administered and consolidated without a merger of the two Departments. More can be added to that cooperative administrative structure.

There is a deep concern about the second premise. The federal government's interest in education is not limited to workforce preparation. The American public's interest is also in improving student basic skills and problem solving; providing safe and drug-free schools; preparing for civic responsibility and literacy; assuring strong values through education; equitable access and educational opportunity for economically disadvantaged and disabled children; and, assuring civil rights. Interests in post-secondary education include research and general education, as well as preparation for employment. These interests may ultimately be linked to workforce preparation, but they must not be organizationally subordinated to that mission.

If Drucker is right about the centrality of education and the school in the next Century and the American people are right in their priority for education, there must be room in the Cabinet for a full voice on education, not a half voice shared with employment issues. Both education and employment issues merit a full voice. In my view, if these Departments are merged, the attention to education will be subordinated to the issues of labor and employment. The Labor Secretary has a portfolio which includes crisis resolution responsibilities with respect to economic disruptions, collective bargaining, maintaining the nation's economic strength against threats to production or breakdowns of service and the Secretary has vast responsibilities for workplace environments, unemployment compensation and pension rights. The role of the federal government in education will be pushed to the background if merged with these functions. The different statutory portfolios of the two Departments will subordinate education.

We might test the issue this way. During the past 16 years, if Labor and Education Departments had been merged, what is the likelihood that Ted Bell, Bill Bennett, Lamar Alexander or Dick Riley would have served in that Secretarial role. Whether one agrees or disagrees with their positions, they have provided important voices for education in the President's top circle. I served under the structure of a Department of Health, Education and Welfare with education the junior partner. In no case over the entire period for that Department did the Secretary ever have primary focus on education, not up against social security, welfare or health services or research. Even if one agrees that, within the HEW structure, education had reasonably good attention during 1953-1979, we must address the question of whether the subordination of the voice for education in any merged agency now is the right federal structure to support "the knowledge society" of the 21st Century.

The existence of an Education Department and the position of Secretary has elevated attention to education for both Republican and Democrat Administrations in the past 16 years. The nation must not lose that presence in future Administrations.

Since 1979 when the USED was established,, one of the most significant influences on the drive for improving quality and student achievement in American education has been a close analysis of international competition in economics, military status, and education. We are comparing ourselves on student performance. We are comparing ourselves on classroom and school practices in other countries. We need also compare ourselves on the commitments that governments in industrialized trading partners and in the developing world are making in education investment, educational policy, and governance. None of them is pulling back on their national commitment for education. None of them is closing down a Department or Ministry of Education. They are, in fact, increasing their national investment in education. They know that if they can gain an edge in education, they will gain in productivity and in their capacities as knowledge societies to strengthen their economies and quality of life.

I close by urging that before the Committee or the House takes action on major restructuring of the Education Department, you complete deliberations with the Senate and the President on the functions for the federal government in education. Let the form follow the function and let both anticipate the importance and value of education in the coming Century.

Mr. Chairman and members of the Committee, thank you for the opportunity to testify. I will be pleased to respond to questions.

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Education Department: Debate Over its Cabinet Status

Testimony Before the House Committee on Economic and Educational Opportunities

Wayne Riddle
Specialist in Education Finance
Education and Public Welfare Division
Congressional Research Service

June 7, 1995

Thank you, Mr. Chairman. My name is Wayne Riddle; I am a Specialist in Education Finance with the Congressional Research Service, and appreciate your invitation to share with the Committee brief highlights from our recently completed CRS report, *Education Department: Debate Over its Cabinet Status*. I would like to recognize the other CRS staff who contributed substantially to the preparation of this report -- James Stedman, Susan Boren, Liane White, and Laura Monagle.

This report was prepared because of the current congressional interest in reconsidering the Federal role in education policy, and/or the status of the Department of Education. We wanted to provide background information on the establishment and evolution of the Department of Education, to aid Members in their review of its status. The Congressional Research takes no position with respect to proposals to either change or maintain the Cabinet status of the Department of Education.

When considering these or other proposals to modify the Department of Education's status, the distinction between: (1) eliminating the Department of Education's position in the Cabinet, and (2) terminating the Federal education assistance programs now administered by ED, should be kept in mind. Proposals to remove the Department of Education from the Cabinet may vary widely in the extent to which they would maintain the Department of Education's current programs, to be administered by a successor, sub-cabinet agency, or by a variety of other departments or agencies.

While serious consideration of the concept began with President Carter's 1976 campaign promise to propose creation of the Department, there was interest on the part of several Members of Congress in creating a Department of Education as early as the 19th Century. Beginning in the mid-1960s, with a substantial expansion of the Federal role in education, congressional proponents of these proposals expressed concern that education programs and issues received insufficient Presidential and national attention among the other, much larger programs of the Department of Health, Education, and Welfare, and that non-HEW education programs were too widely scattered among other Federal agencies.

The Carter Administration proposal to establish the Department of Education was introduced in 1978, and was passed by the Senate during the 95th Congress, but opponents prevented floor consideration of that bill by the House. The Department of Education Organization Act, P.L. 96-88, was adopted after extensive congressional debate in 1979. Both the initial and conference versions of the final legislation in the 96th Congress were passed in the Senate by much larger margins than in the House -- for example, the House approved the bill initially by a vote of 210-206, while the Senate adopted the legislation by a margin of more than 3-to-1.

The new Department was created primarily from the former Education Division of the Department of Health, Education, and Welfare. While some other programs were combined with these, such as Vocational Rehabilitation, many Federal education programs, such as Head Start and school lunch programs, were not transferred to the new Department. One program, the Department of Defense Dependents' Schools, was scheduled to be transferred to the Department after 1980, but this was blocked by subsequent legislation.

There were unsuccessful efforts to eliminate the Department of Education in the period soon after implementation of the Department of Education Organization Act in 1980. In particular, the Reagan Administration proposed that the Department be replaced by an independent, sub-cabinet, Foundation for Education Assistance. However, none of these proposals received extensive congressional consideration

Our report provides a brief history of congressional consideration of the Department of Education Organization Act, but focuses primarily on the major arguments made by both proponents and opponents of this legislation. Where possible, we analyze the development of the Department since 1980 with respect to these arguments. We also provide information on the range of possible alternatives to the current Cabinet status of the Department of Education, plus possible advantages and disadvantages of maintaining its status.

In general, advocates of a Department of Education in the late 1970s argued that establishment of the Department:

- would bring virtually all Federal education programs under one agency, reducing duplication, increasing efficiency and enhancing the coherence of Federal education policy;
- would lead to a substantial increase in Federal financial support of education;
- would increase the effectiveness of Federal aid to education;
- would raise the educational achievement and attainment levels of American students; and
- would give the Federal education agency a status similar to that in other major nations.

In response, many opponents of the Department's establishment argued its creation:

- would result in domination of Federal education policy by the National Education Association and other education professional organizations, or by State and local school system officials;
- would substantially increase Federal education agency staff and administrative expenditures;
- would lead to much greater Federal influence over State and local education policy; and
- would weaken the broad coalition supporting social welfare programs through the Department of Health, Education, and Welfare.

I will briefly summarize the results of our analysis regarding these arguments.

Funding and Staff

- Funding for Department of Education programs has increased by almost one-third, after adjusting for inflation, since it was established. Its current funding level is greater than that of 6 other Cabinet departments. Nevertheless, the Federal **share** of total education revenues, at both the elementary and secondary and postsecondary level, has fallen substantially, because revenues from non-federal sources have risen more than Department of Education funds.

- Since its establishment, its total number of staff has decreased by approximately one-third, while the number of programs it administers has grown by approximately one-half. The number of Federal staff in the Department of Education is much lower than for any other Cabinet department.

- Estimates of trends in Department of Education administrative costs depend on assumptions regarding treatment of the costs of administering the Direct Student Loan program. **Excluding** costs for administering Direct Student Loans, current departmental management expenditures are virtually the same as those of FY1980, after adjusting for inflation. If Direct Student Loan administrative costs are **included**, departmental management costs have risen to approximately one-quarter above FY1980, with adjustment for inflation.

National Attention to Education Issues

- Since the creation of the Department of Education, there has generally been more visible, extensive, and continuous national debate over education issues than in the past. Highlights of this activity have included the publication of *A Nation at Risk* in 1983, the National Education Summit Conference in 1989, the setting of National Education Goals, and more recent debates over standards and systemic reform. While the cause for this increased national attention to education issues cannot be determined with certainty, it seems likely that the existence of the Department is at least partly responsible for this trend.

  However, most of the reform efforts arising from these debates have been initiated by the States, and such influential entities as the National Education Goals Panel are dominated by representatives of the States, not the Federal Government. Thus, while Federal involvement in education policy debates is generally more visible than in the pre-1980 era, the relative Federal financial role has actually declined substantially since that time, and Federal influence over policy has to a large extent been limited to exhortations to the States. There is more evidence of an enlarged State role than of increased Federal influence over education policy.

Educational Outcomes

- With respect to the educational effects of establishment of the Department, we reviewed broad trends in educational achievement, attainment, and participation over the past 15 years, including scores on tests of the National Assessment of

Educational Progress, rates of postsecondary education participation, and participation in Advanced Placement programs by high school students. In general, these trends have been either essentially unchanged, or marginally positive, since 1980. Nevertheless, the extent to which these trends can be linked to the existence of the Department of Education is unclear.

Consolidating the Administration of Federal Education Programs

- The Department of Education has not brought together in a single agency virtually all Federal education programs. This result was determined by the exclusion of several Federal education programs in the original Carter Administration proposal and congressional action on it, and the lack of major additional transfers of programs to the Department of Education since 1979. The potential overlap of Department of Education programs with those of other Federal agencies has probably increased since 1980 in such areas as vocational education and job training, science education, and early childhood education.

Program Effectiveness

- It is not clear that Federal education programs overall have become either more or less effective since establishment of the Department of Education. Many factors -- lack of clarity regarding program goals, the variety of programs, demographic trends, policy shifts at all levels of government, measurement difficulties, and so forth -- make such a blanket determination virtually impossible.

International Comparisons

- Many other nations have a national department or ministry devoted solely to education. However, major foreign nations with a federal system of government, similar to that of the United States, either have a department that is responsible for education plus other fields, such as science or labor, or no national ministry responsible for education.

Range of Alternatives

- Possible alternatives to the current Department of Education include: (1) abolishing the Department of Education, terminating its programs and activities; (2) abolishing the Department of Education, transferring some or all of its programs and activities to other Federal agencies; (3) abolishing the Department of Education, reconstituting it as an independent, sub-cabinet agency with responsibility for some or all of its current programs; or (4) merging the Department of Education with other current or new Cabinet agencies, transferring some or all of its programs and activities to the newly configured agency.

Possible Effects

- Major potential effects of removing the Department of Education from the Cabinet may include the following: there might be less national attention to, and debate over, education policies, but this might send a symbolic message that the Federal role in education will be one of assistance, and not intrusion; direct savings from simply downgrading the Department of Education would be relatively small, but the likelihood of reduced Federal education funding over the next several years may be increased; the momentum of current standards-based, systemic reform efforts in many States might be diminished; and consolidation of the Department of Education with another department, such as Labor or Health and Human Services, might improve the effectiveness of Federal human development programs.

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Testimony of Leslie W. Gladstone
Analyst in American National Government
Congressional Research Service
Before the
Committee on Economic and Educational Opportunities
U.S. House of Representatives
June 7, 1995

Mr. Chairman, Members of the Committee, I am pleased to be here today to present on behalf of the Congressional Research Service a brief historical overview of the Equal Employment Opportunity Commission.

ESTABLISHMENT OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The Equal Employment Opportunity Commission was created under the Civil Rights Act of 1964 to enforce the antidiscrimination provisions of Title VII of the Act that proscribe discrimination in employment on the basis of race, color, religion, sex, and national origin[1]. Bars to discrimination on the basis of age were added in 1967 and on the basis of handicap status in 1973 and 1990.

The Commission created 30 years ago is a successor to the Fair Employment Practices Commissions (FEPCs) set up in 1941 and 1943 by executive order of President Franklin Roosevelt. Although discrimination against minorities and women long had existed here and elsewhere in the world, the need to end such practices in the United States became especially pressing at the beginning of the second World War. As it quickly became necessary to use all available workers in war-related efforts, the government stepped in to end discriminatory practices by Federal defense contractors with regard to the hiring of blacks. The FEPCs created under the executive orders barely outlasted the war, however, and were disbanded by 1946, due to congressional opposition.[2] Although President Truman's 1948 civil rights program proposed an FEPC, one was not enacted, and the matter was not revived until 1963, following the massive civil rights protests of the late 1950's and early 1960's.[3]

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[1] P.L. 88-352, 78 Stat. 253, 42 U.S.C. §2000 *et seq.*

[2] *Congressional Quarterly Almanac*. Vol. XX. 1964. p. 343.

[3] Ibid.

As constituted under Title VII, the commission is a bipartisan body of five commissioners appointed for five-year terms by the President with the advice and consent of the Senate. From this five-member body, the President designates one member as chairperson and another as vice-chair. The chairperson serves as the administrative officer of the commission. The President also appoints a general counsel.

COMMISSION JURISDICTION[4]

As presently constituted, the Commission has broad jurisdiction, but limited powers.[5] It is authorized to cover the employment and employment-related activities of employers in private industry with 15 or more employees, labor unions with 15 or more members, employment agencies, State and local government agencies, and Federal departments and agencies. In enforcing equal opportunity in the private sector, the EEOC is mandated to receive complaints of discrimination, to investigate them and, if it finds reason to believe that a charge is true, to seek to eliminate discrimination through conciliation or settlement through negotiation. If unsuccessful in this effort, the EEOC may file a civil action in Federal district court. On its own initiative and without receipt of a complaint, the Commission also may investigate private sector patterns or practices of discrimination and issue charges.

In cases where private sector complaints are filed from State and local jurisdictions having fair employment practices (FEP) laws, the EEOC must defer resolution of the complaint to the State or local FEP agency.

When a complaint is filed against a State or local government, the EEOC is required to follow the same enforcement procedures in resolving complaints as applied in the private sector, except that the Justice Department must institute any court actions against such respondents.

With respect to Federal employees and applicants, the agency from which the complaint is filed follows EEOC-mandated procedures, first investigating, finding cause or dismissing the case, and (if cause is found) attempting conciliation or settlement. In this instance, the role of the EEOC is limited to reviewing appeals from department or agency decisions. Complainants in both the public and private sectors have the right under Title VII to file private civil actions in the Federal courts if their complaints are not resolved by the EEOC or, with respect to Federal employees, by their department or agency.

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[4] Materials in this section are based on U.S. Library of Congress. *Civil Rights Protections in the United States: Brief Summaries of Constitutional Amendments, Federal Laws and Executive Orders.* Report No. 93-148 GOV by Leslie W. Gladstone. Washington, 1993.

[5] Until, 1972, the commission was limited to receiving complaints, informally conciliating them, and gathering data.

LEGISLATIVE CHANGES IMPACTING THE COMMISSION

In the years since 1964, the mandate and duties of the Commission have been increased repeatedly, as law on employment discrimination has been widened.

Amendments to Title VII include:

—the *Equal Employment Opportunity Act of 1972*,[6] extending coverage of Title VII to employees of Federal, State and local governments, educational institutions, and any business or union with 15 or more workers;

—the *Pregnancy Discrimination Act of 1978*, prohibiting employment discrimination on the basis of pregnancy, childbirth, or related medical conditions;[7] and

—the *Civil Rights Act of 1991*, enacted to counter the effects of nine Supreme Court decisions that restricted both the scope of coverage and the remedies of Federal laws prohibiting discrimination in employment.[8]

Other legislative and executive changes include: *Executive Order 12067*,[9] which abolished the Equal Employment Opportunity Coordinating Council and transferred to the Commission its responsibilities for providing coherence and direction to the Government's equal employment efforts.[10] A second transfer of authority under *Reorganization Plan No. 1 of 1978*,[11] moved Federal equal employment functions from the Civil Service Commission to the EEOC. Under the Reorganization Plan, authority for the following executive orders and statutes were transferred from the Civil Service Commission to the EEOC:

—*§717 of Title VII of the Civil Rights Act of 1964*, which prohibits discrimination in employment in the Federal Government on the basis of race, color, religion, sex, or national origin;

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[6] P.L. 92-261, 42 U.S.C. §2000e *et seq.*

[7] P.L. 95-555, 42 U.S.C. §2000e *et seq.*

[8] P.L. 102-166, 42 U.S.C. §2000e *et seq.*

[9] June 30, 1978.

[10] These include application of strong uniform enforcement efforts throughout the Government, development of standardized data collection procedures and joint training programs, sharing related data among agencies, and development of uniform methods and priorities for complaint and compliance reviews.

[11] 5 U.S.C. app.

—*Executive Order 11478*,[12] which spells out U.S. policy for providing equal employment opportunity in the Federal Government through affirmative action programs in Federal departments and agencies;

—the *Equal Pay Act of 1963*[13], as applied to the Federal sector;

—the *Age Discrimination in Employment Act of 1967*, amended,[14] §15 as applied to the Federal sector; and

— *§501 of the Rehabilitation Act of 1973*[15] prohibiting employment discrimination in the Federal Government against individuals with disabilities.

On July 1, 1979, responsibility for private sector enforcement of the *Equal Pay Act of 1963* and the *Age Discrimination in Employment Act of 1967* was transferred from the Department of Labor to the Commission. The former prohibits sex-based pay differences where substantially equal work performed in the same establishment under similar working conditions requires equal skill, effort, and responsibility. The latter prohibits employment discrimination against workers or applicants 40 years of age or older. In addition to employers, the Age Discrimination Act covers activities of employment agencies, and both Acts cover activities of labor organizations.

The *Americans with Disabilities Act of 1990*[16] also is enforced by the EEOC. Since July, 1992, employers of 15 or more workers have been covered. Title I governs private employers, State and local governments, employment agencies, labor organizations, and joint labor-management committees. The Act prohibits employment discrimination against qualified individuals with disabilities and requires that employers make reasonable accommodations for such qualified individuals if so doing does not create undue hardship.

AGENCY ACCOMPLISHMENTS

Although the Commission was created with limited authority and its resources have not always kept pace with its added responsibilities, it has been credited with making important contributions toward the reduction of discrimination. The courts have upheld most of its policies outlawing overt and individual acts of employment discrimination. The Commission also has been successful in getting the courts to outlaw many of the subtle and systemic forms of discrimination. In addition to reducing discrimination against black

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[12] August 8, 1969.

[13] 29 U.S.C. 206.

[14] 29 U.S.C. 621.

[15] 29 U.S.C. 791.

[16] 42 U.S.C. 12101 *et seq.*

Americans, the Commission also has helped reduce discrimination against women and members of other racial minority groups, as well as against those of certain national origin and religious backgrounds.

In this regard, perhaps the Commission's most widely known effort has been its promulgation of employment guidelines.[17] The guidelines interpret antidiscrimination laws and explain the way the Commission will rule is presented by charges covered under the guidelines. The sex discrimination and the employee selection guidelines are very detailed and have been credited with having had an important impact on employment practices.

Although these guidelines do not have the force of law, the courts frequently have relied on them in upholding charges of discrimination. For example, the employee selection guidelines upheld by the Supreme Court in *Griggs v. Duke Power Company* (401 U.S. 424, [1971]), marked the first time the Court had occasion to dispose of a discrimination matter under Title VII and pass judgement on employee selection guidelines. In commenting on the guidelines, the Court unanimously supported the EEOC.

The Commission also has been successful in obtaining agreements that require respondents to provide relief to large numbers of minority and/or female employees and to take action to overcome the present effects of past discrimination. Among these are the American Telephone and Telegraph Company consent decree and the Steel Industry settlements. Such settlements, because of the size of the companies and the number of employees involved, as well as the size of the settlement, tend to have effects far beyond the direct participants.

While many believe that the most overt forms of public discrimination in the United states have been eased, they also believe that bias, nevertheless, remains one of our most intractable problems as a society. Over the course of its 30-year existence, the Commission has generally been regarded as an important player in reducing such bias. Reasonable people may differ on how the Government should address the problem of discrimination generally, and employment discrimination specifically. The Commission has provided a forum for dealing with these issues. As we move toward greater diversity as a multi-racial, multi-cultural, multi-ethnic society, the Commission may be expected to continue as a resource in easing the strains of that process and working toward some kind of equitable balance.

[17] Guidelines issued by the commission include *Guidelines on Discrimination Because of Sex* (37 Federal Register 6836, April 5, 1972), *Guidelines on Discrimination Because of Religion* (32 Federal Register 10298, July 13, 1967), *Guidelines on Discrimination Because of National Origin* (39 FR 10123, March 18, 1974), and *Guidelines on Employee Selection Procedures* (35 Federal Register 12333, August 1, 1970).

TESTIMONY OF WILLIAM G. WHITTAKER
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ON THE EVOLUTION OF THE U.S. DEPARTMENT OF LABOR
BEFORE THE HOUSE COMMITTEE ON
ECONOMIC AND EDUCATIONAL OPPORTUNITIES
JUNE 7, 1995

Mr. Chairman and Members of the Committee.

I appreciate the opportunity to appear before the Committee this afternoon to discuss the evolution of the U.S. Department of Labor. The history of the Department is complex and, to do justice to those who have shaped it through the years would be a rather massive undertaking. Therefore, my comments should not be construed as a history of the Department, *per se*, but rather as a brief sketch of the manner in which the agency has evolved through the past century.

ESTABLISHING A DEPARTMENT OF LABOR

"For three-quarters of a century," observed Labor Secretary Ann McLaughlin on the occasion of the 75th anniversary of the Department of Labor (1988), "protecting and advancing the interests of working people and their families has been the special province of the United States Department of Labor." Although there have been changes in our economic institutions through the years, she noted, the Department's purpose "remains the same: to assure that working people share fully in the bounty of this great land."[1]

A VOICE FOR WORKING PEOPLE IN GOVERNMENT

In the years following the American Civil War, workers tended to grow increasingly restive. There were several marginally successful efforts to organize trade unions -- most of which were short-lived. There developed a general sense that workers, as a group, were not involved in public policy decisions that affected their lives and the manner in which they earned their living. Further, there seems to have been a broadly shared belief that there was no government agency which functioned mainly for the benefit of workers. As a result, from workers and reformers, there arose a general demand for creation of a "department of labor."[2]

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[1] *U.S. Department of Labor: The First Seventy-Five Years, 1913-1988.* Washington, U.S. Department of Labor (undated, but ca. 1988). p. 1-2. Cited hereafter as *The First Seventy-Five Years*.

[2] Lombardi, John. *Labor's Voice in the Cabinet: A History of the Department of Labor from its Origin to 1921.* New York, Columbia University Press, 1942.

In 1869, the State of Massachusetts created a bureau of labor statistics. After some preliminary efforts, the agency was entrusted to an attorney, Carroll D. Wright, and embarked upon "wide-ranging investigations that laid the foundations for the bureau's reputation for objectivity." By 1883, twelve other States had followed Massachusetts' lead and had established such statistical agencies.[3]

UNITED STATES BUREAU OF LABOR (1884-1888)

In 1884, Congress passed legislation creating a U.S. Bureau of Labor, a technical agency intended to provide objective data. It was to be headed by a Commissioner of Labor who would serve for a 4-year term. The Bureau was located within the Department of the Interior and the Commissioner reported to the Secretary of the Interior. As Commissioner, President Chester Arthur chose Carroll Wright.

Wright had decided views about the proper role of statistical agencies within the government. In his first annual report, Commissioner Wright noted:

> A bureau of labor statistics cannot solve social or industrial problems, nor can it bring direct returns in a material way to the citizens of a country, but its work must be classed among educational efforts, and by judicious investigations and the fearless publication of results thereof, it may and should enable the people to more clearly and more fully comprehend many of the problems which now vex them.[4]

Historian John Lombardi suggests that Wright, "consciously or unconsciously," here established a clear line of distinction between the Bureau of Labor (later, the Bureau of Labor Statistics) and the Department of Labor. "The one was a purely fact-finding agency; the other was to be a policy forming and directing agency. Though the department eventually absorbed the bureau," he pointed out, "the functions of the bureau have remained substantially as Wright contended they should be."[5]

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p. 21-22.

[3] Grossman, Jonathan. *The Department of Labor*. New York, Praeger Publishers, 1973. p. 3-5. This testimony is deeply indebted to the work of Dr. Grossman who, as staff historian at the Department of Labor, has written extensively on the work of the Department.

[4] Quoted in Lombardi, *op. cit.*, p. 39.

[5] Lombardi, *op. cit.*, p. 39-40.

THE FIRST DEPARTMENT OF LABOR (1888-1903)

In 1888, the Bureau of Labor was converted into a Department of Labor -- but without Cabinet status.[6] The prestige of the new Department, however, grew and it gained a larger staff. In 1895, Wright, who remained as Commissioner, established the *Bulletin of Labor* (now, the *Monthly Labor Review*). Although a technical expert, he consulted on labor policy as various Presidents dealt with the strikes and other labor-related disturbances of the era.

THE DEPARTMENT OF COMMERCE AND LABOR (1903-1913)

During the 1890s, there had been numerous congressional initiatives for the creation of a department of commerce within which the Department of Labor might be incorporated: a position approved by President Theodore Roosevelt and by industry.

> A Democratic minority fought the bill stubbornly. They claimed that the independent Department of Labor would be submerged; that labor organizations opposed the bill; and that the distrust between labor and business would destroy the usefulness of the Department.[7]

Congress accommodated labor by changing the name of the new agency to the "Department of Commerce and Labor." The necessary legislation was adopted and signed by President Roosevelt in February 1903. Wright resigned and Roosevelt appointed his private secretary, George B. Cortelyou as the Department's first secretary.[8]

The attempt to combine the two agencies, however logical in theory, seems not to have worked out in practice. While President Roosevelt professed not to believe that the interests of labor and capital were in conflict, both labor and capital acted upon a different principle. Ultimately, "Roosevelt's middle of the road policy pleased neither group. He was continually apologizing for his action or defending himself against charges of overfriendliness to one or the other group."[9]

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[6] Grossman, *The Department of Labor*, p. 7, explains: "One rationalization for scuttling Cabinet representation for the new department was that Cabinet appointments are partisan, whereas the Department's main function was development of objective facts."

[7] Grossman, Jonathan. The origin of the U.S. Department of Labor. *Monthly Labor Review*, March 1973. p. 5.

[8] During its existence, from 1903 to 1913, the new Department of Commerce and Labor would have four secretaries: Cortelyou (1903-04), Victor Metcalf (1904-06), Oscar Straus (1906-09), and Charles Nagel (1909-1913).

[9] Lombardi, *op. cit.*, p. 59.

In 1912, after the Democrats (who had endorsed the proposal for an independent Department of Labor) gained control of the House, legislation to establish a separate Department of Labor was passed in the House. Success in the Senate appeared less certain until, in February 1913, Senator William Borah (R-Ida.) reported the bill to the floor. It was adopted without recorded vote and signed by President William H. Taft on March 4, 1913, his last day in office.

DEVELOPMENT OF THE INDEPENDENT DEPARTMENT OF LABOR

Under Public Law 62-426, an independent Department of Labor with full Cabinet status had been created. How the new agency would develop, what form it would take and what duties it would ultimately assume remained to be decided.

The history of the Department might be divided into two general phases: an early period during which the administrative structure of the agency would be developed and its general philosophy established (roughly, 1913-1953); and, later, a more stable time in which the mature agency would refine the manner in which it might serve the public -- the period since 1953.

FIXING A DEPARTMENTAL STRUCTURE AND FOCUS (1913-1953)

Several elements would influence the manner in which the new Department of Labor developed. **First**, there was the role of Congress: the formal assignment of program responsibility and the appropriation of funds with which to work. **Second**, there was the character, background, and interests of the various Secretaries of Labor -- and that of the Presidents under whom each served. **Third**, there was the broader conditions or context within which government itself would function: e.g., the general state of the economy, international conflict and cooperation, the globalization of trade and production.

William B. Wilson (1913-1921)

Born in Scotland, Secretary Wilson had worked in the coal mines from the age of nine. At fourteen, he was elected secretary of his local union, gradually working his way up through the ranks to become International Secretary-Treasurer of the United Mine Workers of America in 1900. In 1906, he was elected to Congress and became chairman of the Committee on Labor which reported the Department of Labor bill. Since he was not reelected in 1912, he was available to head the new Department.

The Department of Labor (DOL) inherited several agencies, among them: the Bureau of Immigration, the Bureau of Naturalization, the Children's Bureau (recently created), and the Bureau of Labor (now renamed the Bureau of Labor

Statistics).[10] Creation of the agency occurred too late in the legislative year to allow for an appropriation which left DOL dependent in some measure upon the charity of the now separate Department of Commerce. When, during the next fiscal year, appropriations were forthcoming, "eighty per cent went to the Bureau of Immigration."[11]

"The purpose of the Department of Labor," as established in 1913, "shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."[12] Secretary Wilson noted that "[t]here is of course no authority in that declaration to foster, promote, or develop for wage earners any special privileges" but he conceded that "the inference is irresistible that Congress did intend to conserve their just interests by means of an executive department especially devoted to their welfare." The Department, he affirmed, was to serve the interests of all workers, union and non-union alike.

> Inasmuch, however, as it is ordinarily only through organization that the many in any class or of any interest can become articulate with reference to their common needs and aspirations, the Department of Labor is usually under a necessity of turning to the labor organizations that exist and such as may come into existence for definite and trustworthy advice on the sentiments of the wage-earning classes regarding their common welfare.

While the Department "must invite the confidence and encourage the cooperation of responsible labor organizations," he concluded, ". . . this attitude must not be exclusive.[13]

Secretary Wilson was immediately confronted with a series of challenges. **First**. There was the obvious task of organizing a new Federal department: no easy assignment even for an experienced administrator and requiring diplomacy when moving between his colleagues in the trade union movement and his superiors in the Woodrow Wilson Administration. **Second**. He was almost at

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[10] The Bureau of Labor Statistics (BLS), though within the Department of Labor, has largely maintained its status as a non-political technical agency. See: Goldberg, Joseph P., and William T. Moye. *The First Hundred Years of the Bureau of Labor Statistics*. Washington, U.S. Govt. Print. Off., September 1985. 321 p.

[11] Lombardi, *op. cit.*, p. 70. Initially, staffing reflected the pre-1913 priorities: Bureau of Immigration, 1,700; Bureau of Naturalization, 130; Children's Bureau, 15; and Bureau of Labor Statistics, 100. Grossman, *The Department of Labor*, p. 12.

[12] Public Law 62-426.

[13] U.S. Department of Labor. *First Annual Report of the Secretary of Labor, 1913*. Washington, U.S. Govt. Print. Office, 1914, p. 5-6.

once confronted with a series of major labor-management disputes: continuing problems in the coal regions of West Virginia, the Ludlow Massacre in Colorado (1913), the copper miners' strike in Michigan (1913-1914), the Clifton-Morenci-Metcalf copper miners' strike in Arizona (1915-1916), etc. **Third.** In 1914, war broke out in Europe and, for the next several years, the Secretary was forced to deal with war-related issues: war production, emergency manpower, maintaining labor standards during such a crisis, post-war reconversion. Nor did the war bring industrial peace at home. In 1916 and 1917, trouble broke out again in, among other places, the copper mines of Arizona, leading to the Bisbee "deportation" of 1917. **Fourth.** There were continuing immigration problems: during the war, for the purpose of securing sufficient labor; after the war, closing the door to displaced persons, seeking to relocate in the United States. **Fifth.** During the war, conflicts had developed with respect to war-resisters, leading to prosecutions and, in some cases, after the conflict, to deportations -- issues that involved the Department because of its responsibilities for immigration and naturalization. For several years, the "Red Scare" was a major national issue.[14] **Sixth.** Late in the war and thereafter, the Department found itself involved in some measure of foreign relations: creation of the International Labor Organization (ILO), among other international issues.

After the war, the defense-related agencies began to disappear and, gradually, the Department returned to what institutionally remained its primary responsibilities: immigration and labor statistics.

James J. Davis (1921-1930) and William N. Doak (1930-1933)

Born in Wales, James Davis grew up in Pennsylvania and Indiana. He worked in the steel mills, went into Republican politics and became an organizer for the Loyal Order of the Moose. Departmental historian Jonathan Grossman suggests that President Harding picked Davis to be Secretary of Labor because he "had sympathy for both the capitalist and the workingman."[15]

Although the "Red Scare" had somewhat abated when Davis took office, immigration remained the central responsibility of the Department and Davis's "most important problem." In 1921, Congress enacted new restrictions upon immigration, imposing still further restraints in 1924 and 1929 -- actions that the Secretary applauded.[16] The Department continued to confront such issues

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[14] See: Murray, Robert K. *Red Scare: A Study of National Hysteria, 1919-1920*. Minneapolis, University of Minnesota Press, 1955. 337 p.; and Preston, William. *Aliens and Dissenters: Federal Suppression of Radicals, 1903-1933*. Cambridge, Harvard University Press, 1963. 352 p.

[15] Grossman, *The Department of Labor*, p. 28.

[16] Grossman, *The Department of Labor*, p. 23-25. Grossman notes that "[a]bout 75 per cent of the Labor Department's employees dealt with immigration and naturalization" when Davis took office.

as long hours of work in the steel industry and the more routine workplace concerns.[17]

Like Wilson and Davis, William Doak was "mostly self-educated." He rose through the ranks to become legislative representative of the Brotherhood of Railroad Trainmen. He was an active Republican and, when Davis stepped aside to run for the Senate in Pennsylvania, President Hoover appointed Doak Secretary of Labor "over the protests of the American Federation of Labor."[18]

Doak seems to have followed, quietly, in his predecessor's footsteps. "In the midst of the growing Depression," the Department notes in its retrospective, *The First Seventy-Five Years*, "immigration duties still used the lion's share of the Department's resources."[19] With about 12 million people unemployed, Doak seems to have struggled with job creation initiatives -- though not with great success. During his incumbency, the Davis-Bacon Act (1931) was adopted, requiring payment of not less than locally prevailing wages on Federal contract construction -- in part, an effort to slow the downward spiral of wages.[20]

Frances Perkins (1933-1945)

In November 1932, when Franklin Roosevelt was elected President, "it seemed impossible that economic conditions could get worse," some have suggested. "But the impossible happened." Perhaps 25 to 35 percent of the workforce was unemployed -- with a good deal of "hidden unemployment" in addition.[21]

The Perkins era at DOL was in sharp contrast to the first twenty years of the Department's history. And, Perkins was very different from her predecessors. She was of a genteel background, educated, with long experience in dealing with labor-related issues. Further, she had been involved in labor politics and public administration in New York State prior to her appointment.

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[17] Generally, for the period, see: Zieger, Robert H. *Republicans and Labor, 1919-1929*. Lexington, University of Kentucky Press, 1969. 303 p.

[18] Grossman, *The Department of Labor*, p. 29. The Brotherhood of Railway Trainmen was not affiliated with the American Federation of Labor.

[19] *The First Seventy-Five Years, op cit.*, p. 12.

[20] See: U.S. Congress. Senate. Committee on Manufactures. *Wages of Laborers and Mechanics on Public Buildings*. Hearings, 71st Cong., 3d Sess., February 3, 1931. Washington, U.S. Govt. Print. Off., 1931. 25 p.; and U.S. Congress. Senate. Committee on Manufactures. *Regulation of Wages Paid to Employees by Contractors Awarded Government Building Contracts. Report to Accompany S. 5904*. Senate Report No. 1445, 71st Cong., 3d. Sess. Washington, U.S. Govt. Print. Off., 1931. 2 p.

[21] Grossman, *The Department of Labor*, p. 31.

And, perhaps most important, she enjoyed a close, confidential relationship with her boss, the President.

Wilson had created a department, welding together diverse pieces. Davis and Doak seem, more nearly, to have perpetuated what they found. Perkins inherited a department with well-established traditions; but, from her perspective, that may not have been a plus.

The Perkins administration might be divided into at least five phases. **First**. She took control of the Department and began to reshape it to meet her (and the President's) policy goals. As quickly as she could, she arranged to have DOL's immigration functions shifted to the Department of Justice. **Second**. As soon as she arrived in Washington, she found herself sorting through programs with which to alleviate unemployment and spur economic revival. **Third**. She quickly became involved with the crafting of legislation (as she had at Albany): at first with recovery efforts such as the National Industrial Recovery Act. This involvement continued, later, to include work on the Wagner Act (1935), the Walsh-Healey Public Contract Act (1936), the Fitzgerald National Apprenticeship Act (1937), and the Fair Labor Standards Act (1938), among others. **Fourth**. As the Nation moved toward war, the Department of Labor found itself again a center of production and manpower concerns -- while its chief struggled to protect labor standards.[22] At the same time, she reached out to non-traditional sources of labor, both women and minorities. "At Roosevelt's direction," Grossman notes, "she sat in on so many committee meetings that attendance at such meetings became her principal wartime job."[23] **Fifth**. As the war began to wind down, the Department began to plan for reconversion.

One might argue (but not without a likely rebuttal) that the structure, focus and philosophy of the Department was reasonably set by the time Secretary Perkins left office. Thereafter, there would be changes of emphasis, expanding and contracting appropriations, but it appears that the essential attributes of the Department were in place. Shortly after the death of President Roosevelt, Secretary Perkins retired.

Post-War Adjustment: Lewis Schwellenbach (1945-1948) and Maurice Tobin (1948-1953)

Lewis Schwellenbach, a former Senator and friend of President Truman, was a Federal judge in Washington State. According to George Martin, Perkins' biographer, Schellenbach arrived at the Department, called the staff together,

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[22] See: Flynn, George Q. *The Mess in Washington: Manpower Mobilization in World War II*. Westport, Conn., Greenwood Press, 1979.

[23] Grossman, *The Department of Labor*, p. 51-52.

and introduced himself by saying to the staff: "I don't know anything good about you."[24]

Schwellenbach's term of office was turbulent. He was faced with a post-war wave of labor-management relations turmoil which led to an anti-union backlash and enactment of the Taft-Hartley Act (1947). The Department was also viewed as being too pro-labor. At the war's conclusion, Congress began a series of budget cuts. BLS sustained a 40 percent reduction in force. Further, there were shifts of responsibility. The U.S. Employment Service which had fluctuated through the years, both in structure and in terms of siting, was transferred back to DOL from the War Manpower Commission -- as was DOL's apprentice training program. However, the Children's Bureau was transferred out of the Department of Labor and the Conciliation Service became part of the new, independent, Federal Mediation and Conciliation Service.[25]

With strikes in coal, steel, rails, etc., President Truman (1946) called in John R. Steelman, chief of the Conciliation Service, placing him directly on the White House staff. Whatever his usefulness to the President, his direct association with the President is said to have undermined Schwellenbach's authority.[26] Schwellenbach died in office on June 10, 1948.

Maurice Tobin was named to replace Schwellenbach. Still in his forties, Tobin had been mayor of Boston and governor of Massachusetts. Unlike anyone since Secretary Wilson, it appears, Tobin came to the Department with labor support. The first task confronting the new Secretary, according to Grossman, was the re-election of the President. Grossman notes: "Truman won, and Tobin, who had helped him to achieve his victory, concentrated on rebuilding the Department."[27]

In addition to his inclination to rebuilt the Department, Tobin received assistance from the Hoover Commission (the Commission on Organization of the Executive Branch of the Government) which recommended a greater use of the Department within the governmental structure. Further, the outbreak of the Korean War provided DOL with wartime responsibilities. Gradually, functions began to migrate back to the Department, the staff increased and budget cuts were restored.[28]

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[24] Martin, *Madame Secretary*, p. 462-465.

[25] *The First Seventy-Five Years*, p. 21-22.

[26] Grossman, *The Department of Labor*, p. 65.

[27] Grossman, *The Department of Labor*, p. 66-67.

[28] Grossman, *The Department of Labor*, p. 67-69; and *The First Seventy-Five Years*, p. 22.

EVOLUTION OF A MATURE AGENCY (1953-1995)

After 40 years, having passed through three wars and a depression and having been administrated by six Secretaries of differing philosophies and political persuasions, the Department would seem to have reached maturity. Through the next several decades, policy changes would be largely incremental. While the agency would take on new responsibilities, they would be essentially refinements and extensions of past duties and concerns.

The Interlude of Martin Durkin (1953)

Martin Durkin was a Democrat and president of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry. His appointment as Secretary of Labor in 1953 was viewed by some as in keeping with the off-stated wish that the Department be led by someone from the trade union movement. Secretary Durkin took up the issue of Taft-Hartley reform and appears to have believed that President Dwight Eisenhower was willing to proceed with reform. When the matter was dropped from the Presidential agenda, Durkin resigned.[29]

The Era of Labor and Industrial Relations Professionals (1953-1981)

With the appointment of James P. Mitchell as Labor Secretary, a new era in the evolution of the Department appears to have been set in motion. For nearly three decades (with the exception of the administration of Peter Brennan in the 1970s), the Department would be guided by professionals trained in industrial relations, personnel, labor economics and/or labor law.

James Mitchell (1953-1961) came from a background in industrial relations, both in industry and with the military during World War II. AFL President George Meany, who knew him "casually" through the War Labor Board, was said to have "respected him for being both knowledgeable and sympathetic about organized labor's problems."[30] Grossman suggests that one of Mitchell's "great successes" was that he became "the President's man on labor affairs" and "stopped the 'end runs' by which other people bypassed the Secretary of Labor and spoke directly to the President."[31]

But, much of what concerned the Department (and labor at large) during this period took place beyond the immediate reach of the Secretary. In 1955, the AFL and the Congress of Industrial Organizations joined forces to become the AFL-CIO. Starting early in the 1950s, the Senate Permanent Subcommittee on Investigations (the McClellan Committee) began a review of labor-management practices which would lead to a long dispute between the International

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[29] *The First Seventy-Five Years, op. cit*, p. 25.

[30] Goulden, Joseph C. *Meany*. New York, Atheneum, 1972. p. 220.

[31] Grossman, *The Department of Labor*, p. 72.

Brotherhood of Teamsters and the Federal Government and to enactment of new legislative measures to be administered by the Department. These included: the Welfare and Pension Plans Disclosure Act (1958) and the Labor-Management Reporting and Disclosure Act (the Landrum-Griffin Act of 1959).

Arthur Goldberg (1961-1962) came to the Department with extensive experience in labor law. He was intimately connected with the trade union movement and had helped to shape the agreement that united the AFL with the CIO. As Secretary, he worked in the area of labor-management relations and was concerned with civil rights. But, he was highly visible, speaking out on a variety of issues beyond the immediate confines of the Department and, in less than two years, was appointed to the Supreme Court.

Goldberg was replaced by another labor lawyer, **Willard Wirtz (1962-1969)**. Secretary Wirtz brought to the Department many of the skills of Mitchell and Goldberg. He "had served as a public member of the War Labor Board during World War II and as chairman of the National Wage Stabilization Board after the War."[32] He focused attention upon manpower training, the labor aspects of the "war on poverty" and the expansion of civil rights. During his administration, the Department was assigned a number of new responsibilities with passage of the Equal Pay Act (1963), the Farm Labor Contractor Registration Act (1965), the Service Contract Act (1965), the Age Discrimination in Employment Act (1967), and consolidation of several statutes into the Contract Work Hours and Safety Standards Act (1969).

In 1969, President Richard Nixon appointed **George P. Shultz (1969-1970)**, dean of the Graduate School of Business at the University of Chicago, as Labor Secretary. Shultz appears to have been highly regarded both by organized labor and by management and "enjoyed exceptionally good working relations with President Nixon," Grossman notes.[33] His tenure in the Department, however, was short. In mid-1970, he became director of the Office of Management and Budget and was replaced by **James D. Hodgson (1970-1973)**. Hodgson had served as vice president for industrial relations of the Lockheed Aircraft Corporation, but had no public agency experience. In the early 1970s, President Nixon took up the issue of wage-price controls and, in 1971, briefly suspended the Davis-Bacon Act.[34] Also during the Hodgson administration, Congress passed the Williams-Steiger Occupational Safety and Health Act (1970) which assigned significant new responsibilities to the Department.

The pattern of appointing technical professions to head the Department of Labor was broken, briefly, in 1973 when President Nixon named **Peter J. Brennan (1973-1975)** as Labor Secretary. Brennan was an old friend of

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[32] Grossman, *The Department of Labor*, p. 78-79.

[33] Grossman, *The Department of Labor*, p. 83.

[34] Goulden, *Meany*, p. 427-429.

Meany's from the New York building trades and had received public notoriety with a New York City demonstration in behalf of the President's Vietnam War policy.[35] During the Brennan administration, Congress adopted the Employee Retirement Income Security Act (ERISA) of 1974, requiring the Department to monitor "more than 1 million pension plans."[36]

In 1975, President Gerald Ford appointed a labor professional as Secretary, naming Harvard economist **John Dunlop (1975-1976)** to head the Department. During the 1950s, disputes had arisen concerning the conditions under which unions might picket a job site and, indeed, whether they might picket the entire *common site* of a group of employers who might be only marginally involved in a dispute with the picketing union -- if involved at all. In 1975, during the 94th Congress, *common situs* picketing legislation had been carefully, painfully, negotiated within the Congress and it was believed that a commitment had been secured from President Ford that he would sign the measure if it reached his desk. In December 1975, the House and Senate agreed to the conference report on the legislation and the measure was dispatched to the President. On Jan. 2, 1976, President Ford vetoed the *common situs* picketing legislation and, as a result, on Jan. 13, 1976, Labor Secretary Dunlop announced his resignation.[37]

President Ford turned to **W. J. Usery, Jr. (1976-1977)**, then serving as director of the independent Federal Mediation and Conciliation Service. Usery had served as Assistant Secretary of Labor for Labor-Management relations under Secretaries Shultz and Hodgson; and, given his knowledge of the Department, stepped readily into the role of Secretary.

In 1977, President Jimmy Carter turned to University of Texas economist **Ray Marshall (1977-1981)** as his Labor Secretary. Marshall was within the tradition begun with James Mitchell a quarter century earlier. He had written extensively on manpower issues, had a strong interest in minority employment, and was a thoroughly acceptable appointment from the perspective of organized labor. Under Marshall, public service employment expanded significantly and the Federal role in job creation and training came, once again, under review. To strengthen equal employment opportunity, "contract compliance functions previously carried out by 11 separate Government agencies" were consolidated under the Department's Office of Federal Contract Compliance Programs (OFCCP). In addition, the Department began a review of the various Federal contract labor standards statutes (the Davis-Bacon Act, the Service Contract Act, etc.); but, before new regulations were in place, there was a change of presidential administrations.

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[35] Goulden, *Meany*, p. 414.

[36] *The First Seventy-Five Years*, p. 41.

[37] Bureau of National Affairs, *Daily Labor Report*, Jan. 14, 1976. p. A12.

A Period of Political/Non-Technical Administration (1981-1993)

With the election of Ronald Reagan, the Department of Labor and the programs that it administered were subjected to a fresh look. Old assumptions, many dating by to the Perkins era and the New Deal, came into question. **Raymond J. Donovan (1981-1985)** was named Secretary of Labor. Donovan, who had knowledge of labor-management relations in the building and construction trades having been a construction company executive, moved quickly into the area of labor standards. He took up proposals for change in the regulation of industrial homework, modification of child labor laws, and the crafting of new regulations governing administration of Federal contract labor standards. In each instance, the proposals provoked significant opposition. New standards concerning industrial homework and regulation of the Davis-Bacon Act were ultimately implemented -- though not in the form originally proposed by the Department. The period saw a general review of manpower programs and, in 1982, adoption of the Job Training Partnership Act. In early 1983, the Farm Labor Contractor Registration Act was repealed and replaced by the Migrant and Seasonal Agricultural Workers' Protection Act (MSPA). In 1985, Donovan retired to the private sector.

William F. Brock (1985-1987) had been a Member of Congress, chair of the Republican National Committee, and U.S. Trade Representative. Among Brock's concerns while he was Secretary of Labor were manpower and training issues. **Ann D. McLaughlin (1987-1989)** had served as Under Secretary of the Interior and Assistant Secretary for Public Affairs in the Treasury Department and possessed general administrative experience. Like Brock, Secretary McLaughlin stressed manpower issues, reviewing the Department's program of apprenticeship training. **Elizabeth Dole (1989-1990)** came to the Department with prior Cabinet experience: i.e., in Transportation. In a brief tenure, she found herself confronted with a renewed interest in child labor issues. She also promoted interest in the concept of a "glass ceiling" that keeps women and minorities from advancing into senior management positions. In 1990, she retired to head the American Red Cross, and was replaced by former Illinois Representative **Lynn Martin (1991-1993)** who continued in office for the remainder of the Administration of President George Bush. During the period, the President temporarily suspended the Davis-Bacon Act for parts of three States afflicted with natural disasters.

With the election of William Clinton in 1992, the Department is again being administered by a labor policy professional. **Robert Reich (1993-____)** is a former Harvard University professor who has written extensively concerning employment issues. Like several of his immediate predecessors, he has expressed concern with training questions. Early in the Clinton Administration, Congress adopted the Family and Medical Leave Act, placing new responsibilities on the Department. In addition, DOL has assumed duties flowing from adjustment to various trade agreements to which the United States has become a party.

TABLE 1. Labor Secretaries and the Presidents They Served

Secretary of Labor	Period of Service	President
William B. Wilson	Mar. 4 1913 - Mar. 4, 1921	Woodrow Wilson
James J. Davis	Mar. 5, 1921 - Nov. 30, 1930	Warren G. Harding Calvin Coolidge Herbert Hoover
William N. Doak	Dec. 9, 1930 - Mar. 4, 1933	Herbert Hoover
Frances Perkins	Mar. 4, 1933 - June 30, 1945	Franklin D. Roosevelt Harry S Truman
Lewis B. Schwellenbach	July 1, 1945 - June 10, 1948 (Died in Office)	Harry S Truman
Maurice J. Tobin	Aug. 13, 1948 - Jan 20, 1953	Harry S Truman
Martin P. Durkin	Jan. 21, 1953 - Sept. 10, 1953	Dwight D. Eisenhower
James P. Mitchell	Oct. 9, 1953 - Jan. 20, 1961	Dwight D. Eisenhower
Arthur J. Goldberg	Jan. 21, 1961 - Sept. 20, 1962	John F. Kennedy
W. Willard Wirtz	Sept. 25, 1962 - Jan. 20, 1969	John F. Kennedy
George P. Shultz	Jan. 22, 1969 - July 1, 1970	Richard M. Nixon
James D. Hodgson	July 2, 1970 - Feb. 1, 1973	Richard M. Nixon
Peter J. Brennan	Feb. 2, 1973 - Mar. 15, 1975	Richard M. Nixon
John T. Dunlop	Mar. 18, 1975 - Jan. 31, 1976	Gerald R. Ford
W.J. Usery, Jr.	Feb. 10, 1976 - Jan. 20, 1977	Gerald R. Ford
Ray Marshall	Jan. 27, 1977 - Jan. 20, 1981	Jimmy Carter
Raymond J. Donovan	Feb. 4, 1981 - Mar. 15, 1985	Ronald Reagan
William F. Brock	Apr. 29, 1985 - Oct. 31, 1987	Ronald Reagan
Ann McLaughlin	Dec. 17, 1987 - Jan. 20, 1989	Ronald Reagan
Elizabeth Dole	Jan. 30, 1989 - Nov. 23, 1990	George Bush
Lynn Martin	Feb. 22, 1991 - Jan. 20, 1993	George Bush
Robert Reich	Jan. 21, 1993 -	William Clinton

Source: U.S. Department of Labor. *Monthly Labor Review*. February 1988. p. 12; Annual Reports of the U.S. Department of Labor. Dates may vary slightly as to confirmation, swearing-in, or assumption of duties.

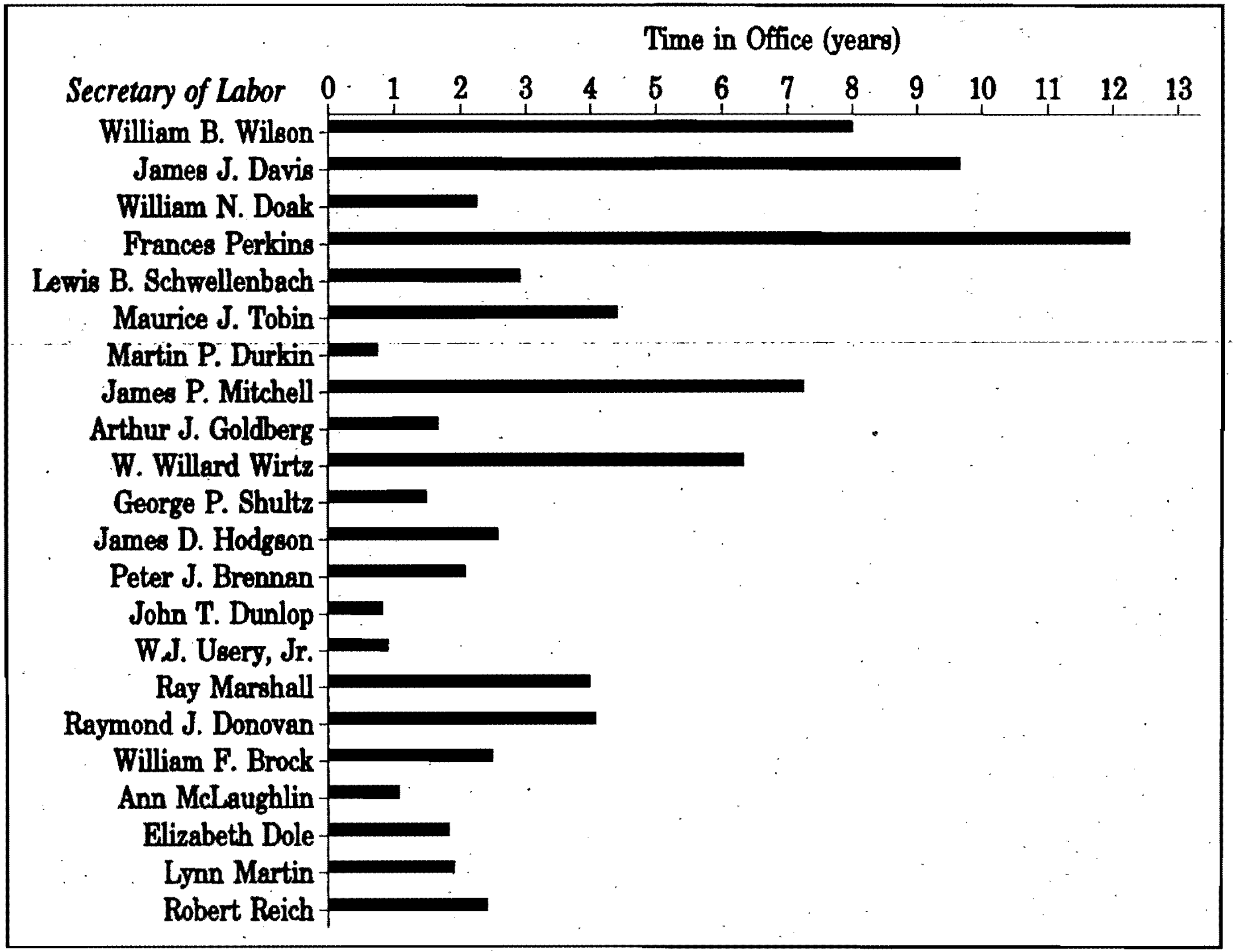
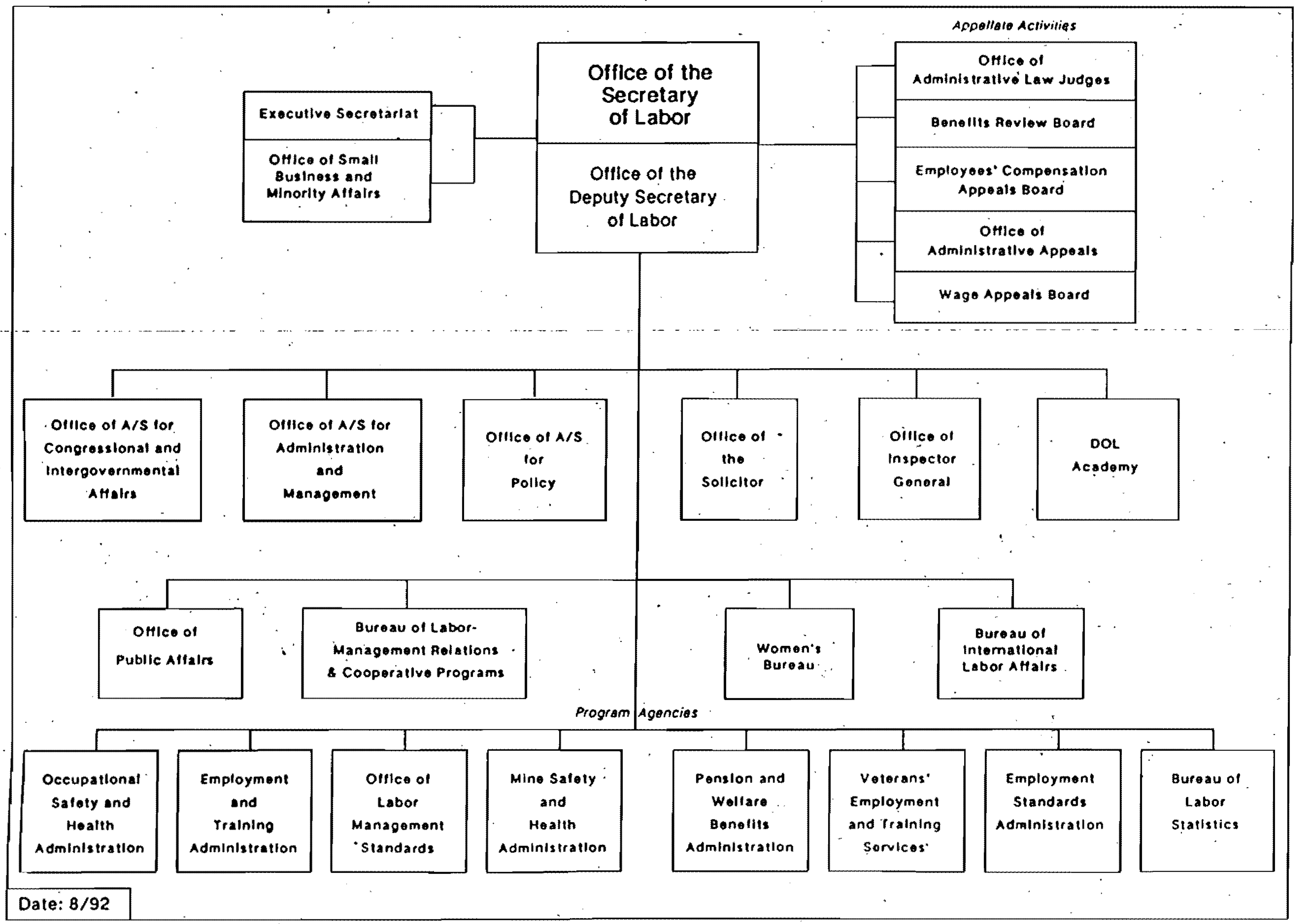


FIGURE 2. Labor Secretaries and Their Periods of Service

U.S. Department of Labor



Source: U.S. Department of Labor. Washington, 1992.

they have also got to recognize that when it becomes unpleasant and the outcomes are not what we desire, in some instances, or what some of us do not desire in a pluralistic society, they cannot run away and say "Oh, we could not be responsible for that, because after all, it is just a movie." No, you cannot take that genius and understand and know what you have created, and then deny it the next moment, to suggest it has none of the impacts for which you designed it in this movie, but it could not have any impacts over here.

In summary, Mr. Speaker, I would just hope that we would not let this get down to who is getting the advantage and not getting the advantage in presidential politics, but we would bring this as a national conversation about the future of our children. I hope to have more to say on this to their body, to my constituents and to others, but I think we need this conversation without jumping to a conclusion, but understanding the responsibilities, the powers, and the obligations that go with this medium and with those of us in public office.

THE PRESIDENT'S VETO ON THE RESCISSIONS BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 30 minutes as the designee of the majority leader.

Mr. SCARBOROUGH. Mr. Speaker, I could not help but notice that the President vetoed the rescissions bill, and our attempts to cut back spending on the Federal level, and to send money back home on education programs and on job training programs. The President vetoed the bill because he thought it cut too much. I have to tell you, I agree with the President that the bill was not perfect, but I do not think it was perfect for another reason. I do not think we went far enough.

Let me explain, Mr. Speaker. When he talks about education dollars, when he talks about job training dollars, what he is actually talking about is spending money on the Department of Education bureaucracy in Washington, DC. We are not talking about spending money on children, we are not talking about spending money on raising teachers' salaries, we are not talking about spending money on hiring more teachers so we can lower the student-teacher ratio, so our students can learn more. We are talking about spending more money in Washington, DC, on an education bureaucracy that has, unfortunately, failed miserably over the past 15 years.

Mr. Speaker, I was named to head the task force to look into education reform. I believe today, more than at any other time in this country's history, we have to be bold and aggressive in reforming the educational system of this country, because if our children are going to be prepared for the 21st century, and if our children are going to be able to work in the 21st century workplace, they are going to have to do it by having the best education possible. With two young boys in public schools, I have as much at stake in this fight as anybody.

Mr. Speaker, we have to start with basics. The bill that we are introducing is called the back-to-basics education reform bill. The basics that we begin with are these. First of all, parents and teachers and principals know how to teach our students and our children better than a bureaucrat in Washington, DC. That is not a foreign concept in this country's history, or in our educational history.

The fact of the matter is that over 200 years ago we had Founding Fathers, who believed that education belonged in local communities; that we were to be a nation of communities, instead of a nation of bureaucrats and a nation of education bureaucracies.

James Madison wrote, as he was helping to frame the Constitution, "We have staked the entire future of the American civilization not upon the power of government, but upon the capacity of each of us to govern ourselves, to control ourselves, and sustain ourselves according to the Ten Commandments of God." That was from James Madison, one of the 3 men that was most responsible for framing the Constitution.

Of course, Thomas Jefferson wrote that "The government that governs least governs best." As they were saying that, they were not saying that because they were antigovernment. Far from it. The men and women that helped found this great constitutional republic believed government could serve a useful purpose. In fact, they dedicated their entire lives to this government, put their lives on the line in a brutal war, where they could have been killed or where they could have been hung as traitors. They believed that the Federal Government had a role, but that role was in protecting the God-given rights of the men and women and the children of the country that they were serving.

One of those rights, I have to believe, was the right to teach your children and to educate your children, instead of having bureaucrats in Washington, DC do it. Thomas Jefferson and James Madison believed that this country should be a great experiment; that we should have a country that was a nation of communities, and not a nation of bureaucrats and bureaucracies; that would have parents and individuals and families and communities making decisions on how to teach children, and what type of school programs needed to be implemented.

Unfortunately, somewhere along the line we lost our way, because in the late seventies the great education bureaucracy experiment began. It began in 1980, as Jimmy Carter struck a deal with the NEA teacher's union to set up a national education bureaucracy. Since that time, we can see what has happened to education.

Back when it started in 1980, we were spending $14 billion on education in this Federal bureaucracy. Since 1980, spending has gone from $14 billion in Washington, DC, to $33 billion. What have we gotten for our education revenue? The fact of the matter is that despite the fact we have gone from spending $14 billion on an education bureaucracy to $33 billion in 15 years, we have spent more money on the bureaucracy, but as you might guess, the results have not been positive. Test scores have gone down. Dropout rates have risen.

Of course, as all of you know, violence in schools has risen. You go to inner-city schools, whether it is in the South Bronx or whether it is in South Central Los Angeles, or Gary, IN, or in parts of Miami or Tampa, or even in your hometown, you know and parents know and I know as a parent that our educational system in this country continues to decline.

□ 1730

That is because education dollars are not getting into the classroom. They are coming up to Washington, DC, to our Federal bureaucracy.

Let me give you a perfect example of how this has happened. Do you know this year the Department of Education will be cutting $100 million from their budget to keep our schools safe? Think about that. They are cutting $100 million to keep the infrastructure in our schools safe across the country. But at the same time when they are saying we don't have the money to keep our school buildings safe for our children, they are spending $20 million to upgrade their own bureaucracy right down the street.

Think about that. This is not robbing Peter to pay Paul. This is robbing our schools across the country. I suppose what they consider to be the flyover space between Washington, DC and Los Angeles. They are taking the money out of our schools so they can bring it up to Washington, DC, and upgrade their bureaucracy.

Is that what education should be about? Is that what educational reform should be about? I don't think so, and I know that men and women across the country that have a little bit of common sense don't think so, either. We need to put our education dollars in our school system, but the fact of the matter is that by the time the money goes through the process, the education dollars don't get to the schools.

Think about it. Where I come from—I am from northwest Florida, specifically I live in Pensacola, FL—when I have to pay a dollar for my taxes, that dollar goes from Pensacola, FL, to Atlanta, GA. That is our regional IRS center.

So when it goes up to Atlanta, the IRS center up there, they obviously have to take out their brokerage fee in Atlanta. Then it comes up to Washington, DC, goes to the IRS there, they take out their brokerage fee, so this education dollar is getting carved up a little bit around the edges.

Then it goes to Treasury and they take out their brokerage fee. After that, of course, it goes over to the Department of Education and they take out their brokerage fee, so the education dollar is getting cut up.

Does it go down to the schools now? No, it goes to our State capital. In Florida, that State capital is Tallahassee, so the dollar goes to Tallahassee. Of course they have to take out their brokerage fee, too. By the time it gets back to our community, that dollar is being carved up and cut up in such a way that you would not even recognize it.

Some officials of the Department of Education claim that they only spend 2 percent on overhead. If you believe that, I have got some swampland to sell you in south Florida. We all know that is not the case. That dollar takes a very tortured route before it gets back to the school districts. We need to keep education dollars in the communities.

This is not a budget-cutting exercise. It is about making sure that our children get the most bang for their educational buck. We are not going to do it as long as we keep throwing money at Washington and that money is not coming back home.

Some people have suggested that this is some ideological battle, that Republicans, or conservatives, want to take power away from an educational bureaucracy for their own ideological purposes. The fact of the matter is, Republicans and Democrats alike, as well as liberals and conservatives, are slowly coming around to the realization that our teachers and our parents and our communities and our States can be trusted with the important role of educating children.

Alice Rivlin, the President's OMB director, wrote a book back in 1992 when she was at the Brookings Institute. Of course at that time she was not working for President Clinton, so she was allowed to think for herself. When she did, she wrote what I thought was a tour de force on educational reform and on reforming this Federal Government.

Alice Rivlin talked about a productivity agenda where you had States experimenting in educational reform and in job training reform and in other areas. She talked about the States all competing against each other to see who could come up with the best idea for educational reform, instead of having Washington throw down all these dictates saying this is how you are going to teach your students.

So we allow the States to compete, and the States that have the best educational system will obviously have the greatest economic development, and will have money coming into their States and will have students coming into their States. It is what I like to call legislative laboratories.

Ask yourself this: Would you rather have Bill Clinton and an education bureaucracy in Washington tell us all how to teach our children, or would you rather have your State and your community competing with 50 other States to see who could do the job best?

What they would do is create legislative laboratories that would experiment, and they could borrow from other States. If California was doing something Utah liked, Utah could borrow from there. If Florida was doing something that Georgia liked, Georgia could borrow from that, instead of having Washington, DC, and bureaucrats in Washington continue to labor under the extremely, extremely presumptive belief that they know how to teach our children better than we know how to teach our children. It is a false premise. I have got to tell you, I believe that it is a very, very dangerous premise.

We have got again to spend our education dollars on teachers' salaries, on computers, on improving the teacher-student ratio. Let me tell you, I had an education townhall meeting in my district. I was absolutely stunned to find out that a special education teacher had 30 students in her class. Let me tell you something. There is no way a teacher teaching special education is going to be able to give children the type of attention that they need to have.

But there are shortfalls, budget shortfalls in the State. Why was that? Because we have got $33 billion in education money coming up to Washington instead of going to the schools. We have got to do something about that.

I talked before about our Founding Fathers. We can talk about what works, what does not work, but we also need to look at what is constitutionally proper and what is constitutionally improper.

I would certainly say that any reading of the Constitution of the United States of America would show that the system that we are laboring under right now is patently unconstitutional. Read your Constitution. If you read the 10th amendment, the 10th amendment states explicitly that all powers not specifically granted to the Federal government in the Constitution of the United States are reserved to the States and to the citizens that live within those States.

You can look through the Constitution all you want to. But our Founding Fathers did not state that the Constitution of the United States allowed the Federal Government to get involved with an education bureaucracy.

If you read the Federalist Papers, when they explained why they wrote the Constitution the way they did, there is nothing in the Federalist Papers that show that the Federal Government wanted us to have an education bureaucracy. The fact of the matter is the Constitution, the Federalist Papers, and all the other documents of the Founding Fathers show that they believed that our parents and our teachers and our communities should teach children instead of having an education bureaucracy in Washington, DC, teach children. I think they were on to something.

If the Federal Government does not have it in the Constitution, what about the States? It is not surprising that in all 50 State constitutions, every one of these documents state explicitly that State governments and communities and local governments should be the ones that get involved in educating our children. I think that is extremely important to realize, that the States and the Federal Government got together, drafted constitutions that clearly show that the Federal Government has no business in forming an education bureaucracy, that again it needs to be formed back into the States.

Mr. Speaker, I believe that we need to turn back where we trust communities again and we trust parents again and don't labor under this false assumption that they are too backward or too stupid to take care of their most important resource, and that is children, and in educating children.

I hear a lot of people say, well, look what happened 30 years ago. Look what happened when Bull Connor was running the streets of Birmingham, or 60 years ago when Huey Long was Governor of Louisiana. Can we really trust the States?

I say, yes, emphatically, we can trust the States. Alice Rivlin in her book "Reinventing the American Dream" talks about moving to a point where we can trust the States again. David Halberstam in his book "The Next Century" talked about the face that the most talented and most gifted leaders in this country did not occupy the well of the House of Representatives, and I know that might shock a lot of people in Washington, DC. But the people who know where the rubber meets the road are back in the States. They are the ones who have to put together an education budget every year, they are the ones who understand what losing $33 billion in education revenue means. They are the ones that are closest to the problem.

Let's trust our parents again. Let's trust our teachers again.

As a parent of two young children who are in public schools, I have got to tell you, I am deeply offended by any bureaucrat in Washington, DC, who tells me they know how to teach my children better than I know how to teach my children.

I will side with James Madison and Thomas Jefferson and the Constitution of the United States any time over bureaucrats in the education bureaucracy who have destroyed our public education system over the past 15 years. If they have not destroyed it, well, they sure have not done anything to improve it.

A lot of people will say that the burden of proof rests on those who say abolish the Federal Department of Education bureaucracy and send it back to the States.

I say the burden of proof rests on those bureaucrats that take $33 billion out of local communities and school boards all across this Nation and give us very little in return.

Look at the test scores. Look at the dropout rates. Look at violence in schools. They have to step forward and explain how the principals of the NEA teachers union and how the principals of the education bureaucracy are somehow in harmony with the philosophies of Jefferson and Madison. I have got to tell you, they cannot do it.

Again, listen to the great words of James Madison:

> We have staked the entire future of the American civilization not upon the power of government but upon the capacity of each of us to govern ourselves, control ourselves, and sustain ourselves according to the 10 commandments of God.

It is a very simple premise. Trust communities, trust families, trust individuals, trust parents. You can do that.

Two hundred years after the greatest experiment in the history of government, we are getting back to a point where we once again are going to untie parents and communities and teachers and school boards, and say, "Be creative, dare to make a difference." If we do that, if we return authority back to parents and teachers and school boards instead of an education bureaucracy in Washington, DC, then my two boys and children all across this country will once again be able to take control of their school system and be prepared for the 21st century workplace. We have got to do it now. We cannot delay any longer. I certainly would ask for all of your support.

Mr. Speaker, I yield to the gentleman from California.

Mr. DORNAN. I just wanted to thank the gentleman. As one of my troopers on the Military Personnel Subcommittee, it has been a joy working with the gentleman from Florida [Mr. SCARBOROUGH].

Because my fatherly days are behind me as far as education is concerned—my youngest son is graduating from UCLA on Sunday, the 18th of this month—but I have got nine grandchildren and, God willing, more to come.

Your statement resonates in my ears. I also take personal affront to any bureaucrat saying, "I know how to teach your children better than you do."

No, when that report came out that showed that for the first time in the history of this great Nation, in over two centuries, a generation, the current one, was not as well educated as their parents, the prior generation, we hit a stonewall in education, where all the educrats, the bureacrats of education, do not have the answers anymore.

□ 1745

That is why I am a strong supporter of home schooling. I have not had to do that with any of my sons or daughters yet, but home schooling is growing across this country because the main area where our education system has failed us is in the area of teaching values, ethics, and if we have to come down to a plan that a grandmother told me the other day, not my own wife, but a grey-haired grammy, said, "Why don't you people just broadcast to every school in America now that we are on the informational highway on Mondays and Tuesdays the prayer at the beginning of the House of Representatives, and then on Wednesdays and Thursdays—you are smiling, Speaker GILCHREST, this is not your idea, is it?—then on Wednesdays and Thursdays we broadcast the prayer to every public school in America at the beginning of the U.S. Senate's day, and on Friday, a special day, the prayer at the beginning of the U.S. Senate, in every school in America. And then occasionally we can sing at general assemblies the most popular song during the War between the States that kept our Nation together, "The Battle Hymn of the Republic." Mine eyes have seen the glory in the coming of the Lord. Who would that be? I do not know, would it be Jesus Christ, our savior, our redeemer, the son of God. Lilies across the sea in Jerusalem or Bethlehem or Nazareth, names familiar to one generation of schoolchildren, not anymore. I would love to see pumped to every school in America rabbis as we have seen here coming invoking the God of Abraham and the code of ethics of Moses, who is staring right down at the gentleman from Florida, look at him looking down at Speaker GILCHREST there, over in the corner, Maimonides, who in Sephardic tradition in Spain and Portugal rewrote the entire code of ethics for every Jewish person in the world. On this wall look at the wall of saints up there, Edward the Confessor, St. Ed, Alfonse, a saint of Spain, Gregory IX, a saintly pope, St. Louis, whose mother said "I would rather have my son dead at my feet than see him commit a grievous mortal sin."

So there is a lot of education our kids are not getting, it is being denied, and there is a way to do it, to recognize the Western civilization, culture, and there are a lot of colleges around, including UCLA, where in my son's first five classes Christianity was attacked by name in two of those classes, Catholicism attacked by name after they worked over Christianity, and in one of those classes Jesuits attacked. My son has never had the thrill of sitting in a class with a Jesuit teacher at the front, but I had 7 great years of it, and I am still grateful for my teachers. The Jesuits were all conservatives in those days and lived up to their fourth vow of being loyal to the Pope. They are having some problems these days. But I tell you, we are going to get this education thing solved, and why are we going to do that, because Ronald Reagan said we are Americans, which means we can win any battle. Thank you for weighing in today. Glad to associate myself proudly with your words.

THE BATTLE OF OKINAWA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 30 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, I am so, pleased is not a strong enough word, I am so ecstatic today over this rescue in Bosnia that I am glad I have got a Marine Corps sergeant sitting in the Speaker's chair today. Let me see that 1,000-yard stare, because as a former Air Force fighter pilot, peacetime to be sure, let me thank you for the whole Marine Corps in that superb rescue this morning, and wait till you get details tonight on CNN or C-SPAN or whatever, because I have got the bare outlines off the wire service stories, I called the Pentagon, they are having down in the cellar of the Rayburn Building a goodbye party for some of our great military people, liaison people who help us understand everything we can about our heroic men and women all around the world they will they cannot tell me much because they are hanging off the wire services' stories too.

But let me put this in perspective for the Marine Corps and the Army and every fighter pilot in those days was either Marine, Navy, or Air Force, I mean Army Air Corps, there was no Air Force. I was going to finish my Okinawa special orders today, June 8, 1945, and it is interesting, fascinating that the Battle of Okinawa started on Easter Sunday in 1945, that was April 1, and it was no April Fool's Day for the bloodshed on those beaches. It started off easily as the Japanese warlord forces were back in their caves and said come on, soft beach landings, everything looked good, and said oh, this is not going to be Iwo Jima, and then it became hell on Earth. That started April 1, 50 years ago. So all of April is 30 days, all of May, we are up to 61 days, this is the 8th, this was day 69 of an 87-day battle which means they had 18 brutal days to go where more marines and more Army soldiers died in a battle than ever before. This was the highest-fatality battle of the whole Pacific war.

And MacArthur took a bum rap there. Some people called him Dugout Doug because they wanted to see more of him up front. If he was not up front with one unit it is because he was with somebody else. Where was Gen. Douglas MacArthur, who stood right in front of you in one of the greatest speeches ever given at the Presidential lectern there and said and like most