THE FEDERAL ASSISTANCE IMPROVEMENT ACT OF 1981

HEARING

BEFORE THE

COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 807

TO REFORM THE LAWS RELATING TO THE PROVISION OF FEDERAL ASSISTANCE IN ORDER TO SIMPLIFY AND COORDINATE THE MANAGEMENT OF FEDERAL ASSISTANCE PROGRAMS AND REQUIREMENTS, PROVIDE ASSISTANCE RECIPIENTS WITH GREATER FLEXIBILITY, AND MINIMIZE THE ADMINISTRATIVE BURDEN AND ADVERSE ECONOMIC IMPACT OF SUCH PROGRAMS AND REQUIREMENTS

(Subsections (c) Through (f) of Section 1005 of Title I)

NOVEMBER 2, 1981

Printed for the use of the Committee on Rules and Administration
United States Senate

U.S. GOVERNMENT PRINTING OFFICE
87-314 O WASHINGTON : 1981

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all support. We recognize there are problems, and the question is how we reach those goals.

I think it would be unusual if we were in quick agreement on this, because it is a very tough subject.

Mr. DAUB. I think it is indeed a turning of new ground and I do appreciate the seriousness of the language and how careful we should be in both Houses about its adoption.

The CHAIRMAN. I think we have to consider the implications not just for the programs that we may have in mind at the moment, but the implications for other programs that the ingenuity of our successors might bend to this procedure.

Mr. DAUB. I certainly understand that.

The CHAIRMAN. And so there is a good deal to consider.

Mr. DAUB. It is appreciated that you are expediting the matter of consideration in the Senate, and those of us who think that some kind of mechanism needs to be found certainly do appreciate that very, very much.

The CHAIRMAN. You have called the name of our friend, Sam Ervin. I think if he were here he would say that probably unanimous agreement on this subject would be as rare as hair on a frog's back. [Laughter.]

Mr. DAUB. Thank you very much.

The CHAIRMAN. Now, there is a vote in progress on the Senate floor, so we will take a 10-minute recess. And when I return, the witness will be Dr. E. Clark Ross.

[Brief recess.]

The CHAIRMAN. The committee will come to order. The next witness is Dr. Ross, and we will be glad to have you proceed.

STATEMENTS OF DR. E. CLARKE ROSS, D.P.A., DIRECTOR, GOVERNMENTAL ACTIVITIES OFFICE, UNITED CEREBRAL PALSY ASSOCIATIONS, INC.; FREDERICK J. WEINTRAUB, ASSISTANT EXECUTIVE DIRECTOR, DEPARTMENT OF GOVERNMENTAL RELATIONS, THE COUNCIL FOR EXCEPTIONAL CHILDREN; AND DR. BARBARA SMITH

Dr. ROSS. Thank you, Mr. Chairman. With me is Frederick J. Weintraub and Dr. Barbara Smith, of the Council for Exceptional Children. We have submitted our statement for the record. We won't read it.

The CHAIRMAN. It will be included in full in the record as if read.

Dr. ROSS. We are representing, Mr. Chairman, four national organizations: the Council for Exceptional Children, the United Cerebral Palsy Associations, the Association for Retarded Citizens, and the American Coalition of Citizens with Disabilities.

Three of these organizations are long-in-age organizations, the CEC dating from the twenties and the ARC and UCPA from the forties. We have been involved with and followed the history and evolution of Federal programs for the handicapped for quite a few decades.

S. 807 contains not only substantial constitutional questions, but we fear that the bill could result in the overnight dismantling of the critical Federal role in assisting handicapped people.

We have used one criterion in looking at the bill, and that is: Will the provisions of S. 807 assist persons with disabilities and

enhance their opportunities and services and benefits, or will they not? The way it is currently drafted we fear will not assist persons with disabilities.

I noticed Senator Pell started to ask questions to Representative Daub about block grants, and I would just like to refer the committee to page 13 of the Governmental Affairs Committee report accompanying S. 807 in which Edwin Harper, Deputy Director of the Office of Management and Budget, has been quoted as saying that if this bill is enacted, he sees the Reagan administration block grant proposals being much easier to obtain. Those proposals would have terminated all the direct service programs for handicapped Americans and that is why we are concerned about the bill.

The CHAIRMAN. Even under existing procedures, we only held on to them by a very narrow margin and with a lot of particular effort on the part of Senator Stafford, who was with us earlier, and Senator Weicker, so they almost were extinguished without this fast-track procedure.

Dr. Ross. That's correct, Senator. We would like to take just a minute to characterize the history of Federal programs for the handicapped and put it in the context of the title I, S. 807, provisions.

These programs have been decades in the making; they have been primarily initiated by Members of the Congress, based on a response to constituent, family, and individual needs. All Federal programs for the handicapped have a strong bipartisan history; they are not Democratic or Republican programs, but truly bipartisan. And most of them were enacted with very little opposition or dissent in the Congress. And, again, this is another reason we fear the fast-track provisions of S. 807. We prefer that the programmatic merits of these programs be debated on their own.

Like Senators Long and Stafford, we believe that the bill potentially alters the delicate balance of power between the legislative and the executive branches, and we are fearful that the future of handicapped programs will be in the hands of OMB, based on budgetary restraints, and not in the hands of Congress, based on the broader needs of constituents and the needs of handicapped people.

We have two primary concerns. One is the section that has been talked about earlier today, 1005 (c) through (f), the method of taking effect, and we have discussed that in our prepared statement at some length. We would also call to your attention the definition of "resolution" itself, which is 1001(5) of the bill. We believe that the Rules Committee has jurisdiction over the definition. And it is in the definition that the confusion of whether this is just a reorganization authority of the executive or whether it is a broader legislative authority to consolidate programs occurs.

Our major concern is with the nonamendability provisions of the bill—and this goes back to the definition of the resolution. Page 11 of the committee report clearly says that no amendments are allowed during the congressional consideration of the President's plan. There are some doubters on the congressional staff about that language, because you don't find it in the bill—so we would refer you to page 11 of the report.

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We would also like to make the point that every administration has the potential of occasionally making an error in legislative drafting, and without the amendment provision you could not even correct technical changes that could be quite substantial.

So we recommend that the bill clearly contain amendment authority, both in committee and on the floor. We are not comfortable just having it on the floor, because of the haste and confusion that sometimes occurs, last-minute kinds of arrangements, and we would prefer that the committee have the time to seriously consider and discuss and debate any amendments and changes.

The time lines have already been discussed by the previous Senators, and we would like to endorse their points of view. In our experience as interest groups trying to work on legislation we find that 60 days is frequently not adequate time to have hearings and to dialog with staff members and with Members of Congress when they return home. We feel that these programs are complex and they have a long history, and, as such, section 1005 (c) through (f) we believe should be deleted. We believe that Congress must maintain its constitutional jurisdiction over its legislative authority, particularly in the area of programs for the handicapped.

We have some other concerns with the bill which are not the immediate concern of this committee, and we won't read or take any time to discuss them—they are in our written statement. But we wish to highlight what they are. One is how the executive branch can certify compliance with Federal requirements; a second concern is with the waivering of single State agency requirements at the request of a State; the third provision is the transferability of up to 20 percent of funds from one program to the other; and the fourth is the repeal of maintenance of effort requirements without any substitute provision.

In conclusion, we believe that the constitutional sovereignty and authority of the Congress should be protected and, in doing so, we feel that programs for the handicapped requiring national and Federal Government attention would best be guaranteed.

We are available to answer any questions, if you have any.

The CHAIRMAN. You have really anticipated most of my questions, but let me ask you this question: What about the sunset provisions?

Dr. Ross. Senator Long said he wasn't as concerned with sunset as enactment. I am not sure how sunset would take place, also the transitionary phase. A Presidential Plan would be enacted for 6 years; we would have no Public Law 94-142, education for all handicapped children, for 6 years. And then all of a sudden we would have it again.

It's a cumbersome provision.

The CHAIRMAN. It's a little uncertain. I agree with you that that is sort of a secondary concern, because if you get at all the other problems that are involved in the bill, I assume you can find a way to live with that one.

Dr. Ross. We are in the role of trying to translate these laws to average citizens, parents, families, and disabled people across the country, and this provision would be particularly cumbersome to explain because a Federal program for the handicapped could disappear for 6 years and then I assume it might then automatically

start up again after a 6-year period, and the appropriations committees would be delighted to deal with this kind of mechanism.

The CHAIRMAN. Have you given any thought to what would happen if Congress shouldn't get around to a vote within 90 days?

It's a little bit like the question what happens to a constitutional amendment if it isn't acted on within a period of time, particularly those that don't have a specific self-destruct mechanism within them; they are sort of out there in limbo after a period of time.

Dr. ROSS. I guess we are opposed and concerned about any procedure that becomes an up-or-down political vote of confidence in the administration and removes any of the programmatic kinds of discussions, and likewise any automatic feature that would occur. Legislators could respond to their constituents that even though they are concerned about these programs, procedures took precedence over a debate on programmatic merits, or a single up-and-down vote for or against a given party or a given administration took precedence over programmatic merits.

And that is the one thing that we are quite concerned about. We would like Members to debate the merits of programs and not have to interpret these votes as party loyalty tests one way or the other.

Mr. WEINTRAUB. If I could just take that a step further, Senator. I think we have had a history—I know in the 14 years that I have had an opportunity to work with the Congress on these matters, we have never had a situation when we were talking about a Democratic administration or a Republican administration, liberal or conservative, we have never had an administration that has been very supportive of issues pertaining to the handicapped. And part of the problem is that administrations tend to think in macro-terms—how do we deal with the broad pictures. Handicapped children or handicapped adults are not the people who are in the broad picture.

The Congress has always been sensitive to that phenomenon.

What concerns us is when you get into things in which you have large reorganization plans, large consolidation plans, fast track, no amendment, and those types of things, inevitably the Congress is caught between what may on the one hand be a concern about a large picture, and may be a very reasonable situation, and as a result of that is forced to do serious damage and harm to those things that get lost in the shuffle.

Historically that has been our problem, as it has dealt with the handicapped. Every time the Government proposes a reorganization, one can look at its overall merits and say that's wonderful, but somehow the handicapped get thrown out: This little agency over here just doesn't fit into macroplanning.

I guess that is one of our great concerns about any time you try to, quote, simplify the system. As a result of simplifying the system the simplest of the people get hurt. And I guess that is what concerns us very much.

The CHAIRMAN. I think what you say is the thoughtful analysis, really, of this kind of effort.

The committee is very grateful to all of you for being here and for your statements, and we will look forward to continuing this communication as the Senate takes up the proposal.

Dr. ROSS. Thank you for your time.

The CHAIRMAN. Let me just say that if you get a clear sense of how this could impact in specific cases dealing with specific programs, it would be useful to have your further thoughts in that kind of detail before the Senate debate.

Mr. WEINTRAUB. We would be glad to.

Dr. ROSS. We can easily submit the White House block grant proposals, which would largely terminate all of the education and human services programs for the handicapped, and if you go back to the quote in the report by Mr. Harper of OMB, that is what they have in mind for their first agenda under title I. So I think we have a starting point.

The CHAIRMAN. Thank you, again.

[The following prepared statement and related material was received for the record:]

PREPARED STATEMENT OF DR. E. CLARKE ROSS, D.P.A., AND MR. FREDERICK J. WEINTRAUB, REPRESENTING THE COUNCIL FOR EXCEPTIONAL CHILDREN, UNITED CEREBRAL PALSY ASSOCIATIONS, INC., ASSOCIATION FOR RETARDED CITIZENS, AND AMERICAN COALITION OF CITIZENS WITH DISABILITIES

Thank you, Mr. Chairman, for allowing us the opportunity to present our comments and concerns relating to S. 807, the Federal Assistance Improvement Act of 1981. Mr. Chairman, we are here today representing millions of handicapped persons, and those who serve them. And, it is to the needs of the handicapped that we speak today.

We believe that as currently constructed, S. 807 paves the way for the eventual dismantling of the critical role the Federal government has played in the lives of the handicapped people of our Nation. Our organizations have long supported efforts for more efficient government and simplification of Federal support to State and local governments and programs. Thus, we endorse the objective of S. 807 to promote efficiency, and to streamline and simplify Federal assistance. However, we have always used as our criteria for such reforms the measure of "will this improve the lives of and programs for the handicapped?" It is this question we raise here today. Will S. 807 improve and assist the handicapped of our country? To date, Mr. Chairman, through our analysis of the probable impact of this bill, the answer is a resounding "No".

Mr. Chairman, the history of Federal programs on behalf of the handicapped has primarily been at the initiation of the Congress of the United States under opposition, or at a minimum resistance, by Federal administrations regardless of whether those administrations have been Republican or Democrat. The handicapped have always turned to the Congress on matters pertaining to rights, programs and administrative structure. It has been the process of the Congress, as well as the strong advocacy of its members, that has brought about the tremendous gains experienced by the handicapped over the past decades. S. 807 potentially alters the delicate balance of power between the Congress and the Administration by diminishing the authority and options of the committees of the Congress and placing in the hands of the Administration potential authority that could do great disservice to handicapped persons and all Americans.

TITLE I

Title I of S. 807 establishes the procedures by which Congress shall consider a Presidential proposal to consolidate Federal programs. It is our understanding that this Committee has jurisdiction to analyze and amend § 1005(c)–(f). These sections outline as "fast track" with stringent timelines, automatic discharge, and privilege motion provisions. We believe that the Committee has the additional jurisdiction to scrutinize the definitions of the terms used in this section. More specifically it is critical that this Committee study the impact of the definition of "resolution" because it is through this definition that Congress may well be abdicating its authority to amend the proposal to consolidate. We outline our specific concerns to these provisions as follows:

NONAMENDABILITY

The resolution, as defined, contains only those changes subsequently submitted by the President. In fact, the Committee Report (No. 97–136) clearly states on page 11

that "no amendments are in order during Congressional consideration of a plan." Mr. Chairman, is the intent of the Congress to give such sweeping authority to a President of the United States and to, in fact, place Congress in the reverse role of having only veto power? S. 807 proponents justify such authority by likening the legislation to which S. 807 refers to that of simple reorganization proposals. Mr. Chairman, the program consolidations governed by S. 807 are not the mere reordering of Federal offices and departments. Rather, S. 807 governs Congressionally-constructed Federal rights and programs targeted to particular recipients. These programs have been developed by Congress through careful review and must not be allowed to be repealed and dismantled without similar Congressional leadership. As you know, consolidating various programs that have different committee jurisdictions, different recipient needs, and different accountability, and matching provisions is a complex endeavor and one which must be done with a maximum amount of Congressional discretion. Thus, we urge that the definition of "resolution" and the question of whether a President's proposal is amendable be clarified and, if necessary, amended by this Committee.

FAST TRACK PROCEDURES

Our second concern relates to the 60 and 90 day timelines under which committees and Congress respectively must act on a consolidation plan as well as the automatic discharge provision. Title I requires that committees take action within 60 days of submission of the President's plan. If the committee has not been able to entertain public comment and complete its review and analysis of the implications of a complex consolidation plan within 60 days, it loses its jurisdiction and the plan is automatically discharged to the floor. Further action must be completed within the total 90 day timeline. Mr. Chairman, to hold the Congress hostage to such a timeline during consideration of a proposal that may be consolidating many programs over a vast array of departments, recipients and committee jurisdictions is unreasonable. The Senate has in place operating procedures which it may trigger if it feels there is a need to move a bill. It, for example, may vote to discharge from committee and limit debate. Is it the intent of Congress to vest more authority in the Executive Branch over the rules of the Congress than the Senate leadership has? Mr. Chairman, § 1005 (c)-(f) must be eliminated. The Congress must maintain its jurisdiction over legislative matters, particularly in the area of Federal rights, protections and assistance to those persons who have historically found their only recourse to equal opportunity to be the United States Congress.

TITLES III–VI

While this Committee has not been given the jurisdiction of provisions of S. 807 beyond Title I, we wish to raise a few issues and questions on S. 807, which further erode the authority of the Congress, for the record.

Title III

Title III gives the President the authority to designate a single agency to be responsible for coordinating the development and implementation of one or more requirements or rules that cut across agencies. Title III further establishes a procedure for certifying compliance by recipients. Once certified, the Federal government would be required to accept assurances without additional qualification. Certification can be awarded if State and local requirements are "comparable" or "at least equal" requirements. What will be the criteria for such a designation? What will be the due process for a challenge of the designation? Will there be opportunity for public consideration of the designation? What will be the effect of cross-cutting requirements and "National Policy Assistance Standards" on existing civil rights requirements such as Section 504 of the Rehabilitation Act?

Title IV

The Committee Report (No. 97-136) states that Title IV would allow a Federal agency to waive a "single state agency" provision upon request of the appropriate state official (page 37). Legislation for the handicapped has acknowledged the need for single state agency responsibility. The Education For All Handicapped Children Act (P.L. 94-142), for example, established the state education agency to be the sole responsible agency because of the historical problem of handicapped children being "bumped" from one agency to another for services. Does Congress intend to allow the Executive Branch to waive an existing statutory requirement simply upon the request of an undefined state official?

Title V

Title V allows federal recipients to prepare integrated program plans consolidating some categorical programs. Plans could shift up to 20 percent of the funds sought for any of the programs covered to others included in the plan. Should recipients be allowed to transfer funds originally targeted to a Congressionally-defined population?

Title VI

Title VI repeals existing maintenance-of-effort requirements and authorizes Congress to establish a standard maintenance-of-effort requirement. The Congress has concluded that differing programs require differing maintenance-of-effort provisions. If such a conclusion had not been reached, then a single provision would have been included in the General Education Provisions Act (GEPA), for example, which is the statute covering all education programs overseen by the Department of Education. A prescription for maintenance-of-effort for federal programs should properly only be arrived at after careful deliberation by the authorizing committees which have had experience with the workings of the programs, their weaknesses and strengths, and after their consultation with state and local education officials and others who are knowledgeable about the specifics involved. What will be the impact of a total repeal of maintenance-of-effort requirements without substituting new provisions? Is there a standard maintenance-of-effort requirement that could effectively be applied to the various and differing federal assistance program?

Mr. Chairman, we have very briefly covered our major concerns with S. 807, a bill with broad sweeping implications for the role of all branches of government and certainly for the handicapped of our Nation who currently benefit from federally-established rights, protections, and program assistance. We urge the Rules Committee to carefully review these implications and to make such adjustments as are needed to ensure our current representative government. We urge you on behalf of handicapped persons to protect the sovereignty of the operating procedures of the United States Congress which have enabled it to address the needs of our vulnerable populations. Thank you for this opportunity. Our organizations offer our informational resources to you and this Committee, should you need it in the future on this or any other matter pertaining to the handicapped.

UNITED CEREBRAL PALSY ASSOCIATIONS, INC.,
Washington, D.C., November 5, 1981.

JOHN B. CHILDERS,
Deputy Staff Director, Senate Committee on Rules and Administration,
Washington, D.C.

DEAR JOHN: At Monday's hearing Senator Mathias asked us to submit a "worst case scenario" if major federal/state programs were block granted. I understand Barbara Smith has given you a P.L. 94-142 education scenario. Attached is a possible scenario on the Developmental Disabilities program.

The Council of State Administrators of Vocational Rehabilitation is conducting their annual conference in Texas this week. There is no one in Washington to prepare a VR scenario and I would not wish to prepare one without CSAVR's approval. Let me know next week if you still have need of it.

Sincerely,

E. CLARKE ROSS, D.P.A.,
Director.

Attachment.

WORSE-CASE SCENARIO—DD IN A BLOCK GRANT

As states have been preparing for the consolidations that have already occurred as a result of the budget reconciliation process, several important issues have become clear which can be used to predict the impact of consolidations of other programs, including developmental disabilities.

1. State agencies are looking for ways to eliminate ancillary services and "buck" clients needing these services elsewhere. For example, Vocational Rehabilitation agencies in some states feel that, due to reduced funds, they must eliminate paying for certain kinds of medical services and thus are bucking clients in need to Medicaid or county health care services.

If DD were consolidated into a block grant, state agencies which had been convinced by the DD Council to serve the developmentally disabled will tend to transfer this group out again, without the Council to monitor and advocate. With the increased pressure to "purify" their caseloads and services and to respond to the

pressures of their own budget cuts, state agencies will have an easier time unloading clients without the DD program to monitor their activities.

2. Consolidation of planning entities and advisory entities has already begun to occur for programs which have been block granted. Were DD consolidated with other so-called social services, Planning Councils would likely be combined with other such planning and advisory bodies with varying mandates. If DD Councils were to survive and be incorporated with Councils with dissimilar mandates which did not include the monitoring of state government, the needs of the developmentally disabled would easily become lost to those of larger groups. Due to the relatively small size of the DD population compared to other populations in need, there would be a tendency to overlook the severity of DD needs in favor of larger numbers of other needy groups.

3. Lack of State DD mandate is the rule. Many DD Councils would disappear. Only 19 states have state legislation authorizing the DD Program and the Council. The remainder rely on the federal DD legislation. Since Councils have the responsibility to monitor state government vis-a-vis the DD population, no effective, organized voice for the severely disabled would exist in many states.

4. Transition from institutions to the community will slow down and, in many states, stop, while state institution and community residential staffs will be reduced. For those remaining, the quality of services will be compromised, the number of services related to client needs will be reduced, there will be an increase in the custodial aspects of residential services and an increase in the use of behavior controlling medications as a treatment modality. This is already beginning to occur in some states due to budget cuts. Without the DD program as a monitor of deinstitutionalization activities, there will be few checks on this trend.

5. As the monitoring and influencing capacity of the DD program disappeared, DD individuals will be transferred out of many programs, increasing individual and family indifference and causing a greater reliance on welfare, entitlement and cash assistance programs.

6. With the repeal of the DD Act, the Bill of Rights would be repealed, as would the mandate for Individualized Habilitation Plans.

7. Loss of the mandate for the Developmental Disabilities Planning Council will affect the following areas:

Coordination and influencing of the generic service system and a disappearance of any entity with the capability to translate the new system of block grants and state government reorganization of services to the DD client.

The influencing of state legislation with regard to the needs of the developmentally disabled will be removed.

The influencing of administrative procedures which discriminate against or exclude DD people will be lost.

Demonstration and innovation projects which fill gaps in services and/or provide specialized services otherwise unavailable in states will disappear as consolidation frees those funds for other, undesignated uses.

The lack of a mandate for a state plan will effectively hide the uses to which funds previously targeted to the developmentally disabled are put.

Loss of data gathering capability for the DD population.

Loss of monitoring and evaluations of services capability.

Loss of the Council as an advisory body to the governor on policies affecting the severely handicapped.

Loss of a state-wide planning capability which incorporates all the key actors in each state.

Loss of expertise through staff attrition and reductions in force.

8. Loss of the Protection and Advocacy System will eliminate the capability to act on cases of neglected, abused and mis-served DD clients.

9. Loss of UAF's will result in the elimination of a focus for specialized early detection programs in DD.

Loss of an evaluation capability for DD in early childhood by specially trained professionals.

Loss of parent training; loss of training of specialized professionals and paraprofessionals; and loss of research capability in prevention and treatment.

If combined with other OHDS discretionary funds, the focus for developmental disabilities knowledge will disappear. This population has needs which differ greatly from other populations under the jurisdiction of the Office of Human Developmental Services.

10. Loss of special projects authority will eliminate the focus on the effectiveness of programs which serve the developmentally disabled: Will eliminate the focus for

future directions in prevention and treatment; will preclude the generation of new knowledge, its coordination and dissemination.

Developmental Disabilities Assistance and Bill of Rights Act

BASIC STATE GRANT

The Basic State Grant program provides annual allotments to states ranging from $250,000 (for 13 states) to $3 million (for two states) based on a formula matched by the states.

The Developmental Disabilities Act requires that 65 percent of a state's grant be used in support of service activities. It is from this percentage that gap-filling and demonstration projects are funded. As cut backs in other health and human services (as well as entitlement) programs are implemented in the states, developmentally disabled people will experience a reduction in services from the generic service system, thus creating more gaps to be filled by Developmental Disabilities Basic State Grant funds, particularly in the arena of serving people in their own communities.

Secondly, since developmentally disabled people require a coordinated sequence and combination of services, the case management services provided by Developmental Disabilities funds are keenly necessary. These services will be curtailed by any cut in the basic state grant, producing, now as in the not-too-distant past, fragmentation of service delivery and the loss of human potential of individuals who fall through the cracks.

Third, a reduction in service dollars will contribute to an increase in institutionalization. As a coordinative and capacity-building program, Developmental Disabilities will have to plan for and cope with cuts in other crucial programs which assist people with developmental disabilities. We are seeing a reversal in the federal government's willingness to encourage independence for the severely handicapped and the DD program will have to bear this additional burden to stave off a return to institutionalization of our citizens with disabilities.

The remaining 35 percent of the Basic State Grant is used to support activities of the Developmental Disabilities Planning Council and to administer the state program. A 10 percent cut will necessitate a reduction in Council's public education efforts; data-gathering activities, so vital to policy-development on the state level; a reduction in Council staff to support Council members as they monitor, evaluate, coordinate and plan for services in each state. A reduction will decrease funds available to administer the program and to perform grants management and monitoring activities. A cut will limit the capacity of the DD Council to convene in order to fulfill their legal mandate.

For the last four years, the Basic State Grant program has remained at the same level of appropriation, having to adjust to inflation and increased costs of mandated activities without additional funds. Level funding represents a real decrease of at least 12 percent, just in the last year, and close to a 25 percent reduction since 1978. In addition, each state's match may be proportionally reduced, providing fewer total dollars to serve this vulnerable population.

A reduction in the Basic State Grant is unconscionable. Even with a desire on the part of state government to serve this population, there will be so many financial strains on states that developmentally disabled people will invariably lose. To cut a program that has state-wide planning responsibilities at a time when the entire organization of state services is being altered due to block grants and budget cuts, is to deliberately and cruelly say to people with developmental disabilities "Not only are we going to deprive you of basic services, we are also going to paralyze your capability to make sense out of what does remain available to you and prevent specialized services from addressing your needs."

UNIVERSITY AFFILIATED FACILITIES

Thirty-six UAFs and five satellities are now funded under the DD Act. These programs serve 66,000 severely developmentally disabled children who, for the most part, are referred to UAFs for tertiary (not available elsewhere) treatment and diagnosis. For such cases, UAFs represent the service source of last resort. The satellites bring services to rural and other unserved areas (e.g., Navajo Nation, rural Montana, Vermont and Hawaii). UAFs also provide specialized training to professionals who serve the developmentally disabled. For example, UAFs provided nationwide assistance to state and local education agencies in the development of educational plans for developmentally disabled children, developed training plans and trained Head Start programs in methods necessary to include developmentally

disabled children in Head Start classes. An estimated 77,000 professional leaders were trained by UAFs in 1981.

This training promotes primary, and secondary, prevention of disabilities and makes possible the placement of disabled individuals in public programs and community settings.

A 10 percent cut in UAFs would eliminate services to 6,400 disabled children who were unable to find services elsewhere, yield 7,700 fewer trained leaders, and increase federal and state welfare and support program costs by 32 million dollars per year (increased safety net costs due to lack of primary and secondary prevention—reduced capacity to care for disabled in communities—public schools, Head Start, etc.). Too limited training has been the public's greatest criticism of 94–142.

PROTECTION AND ADVOCACY

During the last 5 years, demand for Protection and Advocacy services has steadily increased to the point where 30,000 people received them in 1981. A 10 percent cut in resources for these services, coupled with the drain on them made by inflation, will mean 120 less staff people to meet these needs and a loss of the capacity to serve 5,600 people in 1982.

This comes at a time when cuts in other services to persons with disabilities are increasing demands for advocacy dramatically. Most Protection and Advocacy systems are reporting a 10 percent increase in case loads in the last month as service providers cut back in anticipation of reduced funding. Even before the Administration's proposals go into effect, schools are reducing special education services, state mental retardation agencies are cutting back on community programs, deinstitutionalization, and training of direct care staff in institutions. The institutional abuse and neglect which gave rise to Protection and Advocacy systems can be expected to increase dramatically.

The $750,000 saved by cutting this program will not balance the federal budget. It will remove the last support from thousands of persons with developmental disabilities and their families, made desperate by cutbacks and dislocations in an already inadequate service system.

SPECIAL PROJECTS

Grants of National Significance and Special Projects aided the Developmental Disabilities Program to stay on the cutting edge in developing new services and combinations of services for individuals who are developmentally disabled. In the years of adequate funding of Section 145 projects, such as fiscal year 1978, Grants of National Significance and Special Projects brought together the vast resources of the University Affiliated Facilities, the creativity of private organizations, and the vast experience of State Agencies in designing and developing new and varied service models for individuals who are developmentally disabled. This same funding source also provided the resources necessary for technical assistance to deliver these new service models to the Developmental Disabilities Program at the State and local level.

In fiscal year 1980 and fiscal year 1981, the Grants of National Significance and Special Projects have been grossly underfunded and the cutting edge has been left dull so that innovation and adaption of service modalities for our most severely handicapped population are not being done.

If we accept the fact that the developmentally disabled are included in the "truly needy" population of which the President speaks, and if we accept the fact that Special Projects in the developmental disabilities legislation is a necessary part of the program, then an additional 10 percent cut in the Special Projects funds would constitute a devastation to the already devastated activity of the program.

In the last four years, Special Projects has been cut from $19,567,000 in 1978 to the present level of $3.4 million. It has been announced by the Administration that the $1.75 million rescission came out of the Special Projects monies in fiscal year 1981. This has been the justification for the Administration not funding many of the necessary projects to keep the nation, Congress, and the Administration informed as to the effectiveness of the developmental disabilities program and its activities such as the WESPO project, the UAF DATA Base Project, and the Standards for Care Homes projects.

An additional 10 percent cut and the fact that the Administration uses the funds from Special Projects and to show austerity lessens the impact of Special Projects to generate cost effective sharing of information, informing Congress of the work of the program, and enabling the developmentally disabled to profit from services and programs provided to similar groups in other states.

The Special Projects component of the Developmental Disabilities Program has experienced deep cuts throughout the last three years. This component of the program was formerly the second largest funded part of the program. Now it is the smallest, and an additional reduction just continues to cripple the ability of the program to design cost effective model programs for the developmentally disabled and to provide reports and information about the program on a national basis to the Administration and to Congress.

When the information line to the developmentally disabled is severed, then it is impossible for an uninterested Administration and an unaware Congress to hear the cries and understand the needs of the developmentally disabled in our country.

The Probable Effects of S. 807 on the Education for All Handicapped Children Act

The Education For All Handicapped Children Act, Public Law 94-142, as passed by Congress in 1975, affirms a right to an education for handicapped children. Prior to the passage of Public Law 94-142, millions of handicapped children were excluded from public school participation. Today, states and advocates report that nearly all, and in some cases possibly all, handicapped children are receiving some form of educational services.

A goal of S. 807 is to establish a "fast track" legislative procedure for Congressional consideration of Presidential proposals to consolidate federal programs. The Report accompanying S. 807 states that this procedure would be used to accomplish the block grants submitted in the spring of 1981 by the Reagan Administration—one being S. 1103, an education block grant that would have repealed The Education For All Handicapped Children Act (P.L. 94-142), education programs for disadvantaged children, school desegregation programs, adult education programs, and over 40 other federal education programs. The Congress in its wisdom, through hearings, debate and constituent input, exercised its legislative prerogative to carve and construct an education consolidation plan that, among other things, does not pit handicapped and disadvantaged children against one another for scarce resources, nor did Congress deem it wise to repeal the handicapped education programs.

If S. 807 had been in place in the spring of 1981, the following scenario may very likely have happened: S. 1103 offered; within 60 days, a decision would have had to have been rendered regarding Committee jurisdiction; and the Committee would have had to complete its review, and unless the Committee voted an outright disapproval of the President's education plan in order to stop it, a bill would have gone to the floor which repealed Public Law 94-142 and consolidated the monies, because no amending would have been allowed.

Informal negotiations between the Administration and the Committee could have been taking place, however, the final decision by the Administration may not have been communicated to the Committee until the 59th day of the 60 day jurisdiction period; the bill would either be automatically discharged after 60 days or reported by the Committee; and members of the Senate would have been forced to either wholly approve or disapprove the President's education block grant, while most of them would not have wanted to repeal The Education For All Handicapped Children Act. However, no amendments to save the program would have been in order.

Effects of Repeal of Public Law 94-142

Without Public Law 94-142, there is no federal statutory "minimum floor" of educational rights for handicapped children.

After S. 1103 had been submitted, bills were offered in several state legislatures to repeal state right-to-education laws.

Without state and federal provisions establishing rights and procedures for providing educational programs to handicapped children, parents and advocates across the Nation would find themselves back in court. It would mean a rerun of past history: After a few years of litigative chaos, practically every interest group would be back asking Congress for a revival of the federal "minimum floor" of compliance.

The loss of a specific earmark of federal money for education of handicapped children would tell the states at a time of scarce resources that Congress is no longer committed to helping to meet the costs of the educational needs of handicapped children.

Many programs for handicapped children would be trimmed, children would be placed back in institutions rather than receiving services in their community, and some children may even lose their right to go to school.

[EXCERPT FROM EDUCATION DAILY, NOV. 3, 1981]

BLOCK GRANTS CREATE POLITICAL FUROR, SAY ADMINISTRATORS

State and local administrators gearing up to run the new education block gran are discovering that the consolidation may not be as easy to run as they firs thought.

"Never before has an education program been so political," said Bud Grossner, a assistant superintendent of the Illinois State Board of Education. "I've been in volved with federal programs at the state level for 10 years, but the politics of thi one are different." Grossner spoke yesterday to 150 federal program coordinator meeting in Washington, D.C., at a National School Boards Association conferenc

"The consolidation act has become a political football," said Grossner. "The gove nor thinks he has the power because he appoints the advisory committee, the stat education agency says they have power over the block grant and the state legisla ture wants to reappropriate all federal money," he said.

Conflicts emerge.—Already, he said, the governor's office is working on formula to distribute the block grant money, the legislature is trying to stop the governc from doing that, and the state education agency is drawing up its own formula. A of this, he said, is "confusing a lot of issues." Illinois stands to get up to $27 millio of the $589 million education block grant for the 1982-83 school year.

Congress earlier this year created a block grant that merged 28 small educatio programs into one. Under the law, state education agencies will oversee the bloc grant but will pass on 80 percent of the dollars they receive to school district

While the block grant was an effort by the federal government to deregulat education programs, state administrators say the government's reluctance to issu regulations for the block grant has posed a problem.

"They've given us instead nonstatute regulations and nonbinding guidelines, bu our concern is about what will happen three years down the road when auditor come and look for budget exceptions," Grossner said. "We've got questions c implementing the block grant, and federal officials are saying 'you can interpret th legislation as well as we can' " he said. "That could lead to problems."

Shared problems.—Joe Webb, special assistant to the superintendent of publ instruction in North Carolina, told the group he had hoped to come to the NSB meeting "to find out that North Carolina's experience with implementing the bloc grant was unique. But now I think every state is having problems."

"I've never seen such total concern, such a power struggle in my 22 years i education, as I have with the block grant," said Webb.

The maximum grant for North Carolina would be $13.5 million, if the block gra was appropriated its full $589 million authorization, Webb said, but if Congress goe along with the House recommendation of $535 million, the state's grant would dro to $12 million, he said.

North Carolina is in a peculiar situation, he said, since the state legislature ha given itself control of all federal block grants—including education. That flies in th face of federal law, which gives authority over block grants to the state educatio agency, Webb said, "Our question now is, how do we comply with both the state an federal laws at the same time?" he asked.

Webb said he was grateful for Congress decision to direct 80 percent of eac state's block grant directly to school districts. "That's probably the only money tha will get to the students," he said.

The CHAIRMAN. Our next witnesses are Dr. David W. Hornbecl who is superintendent of schools of the State of Maryland, and M Roger Tilles, of the National Council of Chief State School Officer I believe Dr. Hornbeck will speak on behalf of the National Counc of Chief State School Officers.

It is a personal pleasure for the Chair to welcome Dr. Hornbec here.

STATEMENT OF DR. DAVID W. HORNBECK, STATE SUPERI TENDENT OF SCHOOLS, STATE OF MARYLAND, REPRESEN ING THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS

Dr. HORNBECK. Thank you, Senator.

It is my pleasure to be here representing the Council of Chi State School Officers, and we welcome the opportunity to offe testimony on S. 807. In fact, it is rather unusual for the counci which is made up, as you know, of the highest ranking educatio