



Congressional Black Caucus

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Dear Colleague:

On behalf of the Congressional Black Caucus, I urge you to support the bipartisan efforts of Senator Lowell Weicker, Jr. (R-Conn.) and the other eleven members of the Senate who have opposed the busing amendments offered by Senators Jesse Helms (R-N.C.) and J. Bennett Johnston, Jr. (D-LA) to the Justice Department Authorization bill.

The Congressional Black Caucus considers these amendments to be unconstitutional. Moreover, we believe that they would result in a curtailment of future involvement by the Justice Department in the integration of public schools, as well as overturn remedies previously ordered by the Courts. While we do not consider busing to be the exclusive solution to the desegregation of public schools, and the subsequent attainment of a quality education for all American children, we strongly support busing as one of the many ways to implement the constitutional requirement of equal educational opportunity.

The Caucus commends Senator Weicker and the other members of the Senate for their leadership and their initiative in meeting this challenge to the right of poor and particularly, Black children, to a quality education. It is important that we not bow to the pressures of hatred and contempt that often surround the issue of busing, but instead provide America with a positive and constructive example of leadership.

We trust that we can count on the support of your colleagues in the Senate who are working to defeat these two amendments, thereby protecting not only the quality of education for all American children, but the integrity and independence of the federal judiciary.

Sincerely,

WALTER E. FAUNTROY
Chairman

DEPARTMENT OF JUSTICE
AUTHORIZATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 951, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 98 TO AMENDMENT NO. 89

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina (Mr. HELMS) is recognized.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DANFORTH). Without objection—

Mr. CHAFEE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

Mr. HELMS. Mr. President, I did not understand the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island objected.

Mr. HELMS. I see. Very well.

The PRESIDING OFFICER. The clerk will continue with the quorum call.

The assistant legislative clerk continued to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 951, to which are pending two amendments offered by the Senator from North Carolina.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, may I ask the Chair what is the pending business.

The PRESIDING OFFICER. The pending business is S. 951 to which are pending two amendments offered by the Senator from North Carolina.

Mr. HELMS. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

* The PRESIDING OFFICER (Mr. MATTHIAS). Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 98 (AS MODIFIED)

(Purpose: To prohibit the Department of Justice from maintaining suits involving directly or indirectly, the mandatory busing of schoolchildren and to establish reasonable limits on the power of courts to impose injunctive relief involving the transaction of students)

Mr. HELMS. Mr. President, I send to the desk a modification of the pending amendment and ask that it be stated.

The PRESIDING OFFICER. The Senator may modify his amendment.

The modification will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes a modification of his amendment numbered 98.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

In lieu of the language proposed to be inserted by the amendment of the Senator from North Carolina, Mr. Helms, insert the following: minus \$37,853,000;

(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed \$12,576,000, and to remain available until expended: \$50,229,100;

(D) No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Section 2.5. (a) This Section may be cited as the "Neighborhood School Act of 1981.

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven an ineffective remedy and have not achieved unitary public school systems and that such orders frequently result in the exodus from public school systems of children which causes even greater racial imbalance and diminished support for public school systems;

(2) assignment and transportation of students to public schools other than the one closest to their residences is expensive and wasteful of scarce supplies of petroleum fuels;

(3) the assignment of students to public schools or busing of students to achieve racial balance or to attempt to eliminate predominantly one race schools is without social or educational justification and has proven to be educationally unsound and to cause separation of students by race to a greater degree than would have otherwise occurred;

(3½) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing;

(4) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance and should be employed to the maximum extent consist-

ent with the Constitution of the United States.

(c) The Congress is hereby exercising its power under Article III, section I, and under section 5 of the Fourteenth Amendment.

LIMITATION OF INJUNCTIVE RELIEF

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c) (1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

(i) such assignment or transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school of specialized or individualized instruction; or

(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds 30 minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student."

DEFINITION

(e) The "school closest to the student's residence" with "a grade level identical to that of the student" shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

SUITS BY THE ATTORNEY GENERAL

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil