
APPENDIX

APPENDIX

95TH CONGRESS
1st Session

S. 991

IN THE SENATE OF THE UNITED STATES

MARCH 14 (legislative day, FEBRUARY 21), 1977

Mr. RIBICOFF (for himself, Mr. MAGNUSON, Mr. HUMPHREY, Mr. PELL, Mr. NUNN, Mr. ALLEN, Mr. BARTLETT, Mr. BATH, Mr. BELLO, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DeCONCINI, Mr. DOMENICI, Mr. EAGLETON, Mr. FORD, Mr. HART, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUE, Mr. JACKSON, Mr. KENNEDY, Mr. McGOVERN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MUSKIE, Mr. PEARSON, Mr. RANDOLPH, Mr. SASSER, Mr. SPARKMAN, Mr. STAFFORD, Mr. STONE, Mr. WEICKER, and Mr. WILLIAMS) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To establish a Department of **Education**, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United State of America in Congress assembled,*
3 That this Act may be cited as the "Department of Education
4 Act of 1977".

PINDINGS AND PURPOSES

6 *SEC. 2. The Congress finds that—*

7 (1) education is of fundamental importance to the
8 Nation and it is appropriate to reassess the condition of
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2
1 education in our **Nation** to insure that all Americans have
2 an equal opportunity for quality education;

3 (2) existing Federal programs in support of educa-
4 tion are fragmented and often duplicative and should be
5 better coordinated in order to promote quality education;

6 (3) the role and importance of education increases
7 as our society becomes more complex and new technolo-
8 gies and advancements are developed to meet changing
9 needs;

10 (4) public policy toward education is vital to the
11 present and long-range interests of the United States;

12 (5) education must be broadly conceived in terms
13 of all those forces, institutions, and agencies which func-
14 tion as educating influences in the United States; goals
15 and institutions should be enhanced; and

16 (6) it is essential therefore to establish a Depart-
17 ment of Education to provide Federal leadership, to
18 insure effective enforcement of equal opportunity legis-
19 lation in education, to weigh and consider major educa-
20 tional policy issues confronting the Nation, and to
21 facilitate a continuing renewal of the educating institu-
22 tions and policies of the United States.

DEPARTMENT OF EDUCATION ESTABLISHED

24 *SEC. 3. There is established an executive department*
25 which shall be known as the Department of Education
26 (hereinafter referred to as the "Department").

OFFICERS

1
2 **SEC. 4.** (a) The Department shall be administered by
3 a secretary of Education (hereinafter referred to as the
4 "Secretary"), who shall be appointed by the President,
5 by and with the advice and consent of the Senate, and who
6 shall receive compensation at the rate prescribed for level
7 I of the Federal Executive Salary Schedule under section
8 5312 of title 5, United States Code. The Department shall
9 be administered under the supervision and direction of the
10 Secretary.

11 (b) There shall be in the Department an Under Secre-
12 tary of Education who shall be appointed by the President
13 by and with the advice and consent of the Senate. The
14 Under Secretary shall perform such duties and exercise
15 such powers as the Secretary shall prescribe. During the
16 absence or disability of the Secretary, or in the event of a
17 vacancy in the office of the Secretary, the Under Secretary
18 shall act as Secretary. The Under Secretary shall receive
19 compensation at the rate prescribed for level III of the
20 Federal Executive Salary Schedule established under sec-
21 tion 5314 of title 5, United States Code.

22 (c) There shall be in the Department a General Counsel
23 and four Assistant Secretaries of Education as follows:

24 (1) Assistant Secretary of Education for Legislative
25 and Public Affairs;

1 (2) Assistant Secretary of Education for Admin-
2 istrative and Management Policy;

3 (3) Assistant Secretary of Education for Evalua-
4 tion and Planning; and

5 (4) Assistant Secretary of Education for Intergov-
6 ernmental Relations.

7 Each of such Assistant Secretaries shall be appointed by
8 the President, by and with the advice and consent of the
9 Senate. Each such Assistant Secretary shall perform such
10 duties and exercise such powers as the Secretary shall pre-
11 scribe. During the absence or disability, or in the event of a
12 vacancy in the office of the Secretary or of the Under Secre-
13 tary, an Assistant Secretary determined according to such
14 order as the Secretary shall prescribe shall act as Secretary.
15 Each Assistant Secretary and the General Counsel shall
16 receive compensation at the rate prescribed for level IV
17 under section 5315 of title 5, United States Code.

POWERS AND DUTIES OF THE SECRETARY

19 Sec. 5. (a) The Secretary shall be responsible for
20 the exercise of all functions of the Department, and shall
21 have authority to direct and supervise all personnel and
22 activities thereof.

23 (b) (1) The Secretary is authorized to appoint and
24 fix the compensation of such officers and employees, and

1 prescribe their functions, as may be necessary to carry out
2 the purposes and functions of this Act.

3 (2) The Secretary may obtain the services of experts
4 and consultants in accordance with the provisions of section
5 3109 of title 5, United States Code.

6 (c) The Secretary may promulgate such rules and
7 regulations as may be necessary to carry out the functions
8 vested in the Secretary or in the Department, and may
9 delegate authority for the performance of any such func-
10 tion to any officer or employee under the Secretary's
11 direction and supervision.

12 (d) The Secretary shall cause a seal of office to be
13 made for the Department, of such design as the President
14 shall approve, and judicial notice shall be taken thereof.

15 FUNCTIONS OF THE DEPARTMENT

16 Sec. 6. (a) It is the principal function of the Depart-
17 ment to promote the cause and advancement of education
18 throughout the United States.

19 (b) In addition to any other function of the Secretary
20 under the provisions of this Act, the Secretary is authorized
21 to—

22 (1) advise the President with respect to the prog-
23 ress of education, including the recommendation of
24 long-range goals and priorities;

1 (2) develop and recommend to the President ap-
2 propriate policies and programs to foster the ordl'rly
3 growth and development of the educational facilities
4 and resources of the United States especially in the light
5 of long-range requirements;

6 (S) exercise leadership at the direction of the Presi-
7 dent in coordinating Federal activities affecting edu-
8 cation;

9 (4) conduct continuing comprehensive surveys,
10 and to collect, analyze, and disseminate relevant infor-
11 mation, data, and statistics, concerning education in the
12 United States;

13 (5) provide information and such other assistance
14 as may be authorized by the Congress to aid in the
15 maintenance of efficient school, college, and university
16 or other education systems;

17 (6) encourage comprehensive planning by State
18 find local governments, especially with respect to coor-
19 dinating Federal, State, and community educational
20 activities at the local level; and

21 (7) provide leadership by conducting studies, mak-
22 ing recommendations, and administering discretionary
23 programs to facilitate the continuing development of the
24 American educational system.

TRANSFER OF FUNCTIONS AND AGENCIES

Sec. 7. (a) There are transferred to the Secretary, all functions of the Secretary of Health, Education, and Welfare or the Commissioner of Education, as the case may be-

(1) with respect to and being administered by the Secretary through the Education Division of the Department of Health, Education, and Welfare;

(2) with respect to and being administered by the Secretary through the Office of Child Development of the Department of Health, Education, and Welfare regarding Headstart;

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice to and making recommendations which concern education primarily;

(4) under section 394 of the Communications Act of 1934; relating to Federal grants for the construction of television and radio broadcasting facilities to be used for educational purposes;

(5) with respect to and being administered by the Secretary through the Office of Civil Rights for the enforcement of those provisions of law and education orders which apply to educational institutions, including title VI (insofar as it relates to educational financial

assistance) and titles VII and IX of the Education Amendments of 1972 and Executive Order 11246 (insofar as it pertains to employer's holding Federal contracts in education) ;

(G) with respect to all functions of the National Foundation on the Arts and the Humanities including all functions of the National Endowment for the Arts and all functions of the National Endowment for the Humanities;

(7) with respect to all Federal laws concerning the relationship between Gallaudet College, Howard University, and American Printing House for the Blind, and the Department of Health, Education, and Welfare;

(8) with respect to the operation of schools for dependents of members of the Armed Force by the Secretary of Defense;

(9) with respect to the operation of schools for Indian children being administered by the Secretary of the interior through the Bureau of Indian Affairs;

(10) with respect to the National School Lunch Act, and the operation of the Graduate School, being administered by the Secretary of Agriculture:

(11) with respect to title IV of the Housing Act of 1950 relating to college housing, being administered by

1 **(12) with respect to and being** administered by the
 2 Director of the National Science Foundation, the Educa-
 3 tion Directorate.

4 (b) In any case where all of the functions of any agency
 5 or office are transferred pursuant to this Act, except any
 6 committee transferred under subsection (a) (3) of this sec-
 7 tion, such agency or office shall lapse.

8 (c) All officers, employees, assets, liabilities, contracts,
 9 records, property, leases, obligations, and commitments and
 10 unexpended balances of appropriations, allocations, and other
 11 funds which the Director of the Office of Management and
 12 Budget determines are to be employed, held, or used pri-
 13 marily in connection with any office, agency, bureau, founda-
 14 tion, or function transferred under the provisions of this Act,
 15 we hereby transferred to the Department.

16 ADDITIONAL, TRANSFERS

17 SEC. 8. The President is authorized to transfer to the
 18 Department of Education any other agency or instrumental-
 19 ity of the Federal Government which the President deter-
 20 mines has functions relating to education and should be
 21 transferred to the Department of Education to promote eff-
 22 iciency in Government and to carry out the purposes of this
 23 Act. Such transfers shall incorporate, to the extent deemed
 24 desirable, the recommendations of the Federal Interagency
 25 Committee on Education as provided by section 12 (c) and

1 shall be completed within one hundred and eighty days after
 2 the date of enactment of this Act. A report describing such
 3 transfers shall be submitted to the Congress **not** later than
 4 thirty days thereafter.

5 TRANSFERRED PERSONNEL

6 SEC. 9 Each officer or employee of the United States
 7 or any department or agency thereof who is transferred at
 8 any time to the Department of Education shall be deemed,
 9 effective as of the date of such transfer, to be an officer or
 10 employee of the Department. No reappointment of any
 11 such officer or employee shall be required because of his
 12 transfer to that Department. Except as otherwise specifi-
 13 cally provided by this section, no such officer or employee
 14 shall be reduced in rank, grade, seniority, or rate of com-
 15 pensation because of any such transfer.

16 PROVISIONS OF LAW APPLICABLE TO THE DEPARTMENT

17 SEC. 10. Except to the extent inconsistent with this
 18 Act, all provisions of law applicable to the executive de-
 19 partments generally shall apply to the Department.

20 REDESIGNATION OF THE DEPARTMENT OF HEALTH,

21 EDUCATION, AND WELFARE

22 SEC. 11. **(a) The Department** of Health, Education,
 23 and Welfare is hereby redesignated the Department of
 24 Health and Welfare, and the secretary of Health, Edu-

1 cation, and Welfare is hereby redesignated the Secretary
2 of Health and Welfare.

3 (b) Any reference to the Department of Health,
4 Education, and Welfare or the Secretary of Health, Edu-
5 cation, and Welfare in any other law, rule, regulation, cer-
6 tificate, directive, instruction, license, or other official paper
7 in force on the effective date of this Act shall be deemed
8 to refer and apply to the Department of Health and Wel-
9 fare and the Secretary of Health and Welfare, respectively.

10 FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

11 SEC. 12. (a) There is hereby established a Federal
12 Interagency Committee on Education (hereinafter referred
13 to in this Act as the "Committee").

14 (b) The Committee shall study and make such recom-
15 mendations as may be necessary to assure effective coordi-
16 nation of Federal programs affecting education, including—

17 (1) development of Federal programs in accord-
18 ance with the educational goals and policies of the
19 Nation;

20 (2) consistent administration of policies and prac-
21 tices among Federal agencies in the conduct of similar
22 programs;

23 (3) full and **effective communication** among Fed-

1 **eral** agencies to avoid unnecessary duplication of ac-
2 tivities with respect to education;

3 (4) adequate procedures for the availability of in-
4 formation on educational matters requested by the Sec-
5 retary;

6 (5) recommendations for the improvement of
7 Federal programs for the purpose of aiding students in
8 their transition from school to work; and

9 (6) full and effective cooperation with the Secre-
10 tary on ~~sicj~~ studies and analyses as are necessary to
11 carry out the purpose of this Act.

12 (c) The Committee shall, within 90 ~~days~~ of the enact-
13 ment of this Act or the appointment and qualification of all
14 Committee members, whichever is earlier, reconmend to the
15 President the transfer of such additional responsibilities as
16 may be appropriate.

17 (d) The Committee shall be composed of the Secretary,
18 who shall be the Chairperson, and one appropriate represent-
19 ative of each of the following agencies: The Department
20 of State, the Department of Defense, the Department of
21 Agriculture, the Department of Commerce, the Department
22 of Labor, the Department of Health and Welfare (as redesign-
23 nated by section 11 of this Act), the Department of Housing
24 and Urban Development, the National Science Foundation,
25 the National Aeronautics and Space Administration. The

1 **Committee shall** also include the Chairpersons of the National
2 Endowment for the Arts, and the National Endowment for
3 the Humanities of the Department.

4 (e) The Chairperson may invite Federal agencies, in
5 addition to the agencies which are represented on the Com-
6 mittee under the provisions of subsection (d) of this section,
7 to designate representatives to participate in meetings of the
8 Committee on matters of substantial interest to such agencies
9 which are to be considered by the Committee.

10 (f) The Director of the Office of Management and
11 Budget, the Chairperson of the Council of Economic Ad-
12 visers, and the Executive Director of the Domestic Council
13 may each designate a staff member to attend meetings of
14 the Committee as observers.

15 (g) The Committee shall meet at least six times in
16 each year and shall prepare an annual report to the Secretary
17 concerning its recommendations.

18 (h) Each Federal agency which is represented on the
19 Committee under the provisions of subsection (d) of this
20 section shall furnish necessary assistance to the Committee
21 in accordance with section 214 of the Act of May 3, 1945
22 (31 U.S.C. 691).

23 NATIONAL ADVISORY COMMISSION ON EDUCATION

24 SEC. 13. (n) There is established a National Advisory
25 Commission on Education (hereinafter referred to as the

1 “National Commission”) composed of fifteen members
2 appointed by the President, by and with the advice and
3 consent of the Senate, from among individuals—

4 (1) who have a demonstrated commitment, in
5 public or private industries or organizations, for the
6 enhancement and development of the educational needs
7 and goals of the Nation;

8 (2) who have competence in assessing the progress
9 of educational agencies, institutions, and organizations
10 in meeting those needs and achieving those goals; and

11 (3) who are experienced with the policies or ad-
12 ministration of State and local educational agencies and
13 of institutions of higher education.

14 Members shall be appointed for terms of three years, except
15 that (A) in the case of initially appointed members, as
16 designated by the President, five members shall be appointed
17 for terms of one year, five members shall be appointed for
18 terms of two years, and five members shall be appointed for
19 terms of three years, and (B) any member appointed to
20 fill a vacancy shall serve the remainder of the term for
21 which the member's predecessor was appointed.

22 (b) The National Commission shall—

23 (1) assist the Secretary in the formulation of Fed-
24 eral policy with respect to the appropriate role of the
25 Federal Government in each action;

- 1 **(2) review the administration of, general regula-**
 2 **tions for, and operation of Federal education programs;**
 3 (3) advise the Secretary and other Federal offi-
 4 cials with respects to the educational needs and goals of
 5 the Nation and assess the progress of the renewal of ap-
 6 propriate agencies, institutions, and organizations of the
 7 Nation in order to meet those needs and achieve those
 8 goals;
 9 (4) conduct objective evaluations of specific educa-
 10 tion programs and projects in order to ascertain the
 11 effectiveness of such programs and projects in achieving
 12 the purpose for which they are intended;
 13 (5) make recommendations (including recommen-
 14 dations for changes in legislation) for the improvement
 15 of the administration and operation of Federal education
 16 programs;
 17 (6) consult with Federal, State, and local and other
 18 education agencies, institutions, and organizations with
 19 respect to assessing education in the United States and
 20 the improvement of the quality of education, including-,
 21 (A) areas of unmet needs in education, national
 22 goals, and changing education priorities, and the
 23 means by which those areas maybe met, developed,
 24 and achieved;
 25 (B) specific means of improving the quality

- 1 and effectiveness of teaching, curriculums, and edu-
 2 cational media and of raising standards of scholar-
 3 ship and levels of achievement;
 4 (7) conduct national conferences on the assess-
 5 ment, improvement, and renewal of education, in which
 6 national and regional education associations and or-
 7 ganizations, State and local education officers and ad-
 8 ministrators, and other education-related organizations,
 9 institutions, and persons (including parents of children
 10 participating in Federal educational assistance programs)
 11 may exchange and disseminate information on the im-
 12 provement of education;
 13 (8) conduct, and report on, comparative studies
 14 and evaluations of education systems in foreign coun-
 15 tries; and
 16 (9) advise and assist in the coordination of all
 17 Federal educational advisory committees, councils or
 18 commissions.
 19 (c) The National Commission shall make an annual
 20 report, and such other reports as it deems appropriate, to the
 21 President and to the Congress, concerning its findings, recom-
 22 mendations, and activities.
 23 (d) In carrying out its responsibilities under this sec-
 24 tion, the National Commission shall take, together with the
 25 Secretary, whatever action is necessary to carry out section

1 448 of the General Education Provisions Act, to devise a
 2 manageable and effective advisory structure for the De-
 3 partment. The National Commission shall advise the Secre-
 4 tary on the number of advisory bodies that are necessary
 5 and the manner in which such bodies relate to one another.
 6 The National Commission shall consult with the National
 7 Advisory Council on the Education of Disadvantaged
 8 Children, the National Advisory Council on Education
 9 Professions Development, the National Council on Educa-
 10 tion Research, and such other advisory councils and com-
 11 mittees as may be appropriate to carry out its functions
 12 under this subsection. All Federal agencies are directed
 13 to cooperate with the National Commission in carrying
 14 out its functions under this subsection.

15 (c) The National commission is authorized to pro-
 16 cure such technical assistance as may be required to carry
 17 out its functions and the secretary shall, in addition, make
 18 available to the National commission such secretarial, cleri-
 19 cal, and other assistance and such pertinent data prepared
 20 by the Department as the National Commission may re-
 21 quire to carry out its functions.

22 (f) Members of the National Commission who are not
 23 in the regular full-time employ of the United States shall,
 24 while attending meetings or conferences of the National
 25 Commission or while otherwise engaged in the business of

1 the National Commission, be entitled to receive compensa-
 2 tion at a rate fixed by the Secretary, but not exceeding the
 3 rate specified at the time of such service for grade GS-18
 4 under section 5332 of title 5, United States Code, including
 5 traveltime, and while so serving on the bus-mess of the
 6 National Commission away from their homes or regular
 7 places of business they may be allowed travel expenses, in-
 8 eluding per diem in lieu of subsistence, as authorized by
 9 section 5703 of title 5, United States Code, for persons em-
 10 ployed intermittently in the Government service.

11 (g) The president shall nominate members to the Na-
 12 tional Commission not later than thirty days after the date
 13 of enactment of this Act.

14 OFFICE OF THE INSPECTOR GENERAL

15 SEC. 14. (a) As used in this section—

16 (1) the term “Inspector General” means the In-
 17 spector General of the Department;

18 (2) the term “Deputy” means the Deputy In-
 19 specter General of the Department; and

20 (3) the term “Federal agency” means an agency
 21 as defined in section 552 (e) of title 5, United States
 22 Code, but shall not be construed to include the General
 23 Accounting Office.

24 (b) There is hereby established in the Department an
 25 Office of Inspector General.

1 (c) There shall be at the head of the Office an Inspector
 2 General who shall be appointed by the President, by and
 3 with the advice and consent of the Senate, solely on the
 4 basis of integrity and demonstrated ability and without re-
 5 gard to political affiliation. The Inspector General shall report
 6 to and be under the general supervision of the Secretary or,
 7 to the extent such authority is delegated, the Under Secretary,
 8 but shall not be under the control of, or subject to
 9 supervision by, any other officer of the Department.

10 (d) There shall also be in the Office a Deputy In-
 11 spector General appointed by the President, by and with
 12 the advice and consent of the Senate, solely on the basis of
 13 integrity and demonstrated ability and without regard to
 14 political affiliation. The Deputy shall assist the Inspector
 15 General in the administration of the Office and shall, during
 16 the absence or temporary incapacity of the Inspector Gen-
 17 eral, or during a vacancy in that office, act as Inspector
 18 General.

19 (c) The Inspector General or the Deputy may be
 20 removed from office **by the president**. The President shall
 21 communicate the reasons for any such removal to both
 22 Houses of Congress.

23 (f) The Inspector General and the Deputy shall each
 24 be subject to the provisions of subchapter III of chapter 73,

1 title 5, United States Code, notwithstanding any exemption
 2 from such provisions which might otherwise apply.

3 (g) It shall be the duty and responsibility of the
 4 Inspector General—

5 (1) to supervise, coordinate, and provide policy
 6 direction for auditing and investigative activities relat-
 7 ing to programs and operations of the Department;

8 (2) to recommend policies for, and to conduct,
 9 supervise, or coordinate other activities carried out or
 10 financed by the Department for the purpose of promot-
 11 ing economy and efficiency in the administration of, or
 12 preventing and detecting fraud and abuse in, its pro-
 13 grams and operations;

14 (3) to recommend policies for, and to conduct,
 15 supervise, or coordinate relationships between, the De-
 16 partment and other Federal agencies, State and local
 17 governmental agencies, and nongovernmental entities
 18 with respect to (A) all matters relating to the promo-
 19 tion of economy and efficiency in the administration of,
 20 or the prevention and detection of fraud and abuse in,
 21 programs and operations administered or financed by the
 22 department, or (B) the identification and prosecution
 23 of participants in such fraud or abuse; and

24 (4) to keep the Secretary and the Congress fully
 25 and currently informed, by means of the reports re-

1 quired by subsection (i) and otherwise, concerning fraud
 2 and other serious problems, abuses, and deficiencies re-
 3 lating to the administration of programs and operations
 4 administered or financed by the Department, to recom-
 5 mend corrective action concerning such problems, abuses,
 6 and deficiencies, and to report on the progress made in
 7 implementing such corrective action.

8 (h) In carrying out the responsibilities specified in sub-
 9 section (g) (1), the Inspector General shall have authority
 10 to approve or disapprove the use of outside auditors or to
 11 take other appropriate steps to insure the competence and
 12 independence of such auditors.

13 (i) In carrying out the duties and responsibilities pro-
 14 vided by this section, the Inspector General shall give par-
 15 ticular regard to the activities of the Comptroller General of
 16 the United States with a view to avoiding duplication and
 17 insuring effective coordination and cooperation.

18 (j) The Inspector General shall, not later than March 31
 19 of each year, submit a report to the Secretary and to the
 20 Congress summarizing the activities of the Office during the
 21 preceding calendar year. Such report shall include, but need
 22 not be limited to-

23 (1) identification and description of significant of significant,
 24 problems, abuses, and deficiencies relating to the admin-

1 istration of programs and operations of the Department
 2 disclosed by such activities;

3 (2) a description of recommendations for corrective
 4 action made by the Office with respect to significant
 5 problems, abuses, or deficiencies identified and described
 6 under paragraph (1) ;

7 (3) an evaluation of progress made implementing
 8 recommendations described in the report or, where ap-
 9 propriate, in previous reports; and

10 (4) a summary of matters referred to prosecutive
 11 authorities and the extent to which prosecutions and
 12 convictions have resulted.

13 (k) The Inspector General shall make reports on a
 14 quarterly basis to the Secretary and to the appropriate com-
 15 mittees or subcommittees of the Congress identifying any
 16 significant problems, abuses, or deficiencies concerning which
 17 the Office has made a recommendation for corrective action
 18 and on which, in the judgment of the Inspector General,
 19 adequate progress is not being made.

20 (1) The Inspector General shall report immediately
 21 to the Secretary and to the appropriate committees or sub-
 22 committees of the Congress whenever the Office becomes
 23 aware of particularly serious or flagrant problems, abuses,
 24 or deficiencies relating to the administration of programs
 25 and operations of the Department. The Deputy and Assist-

1 **ant** Inspectors **General shall have particular** responsibility
 2 for informing the Inspector General of such problems,
 3 abuses, or deficiencies.

4 (m) The Inspector General (A) may make such addi-
 5 tional investigations and reports relating to the administra-
 6 tion of the programs and operations of the Department as
 7 arc, in the judgment of the Inspector General, necessary or
 8 desirable, aud (B) shall provide such additional information
 9 or documents as may be requested by either House of Con-
 10 gress or, with respect to matters within their jurisdiction,
 11 by any committee or subcommittee thereof.

12 (n) Notwithstanding any other provision of law, the
 13 reports, information, or documents required by or under
 14 this section shall be transmitted to the Secretary and the
 15 Congress, or committees or subcommittees thereof, by the
 16 Inspector General without further clearance or approval.
 17 The Inspector General shall, insofar as feasible, provide
 18 copies of the reports required under subsections (j) and
 19 (k) to the Secretary sufficiently in advance of the due date
 20 for their submission to Congress to provide a reasonable
 21 opportunity for comments of the Secretary to be appended
 22 to the reports when submitted to Congress.

23 (0) In addition to **the** authority otherwise provided by
 24 this section, the Inspector General in **carrying out** the pro-
 25 visions of this section, is authorized—

1 (1) to have access to all records, reports, audits,
 2 reviews, documents, papers, recommendations, or other
 3 material available to the Department which relate to pro-
 4 grams and operations with respect to which the Inspec-
 5 tor General has responsibilities under this section;

6 (2) to request such information or assistance as
 7 may be necessary for carrying out the duties and re-
 8 sponsibilities provided by this section from any Fed-
 9 eral, State, or local governmental agency or unit thereof;

10 (3) to require by subpoena the production of all
 11 information, documents, reports, answers, records,
 12 accounts, papers, **and other data and documentary evi-**
 13 **dence necessary in the performance of the functions as-**
 14 **signed by this section, which Subpena, in the case of con-**
 15 **tumacy or refusal to obey, shall be enforceable by order**
 16 **of any appropriate United States district court;**

17 (4) to have direct and prompt access to the Secre-
 18 tary when necessary for any purpose pertaining to **the**
 19 performance of functions and responsibilities under this
 20 section;

21 (5) in the **event that a budget request for the Office**
 22 **of Inspector General is reduced, before submission to**
 23 **Congress, to an extent which the Inspector General**
 24 **deems seriously detrimental to the adequate performance**

1 of the functions nabdated by this section, the Inspector
2 General shall so inform the Congress without delay;

3 (6) to select, appoint, and employ such officers and
4 employees as may be necessary for carrying out the
5 functions, powers, and duties of the Office subject to the
6 provisions of title 5, United States Code, governing
7 appointments in the competitive service, and the provi-
s sions of chapter 51 and subchapter III of chapter 53 of
9 such title relating to classification and General Schedule
10 pay rates;

11 (7) to obtain services as authorized by section 3109
12 of title 5, United States Code, at daily rates not to exceed
13 the equivalent rate prescribed for grade GS-18 of the
14 General Schedule by section 5332 of title 5, United
15 States Code;

16 (8) to the extent and in such amounts as may be
17 provided in advance by appropriations Acts, to enter
1 8 into contracts and other arrangements for audits, studies,
19 analyses, and other services with public agencies and
20 with private persons, and to make such payments as may
21 be necessary to carry out the provisions of this section.

22 (p) (1) Upon request of the Inspector General for k-
23 **formation** or assistance under subsection (o) (2), the head
24 of any Federal agency involved shall, insofar as is **practicable**,

1 **and** not in contravention of any existing statutory restriction,
2 or regulation of the Federal agency from which the informa-
3 tion is requested, furnish to the Inspector General, or to an
4 authorized designee, such "reformation or assistance.

5 (2) Whenever information or assistance requested un-
6 der subsection (o) (1) or (o) (2) is, in the judgment of the
7 Inspector General, unreasonably refused or not provided, the
8 Inspector General shall report the circumstances to the Sec-
9 retary and to the appropriate committees or subcommittees
10 of the Congress without delay.

11 (3) In the event any record or other information re-
12 quested by the Inspector General under subsection (o) (1)
13 or (o) (2) is not considered to be available under the
14 provisions of section 552a(b) (1), (3), or (7) of title 5,
15 United States Code, such record or information shall be
16 available to the Inspector General in the same manner and
17 to the same extent it would be available to the Comptroller
18 General.

19 (q) The Secretary shall provide the Inspector General
20 and his stall with appropriate and adequate office space at
21 central and field office locations of the Department, together
22 with such equipment, office supplies, and communications
23 facilities and services as may be necessary for the operation
24 of such offices, and shall provide necessary maintenance

1 servies for such offices and the equipment and facilities
2 located therein.

3 (r) (1) The Inspector General shall receive compen-
4 sation at the rate provided for level IV of the Executive
5 Schedule by section 5315 of title 5, United States Code.

6 **(2) The** Deputy shall receive compensation at the rata
7 provided for level V of the Executive Schedule by section
8 5316 of title 5, United States Code.

9 (s) There are hereby transferred to the Office of In-
10 spector General the functions, powers, and duties of the
11 Office of Inspector General in the Department of Health,
12 Education, and Welfare established under title II of the Act
13 entitled "An Act to authorize conveyance of the interests
14 of the United States in certain lands in Salt Lake County,
15 Utah, to Shriners' Hospitals for Crippled Children, a Colo-
16 rado corporation," approved October 15, 1976 (90 Stat.
17 2429) which the Director of the Office of Management and
18 Budget determines to be principally involved in education.

19 (t) The personnel, assets, liabilities, contracts, prop-
20 erty, records, and unexpended balances of appropriations,
21 authorizations, allocations, and other funds employed, held,
22 used, arising from, available or to be made available, of
23 any office or agency the functions, powers, and duties of

1 which are transferred under subsection (s) are hereby
2 transferred to the Office of Inspector General.

3 (u) Personnel transferred pursuant to subsection (t)
4 shall be transferred in accordance with applicable laws and
5 regulations relating to the transfer of functions except that
6 classification and compensation of such personnel shall not
7 be reduced for one year after such transfer.

8 (v) In any case where all functions, powers, and
9 duties of any office or agency are transferred pursuant to
10 this subsection, such office or agency shall lapse. Any per-
11 son who, on the effective date of this section, held a position
12 compensated in accordance with the Executive Schedule,
13 and who, without a break in service, is appointed in the
14 Office to a position having duties comparable to those per-
15 formed immediately preceding such appointment shall con-
16 tinue to be compensated in the new position at not less than
17 the rate provided for the previous position, for the duration
18 of service in the new position.

19 SAVINGS PROVISIONS

20 SEC. 15. (a) All orders, determinations, rules, regula-
21 tions, permits, contracts, certificates, licenses) and privi-
22 leges-

23 (1) which have been issued, made, granted, or
24 allowed to become effective in the exercisc of functions
25 which are transferred under this Act, by (A) any

1 agency or office or part thereof, any functions of which
 2 are transferred by this Act, or (B) any court of com-
 3 petent jurisdiction, and

4 (2) which are in effect at the time this Act takes
 5 effect, shall continue in effect according to their terms
 6 until modified, terminated, superseded, set aside, or
 7 repealed by the Secretary of Education by any court
 8 of competent jurisdiction, or by operation of law.

9 (b) The provisions of this Act shall not affect any
 10 proceedings pending at the time this section takes effect
 11 before any agency or office, or part thereof, functions of
 12 which are transferred by this Act; but such proceedings,
 13 to the extent that they relate to functions so transferred,
 14 shall be continue before the Department of Education. Such
 15 **proceedings**, to the extent they do not relate to functions so
 16 transferred, shall be continued before the agency or office,
 17 or part thereof, before which they were pending fit the
 18 time of such transfer. In either case orders shall be issued in
 19 such Proceedings) appeals shall be taken therefrom and Pay-
 20 ments shall be made pursuant to such orders, as if this Act
 21 had not been enacted; and orders issued in any such pro-
 22 ceedings shall continue in effect until modified, terminated,
 23 superseded, or repealed by the Secretary of Education, by a
 24 court of competent jurisdiction, or by operation of law.

25 (c) (1) Except as provided in paragraph (2)–

1 (A) the provisions of this Act shall not affect suits
 2 commenced prior to the date this section takes effect,
 3 and

4 (B) in all such suits proceedings shall be had,
 5 appeals taken, and judgments rendered, in the same
 6 manner and effect as if this Act had not been enacted.

7 No suit, action, or other proceeding commenced by or
 8 against any officer in the officer's official capacity as an officer
 9 of any agency or office, or part thereof, functions of which
 10 are transferred by this Act, shall abate by reason of the en-
 11 actment of this Act. No cause of action by or against any
 12 agency or office, or part thereof, functions of which are
 13 transferred by this Act, or by or against any officer thereof
 14 in the officer's official capacity shall abate by reason of the
 15 enactment of this Act. Causes of actions, suits, or other pro-
 16 ceedings may be asserted by or against the United States or
 17 such official of the Department of Education as may be
 18 appropriate and, in any litigation pending when this section
 19 takes effect, the court may at any time, on its own motion or
 20 that of any party, enter an order which will give effect to
 21 the provisions of this subsection.

22 (2) If, before the date on which this Act takes effect,
 23 any agency or office, or officer thereof in the officer's official
 24 capacity, is a party to a suit, and under this Act-

1 (A) such agency or office, or any part thereof, is
2 transferred to the Secretary of Education,

3 (B) any function of such agency, office, or part
4 thereof; or officer is transferred to the Secretary of
5 Education,

6 then such suit shall be continued by the Secretary of Educa-
7 tion (except in the case of a suit not involving functions
8 transferred to the Secretary of Education in which case the
9 suit shall be continued by the agency, office, or part thereof,
10 or officer which was a party to the suit prior to the effective
11 date of this Act).

12 (d) With respect to any function transferred by this
13 Act and exercised after the effective date of this Act, refer-
14 ence in any other Federal law to any agency, office, or
15 part thereof, or officer so transferred or functions of which
16 are so transferred shall be deemed to mean the department
17 or officer in which such function is vested pursuant to this
18 Act.

19 (e) Orders and actions of the Secretary of Education in
20 the exercise of functions transferred under this Act shall
21 be subject to judicial review to the same extent and in the
22 same manner as if such orders and actions had been by the
23 agency or office, or part thereof, exercising such functions,
24 immediately preceding their transfer, action upon the record,

1 relating to notice, hearings, action upon the record,
2 or administrative review that apply to any function trans-
3 ferred by this Act shall apply to the exercise of such func-
4 tion by the Secretary.

5 (f) In the exercise of the functions transferred under
6 this Act, the Secretary shall have the same authority as
7 that vested in the agency or office, or part thereof, exer-
8 cising such functions immediately preceding their transfer,
9 and the Secretary's actions in exercising such functions shall
10 have the same force and effect as when exercised by such
11 agency or office, or part thereof.

12 (g) The Secretary, in addition to the authority to dele-
13 gate and redelegate contained in any other Act in the exer-
14 cise of the functions transferred in this Act to the Secretary
15 may delegate any of such functions to such officers and
16 employes of the Department, as the Secretary may desig-
17 nate, may authorize such successive redelegations of such
18 functions as the Secretary may deem appropriate and may
19 make such rules and regulations as may be necessary to
20 carry out functions of the Secretary.

21 ADMINISTRATIVE PROVISIONS

22 SEC. 16. (a) The Secretary is authorized to establish
23 a working capital fund, to be available without fiscal year
24 limitation, for expenses necessary for the maintenance and
25 operation of such common administrative services as the

1 secretary shall find to be desirable in the interest of economy
 2 and efficiency in the Department including such services as
 3 a central supply service for stationery and other supplies
 4 and equipment for which adequate stocks may be main-
 5 tained to meet in whole or in part the requirements of the
 6 Department and its agencies; central messenger, mail, tele-
 7 phone, and other communications services; office space,
 8 central services for document reproduction, and for graphics
 9 and visual aids; and a central library service. The capital
 10 of the fund shall consist of any appropriations made for the
 11 purpose of providing capital (which appropriations are
 12 hereby authorized) and the fair and reasonable value of
 13 such stocks of supplies, equipment, and other assets and
 14 inventories on order as the Secretary may transfer to the
 15 fund, less the related liabilities and unpaid obligations.
 16 **Such** fund shall be reimbursed in advance from available
 17 funds of agencies and offices in the Department or from
 18 other sources, for supplies and services at rates which will
 19 approximate the expense of operation, including the ac-
 20 crual of annual leave and the depreciation of equipment.
 21 The fund shall also be credited with receipts from sale or
 22 exchange of property and receipts in payment for loss or
 23 damage to property owned by the fund. There shall be
 24 covered into the United States Treasury as miscellaneous
 25 receipts any surplus found in the fund (all assets, liabilities,

1 and prior losses) considered above the timeouts transferred
 2 or appropriated to establish and maintain such fund.

3 (b) In addition to the authority contained in any other
 4 Act which is transferred to and vested in the Secretary as
 5 necessary, and when not otherwise available, the Secretary
 6 is authorized to provide for, construct, or maintain the follow-
 7 ing for employees and their depcmlcuts stationed at remote
 8 localities:

- 9 (1) emergency medical services and supplies;
 - 10 (2) food and other subsistence supplies;
 - 11 (3) motion picture equipment and film for recrea-
 12 tion and training; and
 - 13 (4) living and working quarters and facilities.
- 14 The furnishing of medical treatment under paragraph (1)
 15 and the furnishing of services and supplies under paragraphs
 16 (2) and (3) of this subsection shrill be at prices **reflecting**
 17 **reasonable** value as determined by the **Secretary** and the
 18 proceeds therefrom shall be credited to the **appropriation**
 19 from which the expenditure **was made**.

20 (c) (1) The Secretary is authorized to accept, hold,
 21 administer, and **utilize** gifts and bequests of property, both
 22 real and personal, for the purpose of aiding or facilitating the
 23 work of the Department. Gifts and bequests money and
 24 the proceeds from sales of other property received as gifts or

1 bequests shall be deposited in the Treasury in a separate
2 fund and shall be disbursed upon order of the Secretary.

3 (2) Upon the request of the Secretary the Secretary of
4 the Treasury may invest and reinvest in securities of the
5 United States or in securities guaranteed as to principal and
6 interest by the United States any monies contained in the
7 fund provided for in paragraph (1). Income accruing from
8 such securities, and from any other property held by the
9 Secretary pursuant to paragraph (1) shall be deposited to
10 the credit of the fund, and shall be disbursed upon order
11 of the Secretary.

12 (d) Nothing contained in this section is intended to
13 amend, modify, or repeal any provisions of law administered
14 by the Department of Health, Education, and Welfare which
15 authorize the making of contracts for research.

16 ANNUAL REPORT

17 Sec. 17. The Secretary shall, as soon as practicable after
18 the end of (such fiscal year, prepare a report to the President
19 for submission to the congress on the activities of the Depart-
20 ment during the preceding fiscal year. Each such report
21 shall also contain objective data regarding changing trends
22 in education, including enrollments, expenditures, numbers of
23 teachers and other categories of professional and related
24 personnel; special needs of critical concern such as the dis-

1 advantaged, rural, and urban education, and progress made
2 toward the continuing renewal of education; the results and
3 outcomes of education and schooling, including the overall
4 results on generally recognized standard examinations for
5 entrance to undergraduate and graduate institutions; budget
6 projections for five years based on actual or anticipated
7 appropriations for the fiscal year in which the annual report
8 is issued; recommendations as to the improvement of pro-
9 grams for the handicapped, recommendations with respect
10 to the advisory structure of the Department including
11 the names and composition of advisory committees and conn-
12 ings and the relationships the committees and councils bear to
13 one another and recommendations as to the elimination of
14 overlapping advisory committees and similar data.

15 CONFORMING AMENDMENTS

16 Sec. 18. (a) Section 19 (d) (1) of title 3, United States
17 Code, is amended—

18 (1) by striking out “Secretary of Health, Educa-
19 tion, and Welfare”; and

20 (2) by inserting before the period at the end there-
21 of a comma and the following: “Secretary of Health and
22 Welfare, Secretary of Education”.

23 (b) Section 101 of title 5, United States Code, is
24 amended—

1 (1) by striking out "Health, Education, and Wel-
 2 fare." and inserting "Health and Welfare."; and
 3 (2) by adding at the end thereof: "The Depart-
 4 ment of Education."
 5 (c) Section 5312 of title 5, United States Code, is
 6 amended—
 7 (1) by striking out
 8 "(10) Secretary of Health, Education, and Wel-
 9 fare
 10 and inserting in lieu thereof
 11 "(0) Secretary of Health and Welfare."; ;
 12 (2) by striking out "(13)" and inserting in lieu
 13 thereof "(14)"; and
 14 (3) by inserting immediately after
 15 "(12) Secretary of Transportation."
 16 the following:
 17 "(13) Secretary of Education."
 18 (d) Section 5314 of title 5, United States Code, is
 19 amended—
 20 by striking out
 21 "(6) Under Secretary of Health, Education, and
 22 Welfare."
 23 and inserting in lieu thereof:

1 "(6) Under Secretary of Health and Welfare."; ;
 2 and
 3 by adding at the end thereof the following:
 4 "(62) Under Secretary of Education."
 5 (c) Section 5315 of title 5, United States Code, is
 6 amended—
 7 () by striking out "Assistant Secretaries of
 8 Health, Education, and Welfare 5)" and inserting in
 9 lieu thereof the following: "Assistant Secretaries of
 10 Health and Welfare (+)";
 11 (2) by striking out "(General Counsel of the De-
 12 partment of Health, Education, and Welfare," and in-
 13 serting in lieu thereof the following: "General Counsel
 14 of the Department of Health and Welfare."; and
 15 (3) by adding at the end thereof the following:
 16 "(4) Assistant Secretary of Education for Leg-
 17 islative and Public Affairs.
 18 "(5) Assistant of Education for Ad-
 19 ministrative and Management Policy.
 20 "(116) Assistant Secretary of Education for
 21 Evaluation and Planning.
 22 "(117) Assistant Secretary of Education for Inter-
 23 governmental Relations.
 24 "(118) General Counsel, Department of Education.

“(119) Inspector General Department of Education.”.

EXPENDITURES AUTHORIZED

SEC. 19. The Secretary is authorized to make such expenditures (including expenditures for personal services and rent at the seat of government find elsewhere, for lawbooks, books of reference and periodicals, and for printing and binding) as may be necessary to carry out the provisions of this Act, and as may be provided for by the Congress from time to time.

APPROPRIATIONS AUTHORIZED

Sec. 20. Three are authorized to be appropriated such sums as may be necessary to enable the Department to carry out the provisions of this Act and to perform any other duties which may be imposed upon it by law.

EFFECTIVE?

SEC. 21. The provisions of this Act shall be effective on its date of enactment.

95TH CONGRESS
1st Session

S. 991

A BILL

To establish a Department of Education, and for other purposes.

By Mr. RIBICOFF, Mr. MAGNUSON, Mr. HUMPHREY, Mr. PELL, Mr. NUNN, Mr. ALLEN, Mr. BARTLETT, Mr. BATH, Mr. BELLMON, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DeCONCINI, Mr. DOMENICI, Mr. EAGLETON, Mr. FORE, Mr. HART, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUE, Mr. JACKSON, Mr. KENNEDY, Mr. MCGOVERN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MUSKIE, Mr. PEARSON, Mr. RANDOLPH, Mr. SASSER, Mr. SPARKMAN, Mr. STAFFORD, Mr. STONE, Mr. WEICKER, and Mr. WILLIAMS

MARCH 11 (legislative day, FEBRUARY 21), 1977

Read twice and referred to the Committee on Governmental Affairs