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No. 104

## House of Representatives

The House met at 10 a.m.

The Chaplain, Rev. James Davis Ford, D.D., offered the following prayer:

Oh, gracious God, Creator of Heaven and Earth, Your word tells us that You are with us wherever we are and Your grace surrounds us and makes us whole. In moments of joy and achievement Your spirit is in our midst and at the darkest hour Your abiding presence gives us sustenance and hope. So teach us, O God, so to live our lives that we celebrate and give thanks for our time together for by so doing we sanctify each hour and make sacred each day. In Your name, we pray. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania (Mr. PITTS) come forward and lead the House in the Pledge of Allegiance.

Mr. PITTS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1151.—An act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal

credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 1-minute requests on each side.

### TEACHING YOUNG PEOPLE IMPORTANT LIFE LESSONS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I want to recognize Vergil Fletcher, who spent 32 years teaching young people important life lessons, the value of hard work and fair play. He began an outstanding career coaching basketball in 1946 at Collinsville High School.

Coach Fletcher led the Kahoks to 747 victories, creating an impressive 81 percent winning average. In his 32 seasons coaching, the Collinsville basketball team won two State titles and 20 Southwestern Conference titles, a notable record in anyone's book.

Often referred to as one of the greatest high school coaches of all time, Coach Fletcher won the hearts of players and fans throughout Collinsville. In recognition of his dedication to school and community, he is being honored by the Collinsville High School Alumni Association later next month. All former athletes, cheerleaders and fans of Coach Fletcher are invited, with at least one player from each season he coached expected to attend.

The event is a small gesture to thank a man who affected hundreds of young lives in ways that cannot be measured in win percentages. Thanks, Coach.

THE EXAMPLE OF SUPERB PUBLIC SERVICE: DR. CLARENCE S. LIVINGOOD OF GROSSE POINTE, MICHIGAN

(Ms. KILPATRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KILPATRICK. Mr. Speaker, today I rise to pay honor and tribute to Dr. Clarence S. Livingood. He was a prominent physician who began in the Dermatology Department at Henry Ford Hospital; a physician to the Detroit Tigers and, Mr. Speaker, father to our Sergeant at Arms, Wilson Livingood.

Dr. Livingood was a man before his time. He wrote the manual for the U.S. Army. He led in the dermatology life and history as it materialized and grew in our country. Dr. Livingood was a man of honor. He was a leader and a worker and a righteous man as he led and was a department director at Henry Ford Hospital.

Dr. Livingood leaves a wonderful family, our dear Sergeant at Arms. We should also honor Dr. Wilson Livingood as he lost his father just recently in the last few days and stood here with us as we went through our terrible tragedy, as he lost his colleagues and our protectors in these last few days.

Dr. Clarence Livingood will be remembered for his hard work, his dedication and his service to the people of America.

Mr. Speaker, I rise today to pay tribute to a special person, physician, and constituent, Dr. Clarence S. Livingood. Dr. Livingood passed away on July 27, 1998 after a battle with leukemia at his home in Grosse Pointe, Michigan. Dr. Livingood was one of the most distinguished and respected physicians in our country, and set standards for training and care for patients who need care in the area of dermatology. The largest organ of the human body is the skin; Dr. Livingood helped to ensure the accurate diagnosis, treatment and

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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cure of many of the afflictions of our body's first line of defense.

Dr. Livingood was born in Elverson, Pennsylvania, and graduated from Ursinus College in 1932. He began his career in medicine at the University of Pennsylvania's School of Medicine, completing his residency in dermatology at the Hospital of the University of Pennsylvania. Dr. Livingood later served his country in the U.S. Army as part of the Army's Medical Corps, where he co-wrote the Manual of Dermatology. This book is still used by both military and civilian physicians as a guide for the diagnosis and treatment of skin diseases.

Dr. Livingood was widely honored for his skill as a dermatologist. He was elected as Director of the American Board of Dermatology in 1962 and served as the Executive Director of the American Board of Dermatology for more than 20 years. He was Chair and Professor of the Department of Dermatology at Jefferson Medical College Hospital from 1948–1949, Chairman and Professor of the Department of Dermatology at the University of Texas in Galveston from 1949–1953, and established the Department of Dermatology at Henry Ford Hospital in Detroit, Michigan in 1953, serving as its Chairman until 1976, when he became Chairman Emeritus.

Some of the many honors bestowed upon Dr. Livingood include being the only dermatologist to receive the highest honor from the American Medical Association—"The Distinguished Service Award," and also received the Gold Medal from the American Academy of Dermatology. He also received World Series rings for serving as the doctor to the Detroit Tigers.

Predeceased by his wife, Louise, Dr. Livingood is survived by his five children, Bill (Mari Louise); Louise (William) Furbush, Susan Elizabeth (John) Cotton; Clarence (Nancy); and eleven grand children and two great grand children. I would be remiss if I did not mention that Dr. Livingood is the father to the Sergeant at Arms of the House of Representatives, Bill Livingood, who continued his excellent service to the protection of Members of Congress, dignitaries and visitors to the People's House despite the tragedy that befell two of his colleagues on July 24, 1998.

Funeral services will be held in Christ Episcopal Church in Grosse Pointe on Saturday, August 1, 1998. The Livingood Family asks that in lieu of flowers, contributions may be made to the Edward A. Krull Chair of Dermatologic Surgery, Office of Philanthropy, One Ford Place, Detroit, Michigan.

My personal prayers for peace and love go to the Livingood family. Your father served the people of the 15th Congressional District, the State of Michigan, and our country well. May he rest in peace. Amen.

#### THE WORLD TRADE ORGANIZATION, ERODING THE CHOICES AND RIGHTS OF THE AMERICAN PEOPLE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, for almost 4 years, the World Trade Organization has been eroding the choices and the rights of the American people.

Like a leach feeding off its member countries, the WTO has been increasing

its power at the expense of U.S. sovereignty.

Self-determination is now subordinate to the decisions of trade bureaucrats meeting in secret at Geneva headquarters of the WTO, invalidating and mandating changes in existing laws passed by the U.S. Congress and signed by the U.S. President.

Exactly how are the interests of the American people represented by unelected foreign nationals working in an ivory tower debating our commercial agreements?

U.S. priorities should not be held hostage to the decisions of the WTO. I urge my colleagues to support the Kucinich, Sanders, Ros-Lehtinen and Stearns amendment when the Commerce, Justice, State Appropriations bill comes to the floor, because the American people, through their elected representatives, can determine for themselves what our U.S. laws should be and not a foreign bureaucrat.

#### CABBAGE REGULATIONS EXCEED THE GETTYSBURG ADDRESS IN WORDS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Lord's prayer is 66 words. The Gettysburg Address is 286 words. The Declaration of Independence is 1,322 words. U.S. regulations on the sale of cabbage, that is right cabbage, is 27,000 words.

Now that is not enough to give Hulk Hogan's dictionary a hernia. Check this out. Regulatory red tape in America costs taxpayers \$400 billion every year, over \$4,000 each year, every year, year in, year out, for every family. Beam me up. With regulations like this, it is no wonder American jobs keep moving overseas.

Mr. Speaker, I want to yield back all of the reg writing bureaucrats in Washington, D.C. that never stood in an unemployment line.

#### PROTECT UNITED STATES FROM NUCLEAR MISSILE ATTACK

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the events of last week simply underscore the fact that we live in a dangerous and unpredictable world.

Not only must America respond to local threats, but we must also continue our vigilance to protect our Nation from foreign threats, threats that strike at the heart of this Nation, our very freedom.

Time after time, we have been told by the administration that no rogue nation is capable of deploying a nuclear tip or chemical missiles that could strike the American soil by the year 2010.

However, the Rumsfeld panel, a distinguished panel which had access to

our national security, just released a sobering, independent assessment of the ballistic missile threat facing the U.S.

That panel concluded that North Korea and Iran will have the ability to build a long-range nuclear missile by the turn of the century, not more than 2 years away. Last week's successful intermediate range ballistic test by Iran validates the Rumsfeld panel's finding.

Iran sent a chilling message to their neighbors and the world that they can strike anywhere in the Middle East with their current technology.

The time has come for this Congress and this administration to focus on building and deploying an antimissile defense system to protect the United States from missile attack. Mr. Speaker, the American people deserve no less.

#### ADOPT-A-VOICE OF CONSCIENCE IN VIETNAM

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, a new struggle has started. It is the war against poverty, backwardness, and arbitrariness. In this new struggle, there can be only one winner, the nation and the people of Vietnam, and only one loser, the forces of dogmatism, arbitrariness, and backwardness. So wrote Professor Doan Viet Hoat in his essay entitled "The True Nature of Contemporary Vietnam."

After the article was circulated, he was arrested and sentenced to 20 years in jail for attempting to overthrow the government. Professor Hoat's case is but one of the many similar instances of government persecution in Vietnam.

For these reasons, the founding members of the Congressional Dialogue on Vietnam have established a campaign to bring attention to the human rights violations in Vietnam. We need to generate pressure for the release of all these prisoners from prison or house arrest.

We need to focus public attention on Vietnam's repression against freedom of expression so that it becomes a part of the U.S. policy towards Communist Vietnam.

Mr. Speaker, I urge all of my colleagues to participate in this campaign.

#### WESTERN SAHARA PRISONERS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, last week I spoke on Morocco's refusal to permit removal by the U.N. of millions of land mines in Western Sahara. Today, I rise on behalf of the POWs of both sides of the war between Morocco and the Western Sahara who were captured or

are missing as a result of the 20-year conflict.

I personally visited with 84 Moroccan POW's military personnel who have been freed by Western Sahara as a gesture of goodwill and whom the kingdom of Morocco will not permit to return to their country.

On my visit to the refugee camps, I met with an organization which tracks missing Sahrawis. 526 Sahrawis remain among the disappeared. They are either prisoners held by Morocco or are missing, all held incommunicado by Morocco.

In a country like Morocco, which is a friend of the United States, it is strange to hear reports of such clear violations to fundamental human rights as to not identify POWs and missing people.

I urge the Kingdom of Morocco to reconsider their policy and identify all those held incommunicado as well as accept back their own military which have been freed by Western Sahara.

#### ONLY ONE PARTY SERIOUS ABOUT EDUCATION REFORM

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the truth is now known to the whole world. One party in this body is serious about education reform, and the other is not. On July 21 of this year, President Clinton vetoed Education Savings Account legislation that would have allowed parents to save more for their children's education.

We have here a classic case of special interest politics. The big donor special interests win while the children trapped in dangerous schools lose. What can we say to these children who are in terrible schools who the only thing they demand is to have the opportunity to pursue the American dream?

Many people are able to send their children to private school or live in areas with excellent schools. What are they going to say to these children who do not have the same chance? Maybe that is a question better directed to the administration and to others who failed to back real education reform.

#### TALK ABOUT EDUCATION REFORM IS NOTHING BUT TALK

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, on July 21, President Clinton showed the entire world that all talk about education reform is nothing but talk. The President's veto of the Education Savings Account legislation that passed both Houses of Congress is clear evidence that one party is beholden to special interests who benefit from the status quo.

□ 1015

Education failure is virtually in every city in America. The liberals accept that failure in our education system year after year after year. The rhetoric is fine and wonderful sounding, repair crumbling schools, spend more money, hire more teachers, but nothing seems to change.

Mr. Speaker, Republicans have a better idea. Republicans believe that accountability and competition in the marketplace produce excellence in the auto industry, in the computer industry, and in manufacturing of consumer goods. Why should education be any different?

If we believe in accountability and if we believe in excellence, not in words but in practice, then I would urge my colleagues to vote to override the President's veto and overcome the status quo by making education savings accounts the law of the land.

#### THE STATE OF ONTOLOGICAL RAMBLINGS

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, the state of disbelief continues to grow in this town the longer Mike McCurry pretends to inform the public of any factual information regarding the investigation of Judge Starr.

His penchant for passing on ill-informed statements to pass as answers to the American people will now be known as "McCurryism," a new word I am coining today. This is a word which means to pretend shock at the suggestion of impropriety by a reporter's question and then answer that question with nothing but pure spin.

For instance, a McCurryism from January 21, 1998: "The President is outraged by these allegations. He has never had any improper relationship with this woman. He has made it clear from the beginning that he wants people to tell the truth on all matters."

Another McCurryism from yesterday: "I can only report what I can ontologically know."

Well, Mr. McCurry, no amount of metaphysical existentialism can pass as answer to the question: What exactly was the nature of the relationship with the President and one of his female interns?

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DICKEY). The gentleman should avoid personal references to the President.

#### SOCIAL SECURITY

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I want to talk about Social Security.

Mr. Speaker, when I first came here 5½ years ago, we were not only borrowing a great deal from the Social Security Trust Fund, but we had an additional deficit spending that approached \$300 billion.

Now, this year, we are not only going to have a zero deficit under the traditional way that we calculated deficit spending, but this year, if we have just a little bit of luck, we are going to have a real balanced budget. That means that we may have balance not considering the \$80 billion that government is borrowing from the Social Security Trust Fund. This is one of the best years in the history of this country in terms of revenues exceeding expenditures. This year we might exceed \$80 billion in terms of the unified budget. That means a real, honest balanced budget without the Social Security surplus.

I think it is very important that in the future we start changing the way that we do business. We stop fooling people, we stop borrowing from the Social Security Trust Fund, and consider that revenue as a way to mask the deficit. A real balanced budget is when we reach balance, not including that amount borrowed from the trust fund. My bill HR 4033 does that and I invite my colleagues to co-sponsor.

#### REAL EDUCATION REFORM FOR AMERICANS

(Mr. PAPPAS asked and was given permission to address the House for 1 minute.)

Mr. PAPPAS. Mr. Speaker, on July 21, the President vetoed a bill that would have helped millions of American families save for the education needs of their children. I would like to invite my colleagues on the other side to listen carefully, because this issue crystallizes beautifully the differences between the two parties.

I said that the bill that the President vetoed would have helped "millions of American families." We make no reference to the income of families because the bill would help all families save, rich or poor. The President and the Democrats, of course, on this and other issues, immediately turned the issue into a class warfare issue, and if a single family of wealth would benefit, brand the bill as a tax break for the wealthy.

The Democrats cannot, on principle, support a bill that will help families, families plain and simple, even if millions of middle class and poor families would benefit, because the idea that a wealthy family might also benefit is simply unacceptable. Children of middle class parents will be the losers and real education reform will continue to be nothing more than class warfare rhetoric.

#### SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were

communicated to the House by Mr. Sherman Williams, one of his secretaries.

CONFERENCE REPORT ON H.R. 629,  
TEXAS LOW-LEVEL RADIOACTIVE  
WASTE DISPOSAL COMPACT CON-  
SENT ACT

The SPEAKER pro tempore. Before recognizing the gentlewoman, the Chair would like to wish her a happy birthday.

Ms. PRYCE of Ohio. Mr. Speaker, that is very kind. I appreciate that.

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 511 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 511

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), my good friend and colleague, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE of Ohio. Mr. Speaker, on Tuesday, July 28, the Committee on Rules met and granted a rule to provide for the consideration of the conference report accompanying H.R. 629, the Texas low-level Radioactive Waste Disposal Compact Consent Act. The rule waives all points of order against the conference report and against its consideration.

Mr. Speaker, in 1980, Congress passed legislation to provide a system for States to take responsibility for the disposal of low-level radioactive waste. Examples of low-level radioactive waste include that which is disposed of by hospitals, universities conducting research, and by electric utilities. This waste poses relatively few risks and typically does not require any special protective shielding to make it safe for workers and communities.

When it passed the Low-Level Radioactive Waste Policy Act of 1980, Congress recognized that, while the Federal Government should handle high-

level waste, that States should be primarily responsible for disposal of the low-level waste generated within their own borders. Through the 1980 act, Congress encouraged States to either build their own disposal sites or enter into compacts with other States to share waste disposal facilities. That is exactly what the States of Texas, Vermont and Maine have done.

Mr. Speaker, on October 7, 1997, this body considered and passed H.R. 629 by an overwhelming vote of 309 to 107. During its initial consideration in this body, an amendment was accepted to limit the compact disposal facility to accept waste solely from the States of Texas, Maine and Vermont. This amendment was accepted on the condition that the affected States would be consulted as to the impact such a limitation would have on their ability to effectively implement the compact.

The conferees concluded, after consultation with the affected States, that the limiting language would not be in the best interests of the compact. The additional language would present serious questions regarding the need for re-ratification, and it would lead to costly litigation, and it would create an uneven playing field within the compact system. In addition, such a limitation would create a possible infringement on State sovereignty.

Compacts are contractual agreements between the States, as required by Congress. In fact, Congress has historically ratified them without amendments. This rule will provide for the consideration of a clean bill that deals with a straightforward process, the ratification of an interstate compact under the 1980 law, as Congress intended.

Once again, it is important to point out that the States of Texas, Maine and Vermont have done their job. They have negotiated a compact between them to provide for the responsible disposal of low-level radioactive waste and submitted it to this body as required under Federal statute, for the consent of the Congress. That is exactly what this conference report will allow us to do: tell the States of Texas, Maine and Vermont whether or not we accept their mutual agreement.

As I have stated before, Congress has already given its consent to nine such compacts covering 41 States. This conference report will ratify compact number 10.

This conference report has the strong support of the governors of the member States as well as the National Governors Association, the Western Governors Association, the National Conference of State Legislatures, and the Nuclear Regulatory Commission.

Mr. Speaker, as we heard during the testimony in the Committee on Rules, this issue has been around for a long time. Adoption of this rule and the conference report will finally allow the States of Texas, Maine and Vermont to see light at the end of the tunnel.

Therefore, I encourage my colleagues to support the rule so that we may con-

sider the conference report on H.R. 629. I urge a "yes" vote on this rule.

Mr. Speaker, I reserve the balance of my time.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I thank the gentlewoman for yielding, and also wish her a happy birthday.

Mr. Speaker, H. Res. 511 waives all points of order against the conference report on H.R. 629 and against its consideration. This conference agreement would grant congressional consent to an interstate compact among the States of Texas, Maine and Vermont providing for the disposal of low-level radioactive waste.

Mr. Speaker, conference reports are normally privileged and do not require rules for their consideration on the House floor. Why does this report require a rule?

The answer is that the conferees chose to delete from the conference report certain provisions included in both the Senate and House bills. This is a violation of clause 3 of rule XXVIII that requires conference reports to be within the scope of the disagreements submitted to the conference committee. In other words, despite the fact that both bills contain similar provisions, the conference report did not include those provisions.

Under clause 6(f) of rule X, conferees shall "include the principal proponents of the major provisions of the bill as it passed the House."

□ 1030

This provision is designed to ensure that the House conferees fight for the provisions of the House bill. However, in this case, a conferee testified at the Committee on Rules that he checked with the Governor of Texas and followed his wishes, rather than the expressed will of the House. Apparently neither the House nor the Senate conferees fought for the provisions in each of their bills that the conference report deleted.

As we all know, conference committees have enormous power to shape legislation. The only checks on that power are the handful of points of order that individual Members can raise against the consideration of the conference report.

Under the rules of this House, a single Member can make a point of order against this conference report because it eliminated the provisions contained in the House and Senate versions. But the rule we are now considering prohibits that point of order from being raised. The proposed rule prohibits Members from exercising the protections expressly included in the House rules for the situation.

I am not taking a position on the deleted material nor on the conference report itself. However, I have to ask Members, particularly the vast majority of us who do not serve on conference committees, to not lightly

waive their rights to challenge conference reports.

Today's provision that the conference committee discarded may not be important to some Members, but waiving this point of order makes it easier to waive it the next time, and further erodes protections afforded every Member by House rules. Next time a Member might be the champion of a provision included in both the House and Senate bills through his or her strenuous efforts, but then would see it discarded by the conference committee.

Mr. Speaker, I ask that my colleagues defeat the rule in order to uphold their own rights as guaranteed in the House rules.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HENRY BONILLA).

Mr. BONILLA. Mr. Speaker, I thank the gentlewoman from Ohio for yielding time to me.

Mr. Speaker, I rise to oppose this rule. I realize that the majority on the Committee on Rules always tries to do their utmost to provide this body with the fairest of rules possible. In fact, this is a fair rule, considering the parliamentary needs that are required to consider this legislation.

But I hope that the Members understand that I am going to oppose this rule because I am doing everything I possibly can to defeat this legislation, because this legislation is about something happening in my congressional district.

This is the same legislation that was overwhelmingly defeated in the 104th Congress by an overwhelming vote of 243 to 176 against. This is about allowing a low-level dump site of nuclear waste to be constructed in one of the poorest areas of the country that falls in the heart of my congressional district. So honestly, it does not matter what kind of rule was granted, because my constituents and I think this legislation is beyond repair.

There are other developments that have occurred in this that have indicated it is dangerous to the environment in my congressional area. I will bring those up later, but at this point I would just like to advise my colleagues I oppose this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 9 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, as the gentlewoman from New York has pointed out quite eloquently, regardless of one's position on the merits of this compact, the rules of the House have been violated and the instructions of the Senate and of the House have been disregarded.

When this measure went to the conference committee, there were guarantees to protect the folks in Texas, that they would not be taking waste from

States other than Maine and Vermont. There were guarantees that the people, the poor people of the Sierra Blanca area in the district of the gentleman from Texas (Mr. BONILLA), would have some rights and remedies if their interests were abused, as they surely will be if this waste site is located in Sierra Blanca. But this is more than a matter of abuse of the rules of the House and the Senate and of parliamentary procedure and insider talk.

I would suggest to my colleagues that anyone who has come to Texas has learned that one of the great qualities of our entire State is something called Texas hospitality. If you choose to visit our State, you will get more than just a pleasant "Howdy," you will get nods and smiles, and "How are you doing," from folks that do not even like you down there.

We believe in genuine hospitality. It is a warm State in more than the temperature at this time, and those of us who grew up in Texas take a special pride in that Texas hospitality.

But a very good and rare quality is being taken just a little too far when it comes to this compact, because there are those in Texas who basically are saying, "Send us your radioactive garbage." Unfortunately, at the top of the list is our Governor, George W. Bush.

It seems to me that the slogan that one can find on one pickup truck after another around Texas, and even a few other vehicles, "Don't mess with Texas," is being converted by that administration into another slogan, "Send us your mess; and in particular, send us your nuclear mess."

Governor Bush and other Statewide officials in Texas mostly have become largely silent on what is to become a nuclear waste dumping ground for this entire country, and that is the Sierra Blanca waste dump site in far West Texas.

On April 19 Governor Bush was quoted in the Houston Chronicle with some very positive comments about the issue that this conference committee has now dumped. He said, "My pledge is to make sure that those are the only two States beside our own to use this dump site." I was very encouraged by his comments, though he had been largely silent.

Then I learned that within only a few days of that comment in Texas, that Governor Bush signed a letter on April 22 of 1998, within the same week, in which he urged the conferees to end the provisions that would provide the very protection that in Texas he said he was for.

He was quoted the other day down in Brownsville as saying that he believed that this concept of limiting the dump to Texas, Vermont, and Maine, two small New England States sending a minimum amount of radioactive poisonous content to Texas, was such a good idea that he would be willing to write a State law to deal with this issue. The only problem is that if you have signed a compact ratified by Con-

gress that provides otherwise, how are you going to write a State law?

If it is such a good idea in Texas and Brownsville and in Houston to limit the nuclear radioactive garbage that is about to be dumped in the pay toilet out in West Texas, if it is such a good idea to write a State law, then why not speak up vigorously for what has been done by the United States Senate and the United States House, and that is to write it into Federal law that we were limiting that amount of garbage that will come to Texas, not to the world but to those two small New England States, which was the original justification for having this compact?

We cannot have it both ways. Either we are in favor of protecting the people of Texas, as the Houston Chronicle called for yesterday in an editorial, we are either in favor of protecting the people of Texas, or we are in favor of extending that Texas hospitality a little too far and saying to the people of the United States, wherever they are, all of them who are in States who, since 1980, have not been able to get a single licensing agreement for a radioactive waste garbage site, "We are sorry you had problems, but we in Texas love having nuclear radioactive garbage from all over the country, and send it down to the poor people of Sierra Blanca. Send it to the good people, send all your nuclear garbage to the good people of Sierra Blanca down in the district of the gentleman from Texas (Mr. BONILLA), on the edge of the district of the gentleman from Texas (Mr. REYES), because they love to have your garbage."

I want to tell the Members that the folks of that area do not want the nuclear garbage, and neither do many people across the State of Texas. The more they learn about the dangers of this dump site, the less they are going to want it.

There is a significant question here about why this particular site was chosen in the first place. I understand, and I am sure Members will hear that, oh, no, this does not have anything to do with the selection of a particular site. We are just going to arrange for all the garbage from around the country to roll into Texas. There is no guarantee it is going to go to Sierra Blanca.

Indeed, some administrative law judges in Texas have recently questioned the Sierra Blanca site. The Sierra Blanca site was not chosen because it was the best place in the United States to locate nuclear garbage, or even the best place in the State of Texas. It was not chosen because it happens to be near a fault that recently had an earthquake and has had tremors, and might well expose this nuclear waste to flowing down the Rio Grande River, since it is so near the Rio Grande, poisoning the water supply for literally millions of people on both sides of the Rio Grande River.

It was not chosen for those reasons. It was chosen because it was perceived that the people of Sierra Blanca lack

the political power to be able to do something to protect their neighborhood; that it was okay to take this garbage from across the United States and put it into a poor neighborhood that would not be able to resist.

That is just not my comment on it. I turn to the comments of some two Texas A&M professors, employed by who actually promote this dump. This is in an article that appeared in the Texas Observer on October 24 of last year.

They said, "The findings of this survey suggest that a broad-based public information campaign designed to familiarize the general public with all aspects of waste disposal siting might prove detrimental. A preferred methodology might be to develop public information campaigns targeted at specific populations. One population that might benefit from such a campaign is Hispanics. This group is the least informed of all segments of the population. The authorities should be aware, however, that increasing the level of knowledge of Hispanics may simply increase opposition to the site."

And indeed, that is exactly what has happened. The more that particularly the heavily Hispanic population of West Texas has learned about the dangers of this dump site, the more they have questioned it.

Indeed, the more people of any ethnic origin in Texas, including, I am sure, the readers yesterday of the Houston Chronicle, learned that this is about to become a dump site for garbage from all over the country, the more they are going to resist the idea, and say, "We still like the sign that we see on the bumper stickers on the back of pickup trucks all over Texas: 'Don't mess with Texas.'" Don't send us your nuclear garbage.

Another phony argument that the supporters of this compact advance is that if we do not have this dump site, we are going to practically end medical and academic and industrial research in this country.

Ninety-nine, to be charitable to the supporters of this dump, 98 percent of the garbage that is going to be dumped here does not have anything to do with medical, academic, or even industrial research. Most of this garbage is coming out of decommissioned nuclear power plants.

It may well be that some with Maine Yankee Power think they can cut a better deal to put it somewhere else, and then assign their rights to others who have nuclear garbage around the country. That is why this provision is so anti-Texas, and why it is so strange that, as we gather here today, despite a vote of the United States Senate and of the United States House in favor of limiting this dump to Texas, Vermont, and Maine, that the conference committee has taken that protection off, that it has removed the protection to the people of Sierra Blanca and the surrounding area that Senator WELLSTONE put in, and why this rule should be rejected.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Colorado (Mr. DAN SCHAEFER), the chairman of the Subcommittee on Energy and Power.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentlewoman very much for yielding time to me.

Mr. Speaker, I stand today in support of House Joint Resolution 511. This is a rule providing, as we all know, for the consideration of the conference report to accompany H.R. 629, the Texas Low-Level Radioactive Waste Compact Consent Act.

This important legislation, of course, would grant the consent of Congress to the States of Texas, Maine, and Vermont to enter into a compact for the disposal of low-level, low-level radioactive waste. I might say that nine other States have already done this. This would be the 10th State to do it.

The rule waives all points of order against consideration of this report. This is necessary for the House to consider a clean, clean compact bill as the conferees have recommended.

During the consideration in the House, an amendment was adopted which restricts the Texas compact to accept waste solely from Texas, Maine, and Vermont. Now, this language was accepted on one condition. That is that we have a chance to consult with the Governors of the three affected States regarding its impact on the ability to implement the compact.

The consultations were emphatic. All three Governors, all three Governors, opposed the amendment adopted by the House. The opposition was not limited to these three States. The National Governors Association, the Western Governors Association, the National Conference of State Legislators all contacted us in opposition to the House-passed language.

The Low-level Radioactive Waste Policy Act passed by Congress in 1980, 1980, provided the States with great latitude in implementing its requirements.

□ 1045

It was not the intention of Congress to create a prescriptive idea for the States to adopt. In considering H.R. 629, the States have reminded us of this fact. The action to eliminate the provision which requires us to seek this rule is a necessary one to preserve the flexibility of the States. And I say to the States, we want States' rights in implementing not only the Texas compact but the administration of the entire compact system.

All eight conferees, both Republicans and Democrats, House and Senate, agreed that this was a proper course of action. The States of Texas, Maine, and Vermont have fulfilled their responsibilities. They have negotiated a disposal contract between themselves and have presented it to Congress for our consent. This is a very good rule. It will allow the House to do the right thing for the States of Texas, Maine, and Vermont.

Mr. Speaker, I urge support for the rule.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from Texas, one of the cosponsors of the bill.

Mr. HALL of Texas. Mr. Speaker, I will be brief because I know we have a long way to go today.

Notwithstanding my great respect for the gentleman from Travis County, Texas (Mr. DOGGETT), I opposed his amendment on the floor here. But the gentleman from Texas (Mr. BARTON) and others of us got together and I think we thought, not hysterically but from the standpoint of reason, it was the easiest way to deal with it, to send it on to conference and we could work it out.

Mr. Speaker, we tried to do that, and we have been unsuccessful in working it out with the gentleman from Texas (Mr. DOGGETT). We have carried out our part of the bargain. We sought the views of the governors; and, yes, we sought the views of Governor Bush, our governor, my governor, the governor of the State of Texas and the governors of the other two States. They oppose the Doggett amendment, and under these circumstances I fully support the conference report and the rule requested by the chairman.

We will get a chance to talk about a lot of these things that the gentleman from Texas (Mr. DOGGETT) set out later today, because we have other phases of it. But Texas is not about to get all the garbage. I think it is everyone's knowledge that there is a limitation on the amount that can come. I think it is 1.8 million cubic feet. Of that, only 20 percent of that can come from the other States. There is not going to be a trainload and a truckload and an airplane load and a pickup truckload of garbage coming into Texas from all areas. It is relegated to that amount from those two States.

That is the reason Congress passed this act to start with, to give States an opportunity to bind together to work out a situation to where they can put their low-level waste. That has happened and it has not been a one-way street. We have had hearings, public hearings. The three governors have had speeches and all over the State.

We have debated this three or four or five times here on the floor, I think. It is just common knowledge that this is the ninth or tenth such program that Congress provided for. We followed that rule to the extent of the law, and we think that this rule ought to be granted.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, it would be convenient if we lived in a country and a world that had no low-level nuclear waste. We would all like that. But we do not have the luxury of enjoying that convenience, because that is simply not the real world in which we exist.

The fact is that, from hospitals to medical offices to dental offices, we have low-level nuclear waste. The question today is not are we going to have it or what amount are we going to have; the question is what to do with it. And that is exactly the question this Congress considered in 1985 when it passed the Low-Level Radioactive Waste Policy Amendments Act.

In this act, Congress' intent was to give States the authority to work together so that we could provide sites for the location of low-level nuclear waste, so that we could encourage management of low-level nuclear waste, so that we do not have literally thousands and thousands of sites, perhaps unsafe, low-level waste in utility companies' arenas and the back doors of hospitals all across this country. There was a reason why this Congress passed that compact and the reason is it was supported by the American people at that time.

Since then, there has been a good reason why 42 States have chosen voluntarily to participate in this process of safely and smartly managing the inventory of low-level waste.

Today, those of us from Texas that support this, and let me point out for the record, despite my good friends, whom I greatly respect, the gentleman from Texas (Mr. BONILLA), the gentleman from Texas (Mr. DOGGETT) and the gentleman from Texas (Mr. REYES), despite their opposition, the majority of the members of the Texas delegation here in the House support this compact.

Republican Governor George Bush supports it. Democratic Governor Ann Richards at the time she was governor of Texas supported it. This is a compact that 42 other States have had the right to participate in since the passage of the original bill in 1985.

Today Texas, Maine, and Vermont are not asking for anything special. We are just asking other delegations to respect our right to do what they chose to do under the 1985 law.

Late last year, Mr. Speaker, the House overwhelmingly passed H.R. 629, and the Senate passed it without objection. I believe it is time to put this issue to rest. It is time to vote on H.R. 629 so we can finally resolve the question of how to effectively manage low-level waste in our three particular States.

Mr. Speaker, we gave the States responsibility to handle this waste and, as I have said, the governors have negotiated an interstate compact which comports with our policy and all three legislatures overwhelmingly approved that compact.

Now, the opponents to this bill, and they have legitimate reasons and I respect their concerns and their reasons for opposition, but they want, in many cases want to change Federal policy regarding low-level radioactive waste. They want Congress involved in individual States' decision.

Mr. Speaker, I urge support of this rule and urge passage of the bill.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me this time.

Mr. Speaker, I rise today to urge support of this particular rule. This matter, as the gentleman from Texas (Mr. EDWARDS) just said, has come before this House now on several occasions and all we are asking is to give the citizens of Texas, Vermont, and Maine a chance to enter into an agreement to dispose of their low-level nuclear waste in a way that makes sense.

I would say this, the reason that it is important to do this without any amendment is that an amendment means delay. The agreement that was reached in Maine, it was adopted by referendum of all the people. Then it went to the State legislature. In both Vermont and Texas, it has the support of the legislature and the governors of those States. This is a matter that has come to us with unanimous approval of the State bodies that have jurisdiction over this particular issue.

Mr. Speaker, all we are asking is to get it through and allow us to dispose of our low-level radioactive waste in a way that makes sense.

The gentleman from Texas (Mr. HALL) was reminding those from that State that they are not going to see a flood of low-level radioactive waste from Maine and Vermont, and that is accurate. We are not generating low-level radioactive waste at such a level that it should be a burden. But we are committed to help pay for this facility. We are sharing in the cost of this. For that reason, what I am asking all Members to do today is respect what these three States have accomplished, support the rule, and I urge passage of the underlying bill.

Ms. PRYCE of Ohio. Mr. Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me this time.

Mr. Speaker, I rise today in strong opposition to this rule. I am here again today to ask that this body do the right thing for the people of West Texas. The conference report on H.R. 629, the Texas Low-Level Radioactive Waste Disposal Act, is in my opinion and in the opinion of others, including those people that live in West Texas, an affront to all of us and to those of us that represent them in this body.

This conference report strips a key provision from the bill that both the House and the Senate had adopted. Unlike both the House- and Senate-passed measures, the conference report does not include a provision that would restrict waste at the selected site to the States of Texas, Maine, and Vermont.

I ask, how can this House in good conscience vote to waive all points of order against this report?

Mr. Speaker, this is my first term, but as I heard and as I understand the comments of the gentlewoman from New York, this is a highly unusual way to bring back a conference report for a vote.

I think that it is clear that the provisions that were both on the Senate and the House side were, to use an old West Texan term, finagled off in a highly unusual maneuver in requiring a rule on a simple conference report. I think that is wrong and I think that the people of West Texas deserve better treatment by this House than they have received on this.

By voting for the conference report, my colleagues are saying to all the Members of this House that it is okay to ignore the will of this body, that it is okay for eight conferees to ignore the rest of all of the senators and representatives that represent the people throughout this country.

Members should vote against this conference report because the conferees violated the scope of their authority. That I think is very clear. We should not let this House vote on a bill that ignores the will of both the House and the Senate. I am sure that without this key provision, which is the Doggett amendment which would restrict nuclear waste to Texas, Maine, and Vermont under H.R. 629, that bill would never have passed in the Senate.

Mr. Speaker, I ask my colleagues to defeat this rule and send this bill back to conference where it belongs. Let us all together today send a strong message that the conferees cannot and should not ignore the will of the House and the Senate. I urge all of my colleagues to vote against this rule.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. REYES. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, it is my understanding that the States of Michigan, New Hampshire, New York, Massachusetts, Connecticut and New Jersey are not a part of the compact at present. My question is, are there not a number of very large States with a significant amount of potential to generate nuclear garbage, specifically Michigan, New Hampshire, New York, Massachusetts, Connecticut and New Jersey, that do not have a compact partner right now and would love to send their garbage down to Sierra Blanca?

Mr. REYES. Mr. Speaker, that is correct.

Mr. DOGGETT. Mr. Speaker, if the gentleman would continue to yield, indeed, did not the former governor of Connecticut already inquire and try to become associated with this compact?

Mr. REYES. Mr. Speaker, as a point of reference, that is one of the major concerns that we have. That once the site is in place, it will become a profit-generating venture that would accept

waste material not only from Texas, Maine, and Vermont but literally from throughout the country.

Mr. DOGGETT. Mr. Speaker, without the amendment that this House and the Senate approved, there is absolutely nothing to keep a group of unelected commissioners, appointed by the same governors who may have said, as in our case, one thing in Texas and another thing up here in Washington about this compact, from taking that nuclear waste from any of those States; or maybe some of the ones that are in compacts already but are part of those compacts that have been unable to get a licensing agreement since way back in 1980, almost 20 years ago?

Mr. REYES. That is correct. And the potential exists that this waste disposal site in Sierra Blanca, Texas, could conceivably become the only site where nuclear waste could be disposed of and could be stored. That is a very real concern for those of us that live in West Texas.

□ 1100

Mr. DOGGETT. Mr. Speaker, if the gentleman will continue to yield, and then I noticed an editorial in my hometown paper, the Austin American Statesman, back in April that was entitled, "Okay, If You Must, Keep It As Just Three."

It concludes, if a three-State compact really means just three, no one should fear putting that into law. It is the very least that can be done to reassure Texans they are not getting suckered.

I want to ask the gentleman if he feels that the people of Sierra Blanca and west Texas will be suckered if this kind of proposal without the three-State limitation is approved.

Mr. REYES. Absolutely. That is a very real concern that all of us have about this site that is scheduled to be into Sierra Blanca.

Mr. DOGGETT. Mr. Speaker, I know the gentleman is familiar with the terms of some of the other compacts that have been approved in the country for other States. We have heard so much about this Congress approving other compacts.

Is it not true that some of those other compacts have provided representation for the very county and the very region where the regional facility would be located and that this particular compact does not give the people of El Paso or Sierra Blanca or Van Horn or Pecos or any of the area affected or any of the places through which that waste might be moved like Austin, Texas, they do not get any representation guaranteed in this compact agreement, do they?

Mr. REYES. They do not. And therein lies the liability, not just for the people of Sierra Blanca, not just for those of us who live in west Texas, but literally for communities throughout this country that this waste material would be transported through to get to Sierra Blanca.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. REYES. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Speaker, the gentleman has listed the three States that embody this agreement and he has listed five other major States that would like to send their low-level waste to Texas. I would like to add the other 44 States that would probably like to send their low-level waste to wherever they want to send it. When the gentleman says there is no way to keep them from it, I know that he is aware of the application, he is aware that the application limits it to 1.8 million cubic feet, and that only 20 percent of that can come from the other two States. It does not allocate any to come from all the States the gentleman has named, nor the other 44.

Mr. DOGGETT. Mr. Speaker, if the gentleman will continue to yield, I am aware of the limitation and the application starting this out. But we are approving a compact that is to last for the ages. My concern is that, as the gentleman just pointed out, and I could not agree with him more, that all 50 States would like to send their garbage to Texas. My guess is that with the kind of hospitality that they are being shown by Governor Bush and others who have been even more silent than he has, that they will all have a chance to put Sierra Blanca on the map.

It is a small place, heavily Hispanic, very poor. It is one of those places you can drive through and hardly know you have been through it when you are going down I-10 on the way to El Paso. It is going to be a point on the dot that they know about in Alaska and Vermont and Michigan and New York and all over this country, because it is going to be send your nuclear garbage there. Get a little bit in there now and a whole lot later when we amend the application.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BARTON), a member of the Committee on Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the rule to govern floor debate on the conference report on H.R. 629.

It passed the House 309 to 107 earlier this year. It is a good piece of legislation. It authorizes three States, Texas, Vermont and Maine, to enter into a compact to accept low-level nuclear waste. I think some of the rhetoric we have already heard in the rule debate is hotter than the waste that is going to be in this site when it is constructed. I think we ought to pass the conference report and let the three States go on about their business like we have already let 42 other States.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I thank my colleague on the Committee on Rules for allowing me to speak today.

As she mentioned, now we can hear the rest of the story. I rise in support of the rule and support of the conference committee report.

Let me give the Members who are here on the floor and also in their offices and who are watching a little history about this compact. I think they have heard it over the last few years because I was in the State Senate in 1991, when we actually passed an interstate compact with Texas and Vermont and Maine, because under the interstate commerce clause, without a compact, if this site is built, whether it is in Sierra Blanca or anywhere else, it will be required to take waste from every State in the Union.

I think my colleague, the gentleman from Texas (Mr. HALL) pointed that out. All 44 other States would like to send it here or 46, after we get other than what is in the compact. So if this site is going to be built without a compact, it would have to accept it from everywhere.

Again, we did not pick the site, either in the legislature or here on the floor of this Congress. The site was selected by the folks in Texas which is what the intent was. It was not supposed to be by those of us who serve in Congress or in the legislature, because in Texas the legislature meets every 2 years whether they have to or not. It was selected by people who have the expertise to select sites, and they looked at sites in south Texas and west Texas, and they picked Sierra Blanca.

If it was my choice, I would not pick Sierra Blanca, because we have another site in Texas who may not be at the same level now in the application process who actually wants it. But that is not our decision on this floor and that is not the decision on the floor of the State legislature. It is a decision by the experts and the people that the State hires in their regulatory agencies to make that decision. So that is why this bill is so important. If we are going to have that site, then the compact, just like the other compacts, is important that we ratify it here.

The Low-Level Radioactive Waste Policy Amendments of 1985 established where States could develop compacts. Texas, under a former governor, not Governor Bush but Governor Ann Richards, worked out an agreement with Maine and Vermont to have this so Texas could limit our exposure. Again, we do not want to be the waste site for the Nation or the world, but we recognize the responsibility we have in our own State for our low-level waste that we generate. Some of it is from hospitals, some of it is from nuclear power plants, it is from all sources. But that product, that waste is now being stored on sites all over the State of Texas.

That is why we need to put it in a secure location, a permanent location. My colleague from Austin mentioned that we are passing a bill for the ages.

Granted, this low-level waste has a life much longer than any of us ever expect to be here in Congress or even our own lives, but we also know that Congress is in session all the time, the legislature is in session on a regular basis. They can change this, and they can deal with it. That is why it is so important today we pass this rule and adopt the conference committee report.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, the willingness and desire of our colleagues from New England to put this nuclear garbage as far away from there as possible out into west Texas is quite understandable. The silence in some cases and the open invitation of Governor George W. Bush that we accept all that nuclear garbage is a little bit more difficult to understand.

It is difficult to understand, particularly because some of the latest reports suggest that we do not need as many radioactive waste dump sites as are currently planned, that economically it does not make sense. We should consider the fact that none of these dump sites have been licensed for almost 20 years, despite the fact that some compacts have been formed. If we get on the fast track in Texas to put all that nuclear garbage out in Sierra Blanca, guess where the major waste dump site for the country is going to be located? Right there in that poor Texan Hispanic neighborhood.

I think that is one of the reasons why in June of this year some 95 environmental groups and legislators in both Mexico and the United States asked Governor Bush to keep his word and to stop this ongoing project. Unfortunately, that has not happened.

I find interesting the emphasis on the word "low," when talking about nuclear waste or radioactive waste. Low. It reminds me a little bit of one of those late night commercials on television where someone is talking about "how low can you go" when buying a car or mobile home or something else that they might want to sell on there.

Well, let me tell my colleagues how low this radioactive waste is. It is low enough to kill you. It is low enough to kill people for thousands of years to come. It is low enough to kill people who exist on this planet today and anyone in the future that might exist on this planet that would ever remember those of us that are gathered here on the floor of this Congress today. It is low for public relations purposes. It may be lower than the highest level of radioactive waste, but it is high enough to be lethal and deadly and not to be placed in Sierra Blanca.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. HALL), ranking member of the Subcommittee on Energy and Power.

Mr. HALL of Texas. Mr. Speaker, I would like to continue my discussion with the gentleman from Texas (Mr.

DOGGETT) in hopes that we could win him over to see what his State needs and what these States have contracted for.

I simply start out by saying if we do not have a compact, he would be exactly right. These other 44 States, these three States, Mexico perhaps, Canada, throw in the Virgin Islands if we want to, maybe want to send their waste to Texas or to any other State. That is the reason we have compacts. That is the reason the Congress, in its wisdom back several years ago, provided for these compacts. That is the reason nine other compacts have been signed and are working. So I think in all these States that, including Texas, we have to have the compact or we could be the target for all of those.

Now, let me just talk a little, another minute about how a compact protects an area that enters into a compact. I am talking about these three States. I am talking about our State and the rights that we have and the vision that those that put this agreement and application together had for our State.

I would tell the gentleman, he says, what is to keep it from happening, how can it not happen, how can we stop the flow of trucks and trains filing into this State? Well, it is very simple. Section 6 of section 3.05 says, The commission may enter into an agreement with any person, State, regional body or group of States for the importation of low-level radioactive waste into the compact for management of disposal, provided that the agreement reaches a majority vote of the commission.

They cannot just load up and say we are headed for Texas. They have to have the assurance and the authority of the commission.

The commission, it says, may adopt such conditions and restrictions in the agreement as it deems advisable. That is local control in its finest sense. That is the commission of these three States. How much authority does the State of Texas have in that?

Well let us read again. Let us go to article 3. This is the protection I think that the gentleman is seeking. I think this is going to give you some assurance that I hope turns the tide on this rule. Who makes that decision by the commission? Who is the commission? Is that somebody from the other 46 States, the other 49 States or these three States? This tells us who makes that decision. It is not guesswork. It is not who has the biggest truck or who has the longest railroad. This says there is hereby established the Texas Low-Level Radio Waste Disposal Compact Commission. That is the commission the other article alluded to.

The commission shall consist of one voting member from each party State, except that the host State shall be entitled to 6 voting members. So the gentleman's State with 6 members, the other States with 2 members, I think they could do something about a deluge of low-level waste or garbage, whatever.

I have faith in the people that are going to be running this country in the future. I have faith in the legislature. The gentleman says do not mess with Texas. Do not mess with the legislature. Do not mess with Governor Bush. Do not mess with the governors of these other two States. Do not mess with all those public hearings that they have had. Do not mess with the Speaker of the House. Do not mess with the leader of the Senate. Do not mess with those who form the majority of the Senate and the House and voted for this, sent it on and asked for it, availed themselves of that that this Congress made available to them.

I think we need to pass this rule and get on with our business.

□ 1115

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. BALDACC).

Mr. BALDACC. Mr. Speaker, I would like to thank the gentlewoman for yielding the time. The Texas Compact Act was passed by a floor vote of 309-107 in the House. The Texas compact has bipartisan support in its member States, in Congress and in the Nation. Congress has approved nine similar compacts for 41 States without amendments and without opposition.

The compact's member States oppose any amendments to this legislation. I support the rule. I support the proposal. It is in the best interest of Texas, Maine and Vermont, and it is in the best interest of this country. These entities need this safe disposal site, they need cooperation and collaboration between these States, and the State legislatures, the States' governors and the people of these States have supported these efforts. I ask for the consideration of this legislation.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BILBRAY).

(Mr. BILBRAY asked and was given permission to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, let us be very frank about this. The people that oppose the Texas compact traditionally oppose all of the low-level radiation compacts. Let us remember that 20, 30 years ago this material was going into landfills across this country.

Those who oppose the compacts and oppose siting these facilities have to ask themselves, it is easy to attack a location, an option, but it is awful hard to get a better option. I would just ask those who oppose this compact or any other compact to remember that the Federal Government mandated this approach, legislated this approach, and now there are those in the Federal Government that would love to obstruct this approach. I just ask those that do not like the options that are being proposed by this compact, what is your alternative? To continue to leave this waste stream in Dallas, in Houston, in Galveston, in the hospitals and the research facilities in Texas and

in other States? What is your option of what do we do with this low-level waste stream? This is the Federal mandated option that we placed on States. This is better than having the waste stream in our neighborhoods, next to our facilities, where our children are playing, where our grandparents are staying. So when you talk about this and say, is this the proper site, let me challenge you by saying, is the option better? Is it better to leave the waste stream where it is now, backing up and piling up in our neighborhoods? I would just ask that you consider the fact there may be people concerned about this site and about this compact, but go into your communities and ask your planning groups and your community groups and your families about do they want this waste stream left in their neighborhoods where it is now? The big untold story here is the fact that where this waste stream is and where it would be if it was not sited appropriately. This is the safest, most logical strategy. This is a strategy we decided on decades ago, and it is one that we should continue with. It is a rational strategy. Let us not have this waste in our neighborhoods. Let us have it in a safe facility.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself the balance of my time. Let me just say in response to some of my colleagues' concerns that this conference report contains the identical language of the other nine existing compacts. Further, it is not the intention of Congress to create a proscriptive regime for the States. It was intended to allow the States to manage for themselves the safe disposal of low-level waste as they see fit, without burdensome Federal regulation. It is important to note that all eight conferees agreed to this course of action.

Let me remind my colleagues once again that this rule will allow the House to consider the conference report which is supported by the governors of the member States as well as the National Governors Association, the Western Governors Association, the National Conference of State Legislatures and the Nuclear Regulatory Commission.

I once again strongly urge my colleagues to support this rule and therefore allow the House to consider the conference report on this important legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOGGETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 313, nays 108, not voting 13, as follows:

[Roll No. 343]

YEAS—313

Aderholt	Franks (NJ)	McKeon
Allen	Frelinghuysen	Metcalf
Archer	Frost	Mica
Armey	Gallegly	Miller (FL)
Bachus	Ganske	Minge
Baesler	Gekas	Mollohan
Baker	Gephardt	Moran (KS)
Baldacci	Gilchrest	Moran (VA)
Ballenger	Gillmor	Morella
Barcia	Gilman	Murtha
Barr	Goode	Myrick
Barrett (NE)	Goodlatte	Nethercutt
Barrett (WI)	Goodling	Neumann
Bartlett	Gordon	Ney
Barton	Goss	Northup
Bass	Graham	Norwood
Bateman	Granger	Nussle
Bentsen	Green	Oberstar
Bereuter	Greenwood	Obey
Berry	Gutknecht	Oxley
Bilbray	Hall (OH)	Packard
Bilirakis	Hall (TX)	Pallone
Bishop	Hamilton	Pappas
Bliley	Hansen	Parker
Blumenauer	Harman	Paul
Blunt	Hastert	Paxon
Boehler	Hastings (WA)	Pease
Boehner	Hayworth	Peterson (MN)
Bono	Hefley	Peterson (PA)
Boswell	Hefner	Petri
Boucher	Herger	Pickering
Boyd	Hill	Pickert
Brady (TX)	Hilleary	Pitts
Brown (FL)	Hobson	Pombo
Brown (OH)	Hoekstra	Pomeroy
Bryant	Horn	Porter
Bunning	Hostettler	Portman
Burr	Houghton	Pryce (OH)
Burton	Hoyer	Quinn
Buyer	Hulshof	Radanovich
Callahan	Hutchinson	Rahall
Calvert	Hyde	Ramstad
Camp	Inglis	Redmond
Campbell	Istook	Regula
Canady	Jackson-Lee	Riggs
Cannon	(TX)	Riley
Carson	Jenkins	Rivers
Castle	John	Roemer
Chabot	Johnson (CT)	Rogan
Chambliss	Johnson (WI)	Rogers
Chenoweth	Johnson, E. B.	Rohrabacher
Christensen	Johnson, Sam	Ros-Lehtinen
Clement	Jones	Roukema
Coble	Kasich	Royce
Coburn	Kelly	Ryun
Collins	Kennedy (RI)	Sabo
Combest	Kennelly	Salmon
Condit	Kildee	Sanchez
Cook	Kim	Sanders
Cooksey	Kind (WI)	Sandlin
Costello	King (NY)	Sanford
Cox	Kingston	Saxton
Cramer	Klecza	Scarborough
Crane	Klink	Schaefer, Dan
Crapo	Klug	Schaffer, Bob
Cunningham	Knollenberg	Sensenbrenner
Danner	Kolbe	Sessions
Davis (FL)	LaHood	Shadeegg
Davis (VA)	Lampson	Shaw
Deal	Largent	Shays
DeGette	Latham	Shimkus
DeLay	LaTourette	Shuster
Diaz-Balart	Lazio	Sisisky
Dickey	Leach	Skaggs
Dicks	Levin	Skelton
Dingell	Lewis (CA)	Smith (MI)
Dooley	Lewis (KY)	Smith (NJ)
Doolittle	Linder	Smith (OR)
Dreier	Lipinski	Smith (TX)
Duncan	Livingston	Smith, Adam
Dunn	LoBiondo	Smith, Linda
Edwards	Lucas	Snowbarger
Ehlers	Maloney (CT)	Snyder
Ehrlich	Manton	Solomon
Emerson	Manzullo	Souder
English	Martinez	Spence
Everett	Mascara	Spratt
Ewing	McCarthy (MO)	Stearns
Fawell	McCarthy (NY)	Stenholm
Fazio	McCollum	Stump
Foley	McCrery	Stupak
Forbes	McHale	Sununu
Fossella	McHugh	Talent
Fowler	McInnis	Tanner
Fox	McIntosh	Tauscher
Frank (MA)	McIntyre	Tauzin

Taylor (MS)	Upton	Weller
Taylor (NC)	Vento	White
Thomas	Visclosky	Whitfield
Thornberry	Walsh	Wicker
Thune	Wamp	Wilson
Thurman	Watkins	Wise
Tiahrt	Watts (OK)	Wolf
Traficant	Weldon (FL)	Young (AK)
Turner	Weldon (PA)	

NAYS—108

Abercrombie	Hastings (FL)	Owens
Ackerman	Hilliard	Pascrell
Andrews	Hinchee	Pastor
Becerra	Holden	Payne
Berman	Hooley	Pelosi
Blagojevich	Jackson (IL)	Poshard
Bonilla	Jefferson	Rangel
Bonior	Kanjorski	Reyes
Borski	Kennedy (MA)	Rodriguez
Brady (PA)	Kilpatrick	Rothman
Brown (CA)	Kucinich	Roybal-Allard
Capps	LaFalce	Rush
Cardin	Lantos	Sawyer
Clay	Lee	Schumer
Clyburn	Lewis (GA)	Scott
Conyers	Lofgren	Serrano
Coyne	Lowey	Sherman
Cummings	Luther	Skeen
Davis (IL)	Maloney (NY)	Slaughter
DeFazio	Markey	Stabenow
Delahunt	Matsui	Stark
DeLauro	McDermott	Stokes
Deutsch	McGovern	Strickland
Dixon	McKinney	Thompson
Doggett	McNulty	Tierney
Doyle	Meehan	Torres
Ensign	Meek (FL)	Velazquez
Eshoo	Meeks (NY)	Waters
Evans	Menendez	Watt (NC)
Farr	Millender-	Waxman
Fattah	McDonald	Wexler
Filner	Miller (CA)	Weygand
Ford	Mink	Woolsey
Furse	Nadler	Wynn
Gejdenson	Neal	Yates
Gibbons	Olver	
Gutierrez	Ortiz	

NOT VOTING—13

Clayton	Hinojosa	Price (NC)
Cubin	Hunter	Towns
Engel	Kaptur	Young (FL)
Etheridge	McDade	
Gonzalez	Moakley	

□ 1140

Ms. ESHOO and Messrs. RUSH, McNULTY, SAWYER, HOLDEN and MARKEY changed their vote from "yea" to "nay."

Mr. RAHALL changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, pursuant to the provisions of House Resolution 511, I call up the conference report on the bill (H.R. 629) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DICKEY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 16, 1998, page H5724).

The SPEAKER pro tempore. The gentleman from Colorado (Mr. DAN SCHAEFER) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

Mr. BONILLA. Mr. Speaker, I am opposed to the bill, and because the

chairman and the ranking member are both in favor of the bill, under rule XXVIII I assert my right to be recognized for 20 minutes in opposition to the conference report.

The SPEAKER pro tempore. Is the gentleman from Texas (Mr. HALL) opposed to the conference report?

Mr. HALL of Texas. I support it, Mr. Speaker.

Mr. REYES. Mr. Speaker, as a member of the minority also in opposition to the conference report, I ask unanimous consent that the gentleman from Texas (Mr. BONILLA) yield to me 10 of his minutes that I may be allowed to control.

The SPEAKER pro tempore. Prior to entertaining that request, under clause 2(a) of rule XXVIII, recognition of a Member opposed does not depend on party affiliation but is within the sole discretion of the Chair, page 759 of the manual.

The gentleman from Texas (Mr. BONILLA) is senior to the gentleman from Texas (Mr. REYES), and therefore the gentleman from Texas (Mr. BONILLA) is recognized to control 20 minutes of debate.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I want to get this straight.

I will control 20 minutes, the gentleman from Texas (Mr. HALL) will control 20 minutes, and the gentleman from Texas (Mr. BONILLA) will control 20 minutes of which I think he is going to yield 10 minutes to the gentleman from Texas (Mr. REYES).

The SPEAKER pro tempore. That is accurate. That is the understanding of the Chair.

Mr. BONILLA. Then, Mr. Speaker, I ask unanimous consent to allow the gentleman from Texas (Mr. REYES) to also have 10 minutes of my time to control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1145

#### PARLIAMENTARY INQUIRY

Mr. BECERRA. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. DICKEY). Will the gentleman from California please state his parliamentary inquiry.

Mr. BECERRA. If I heard the Speaker correctly, the allocation of time is being distributed two-thirds to those who are in support of the bill and one-third to those who are opposed to the bill.

The SPEAKER pro tempore. That is correct.

Mr. BECERRA. Mr. Speaker, my parliamentary inquiry is, is it not the tradition of the House to divide the time equally between those who are in support and those who are opposed?

The SPEAKER pro tempore. The House is now operating under clause 2(a) of rule XXVIII, and that is what is provided.

#### GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I might consume of my 20 minutes.

H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act would grant the consent of Congress to the low-level radioactive waste disposal agreement reached between the States of Texas, Maine, and Vermont.

When Congress passed this Act back in 1980, it was a part of a broader general agreement whereby the States are responsible for the disposal of low-level radioactive waste while the Federal Government is responsible for high-level radioactive waste disposal. Since 1980 when the act was passed, 41 States have received the consent of Congress for their disposal compacts.

The vast majority of low-level radioactive waste do not even require the use of special containers to protect against threats to human health. They include a wide range of materials, medical isotopes, university research wastes, and low-level wastes from nuclear power operations. In most cases, the radioactivity in these materials would decay to the point where there is no significant, no significant risk to human health after about 100 years.

With the decision to put low-level waste responsibilities at the State level, the obligations of the Federal government have always been fairly limited. Our primary responsibility is to ensure that the compacts comply with the Federal Low-Level Waste Act. The Texas Compact meets this test without a doubt. The State legislatures and the Governors of Texas and Maine and Vermont have met their obligations under the Low-Level Radioactive Waste Policy Act. It is now our responsibility as Members of Congress to support the States in this decision.

The conference agreement accomplishes this. It proposes a clean bill which does not include the amendments adopted during the floor consideration in the House and the Senate. This provides the States of Texas, Maine, and Vermont with the same flexibility enjoyed by nine other compacts Congress has already approved. It maintains an even playing field for the entire compact system. It is the right thing for the House to do at this time.

The gentleman from Texas (Mr. BARTON) and the gentleman from Texas (Mr. Hall), the sponsors of the legislation, deserve a great deal of credit for their strong leadership and capable effort in moving this bill and this conference report forward. I strongly sup-

port the conference report and encourage its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself for 4 minutes.

Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 629, the Texas-Maine-Vermont Low-Level Radioactive Waste Compact. This is an oft told story because we have had many speeches on this floor. We have had many favorable votes.

This is not just an important bill to the three States involved, this is an important bill to the entire United States and to any of those who want a safe disposal of low-level radioactive waste that is produced within their own borders.

As my colleagues know, this material is produced by hospitals, universities, industries, power plants, you name it. Universities that teach industries that create jobs, and jobs mean dignity. We know all of that. We have talked about that before here.

This is pursuant to a plan set out by Congress followed by other States successfully, voted on in the various States, signed by the governors, debated by the legislators and passed. They have had public hearings galore. I think absent this consent we seek today to this interstate compact, it is not likely that a facility to take care of these three States' waste or material could be built anywhere without this compact.

This fulfills the plan that was envisioned by Congress some time ago and requested by the States when the legislation was enacted back in 1982. It permits States to join together to select a site to design an interstate agreement and one that works for them.

Congressional approval makes it possible for the States within a compact to control, and that is a very important feature, to control how much waste is accepted at the facility and for whom. The application controls that. That relegates it to a set amount. That set amount can only be changed by the commission set up in the law. That commission is controlled by the State where it is deposited because they have six votes. The other States have two votes. But it is a joint effort by all three.

This legislation like the nine compacts Congress has previously approved permits these three States to exclude waste from other nonmember States. That is very important. It is important to our State, but it is important to the total thrust of the compacts, because it alludes to other States and gives them the same right and the same opportunity to exclude if they enter into a compact.

It also allows the compact, if it chooses, to accept waste if so doing is in keeping with the purposes of the thrust. For example, taking out of region waste for a limited period of time might reduce operating costs. But that

is not our decision. That is the decision to be made at the local level, at the State level, by whoever is in control of the local level and the State level at the time that decision is made.

The key is letting the compact make that decision and preserving the flexibility to do so. That is what this legislation was passed for. I think that is what H.R. 629 preserves.

I thank the committee for its attention. I thank all of these Members for their votes of the past. I urge them to revoke as they have in the past. Get this behind us. I would say this to the gentleman who represents the area where the site is: He has fought a valiant fight. He got here after many of the debates had been held and decisions have been made.

But I have the same situation here. I have a wonderful friend who has a bad amendment, and we are going to try to turn back that amendment. But in doing so, we do not want to turn back the support that this fine Member has for the rest of the State, the great battle he has put up for his district. I admire him, yet I ask Members to support this thrust we are asking for today.

Mr. Speaker, I reserve the balance of my time.

Mr. BONILLA. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, what we are talking about here is a basic fundamental right as Americans that we recognize for generations that has made our country what it is today standing above and beyond any country in the history of this planet; that is, the rights are of those of us in communities to determine our own future and to determine our own destiny and our own communities.

Also the right to private property and the right to have that property held sacred to us and that the value and that the use of that property is controlled as long as you are not hurting your neighbors and your friends that are existing adjacent to your property to allow that property to prosper over the years and to use it as you see fit.

Those rights have been threatened, Mr. Speaker, by this compact, but more importantly by the State legislature at the turn of the decade that decided, along with Governor Ann Richards, to implement this low level nuclear dump site in the community of Sierra Blanca. The community opposed this strongly. I have the names here, which I will read at a later time, of 20 counties surrounding Sierra Blanca where this site was picked by Governor Richards, former Governor Richards, and the State legislature.

We have discussed before, as my friend, the gentleman from Texas (Mr. GREEN) has pointed out, that this issue we are voting on today has no reference at all to the site picked by the State legislature and Governor Richards many years ago.

We are simply trying to do the right thing for the people of the community

around Sierra Blanca and surrounding counties by trying to stop this thing at the final checkpoint before it is allowed to be implemented.

The reasons for the opposition are very simple. There is unstable ground. The geology of the area has been reviewed over and over and, in fact, two administrative law judges who have looked carefully at this situation have determined that the earth is unstable in this area.

How would you like it, whether you live in Manhattan or you live in Cleveland or you live in San Francisco or you live in West Texas where earthquakes have occurred, how would you like it if suddenly someone said that right next door they are going to start putting in containers, low level nuclear waste, that might leak out if the ground were unstable enough that it might threaten your property and your water supply and the future of the environment for the children that are growing up in this particular area?

So the threat to the environment is real and has, in fact, back home in Texas, been documented by two administrative law judges that are recommending that now in the capital of Austin, the agency in charge of regulating this issue take this into consideration in the strongest way or in fact recommending that this not be accepted.

The economic impact tied to the environment is also a very big issue that these administrative law judges have pointed out. So you can see why these two threats to the people of this community would have a huge impact on their ability to govern their own future and their economic growth surrounding the Sierra Blanca area and the counties surrounding that area as well.

So we have a chance to do here in the United States Congress what again the State legislature at the turn of the decade and former Governor Ann Richards choose to dump on the people of West Texas, and we are the last hope for the folks of Sierra Blanca and surrounding counties.

I have a list here, Mr. Speaker, in case there is any doubt of anyone in this body as to how the folks in West Texas feel about this: El Paso County, Presidio County, Jeff Davis County, Culberson, Val Verde, Webb, Starr, Hidalgo, Cameron, Zapata, Reeves, Brewster, Ward, Sutton, Kimble, Kinney, Crockett, Pecos, Maverick, Ector. We are almost getting started on the entire list of counties in the State of Texas that have passed resolutions, I have the dates here on which they were passed, opposing building this dump that threatens the environment and their local economies.

We also have resolutions passed by 13 additional cities, municipalities in this area as well, that are opposed to this.

We also have a problem with our neighbors in Mexico whom we have a treaty with to work together on environmental issues, the Treaty of La Paz, that designates clearly that we have to

work with folks when it means that their environment ought to be threatened as well.

We would not want them dumping nuclear waste within a few miles of the Rio Grande on the Mexican side. They also have expressed to us that they have a concern about this dump being constructed.

So I ask my colleagues in this body to oppose this conference report. It is a threat to their rights to control their own destiny, the folks back in Texas, and their communities. It is a threat to their private property rights, and it is something that we have an opportunity again to fix something that the former governor and the State legislature, at the turn of the decade, dumped on the people of West Texas.

Mr. Speaker, I reserve the balance of my time.

Mr. REYES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague, the gentleman from Texas (Mr. BONILLA) because this is a tough issue but it is an issue that I find easy to defend because it is the right issue for our community and the area that we represent.

I rise in opposition to conference report on H.R. 629 because, as I mentioned earlier, I do not believe that we should be considering a conference report that ignores the will of the House and the Senate. I do not believe we should be considering a conference report that has stripped a key provision from the bill that both the House and the Senate had adopted.

Unlike both the House and Senate passed measures, the conference report does not include a provision that would restrict waste at the selected site to the 3 States, the States of Texas, Maine and Vermont.

□ 1200

As far as I am concerned, that, in itself, is reason enough not to move this bill forward.

But if we need additional reasons to vote against this conference report, I would like to enter into the RECORD an article that has already been mentioned by my colleague from Texas (Mr. BONILLA) that was printed in the Dallas Morning News on July 8.

As we can see in this article, two Texas hearing examiners recommended against licensing a low-level nuclear waste dump in far West Texas, at Sierra Blanca. The hearing examiners explained that the State Low-Level Radioactive Waste Disposal Authority did not, and I repeat, did not adequately determine whether a fault under the site posed an environmental hazard or not.

The examiners further stated that the authority did not adequately address how the proposed facility might harm the quality of life in that area, the quality of life of a constituency that we represent. Their protection, their interests are why we are opposed to this conference report.

These findings are further evidence that the proposed radioactive waste dump is a potential environmental hazard which has not undergone adequate study by various State agencies.

Mr. Speaker, I ask this body if Texas State regulators do not support the Sierra Blanca site, why should we jeopardize the health and the well-being of people in West Texas? I do not care how many times supporters of this bill say that a vote for H.R. 629 is not a vote for the Sierra Blanca site. It simply is a vote for that site. They know it, I know it, and the people of Sierra Blanca and El Paso know it.

Mr. Speaker, by now, having heard the argument, even you know it. If H.R. 629 becomes law, it will endanger the safety and the welfare of the community and the people who live there.

Mr. Speaker, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON), the author of the bill.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from Colorado for yielding me this time.

Mr. Speaker, I want to try to very quickly go through what I think are the substantive points in this debate. I want to try to address some of the comments the gentleman from Texas (Mr. BONILLA) and the gentleman also from Texas (Mr. REYES) have already raised and, in advance, some of the comments that perhaps the gentleman from Texas (Mr. DOGGETT) will raise when he speaks in opposition.

With regards to the fact that the conference report is coming back as a clean bill, if we look at the House RECORD of October 7, 1997, on page 8531, there is a colloquy or a dialogue between myself and the gentleman from Texas (Mr. DOGGETT) where I agreed to accept his amendment, but I did so with the reservation that we would check with the governor of Texas and let the representatives of Vermont and Maine check with their governors, and if they opposed the inclusion of the Doggett amendment, we reserved the right to strip that out in conference. The gentleman understood that and accepted it at the time.

Well, we did check with Governor Bush in terms of Texas, we checked with the governors of Maine and Vermont, and they decided that they did not want to accept any amendments, because no other compact had been amended on the floor of the House or the Senate previously when those compacts had been agreed to. So the conferees did strip out the Doggett amendment.

If Governor Bush and the other State governors had accepted it, we would have accepted it and reported it back.

Let us talk about some of the environmental concerns that have been raised. We have talked about some water table concerns. The water table at the site is 700 feet beneath the site.

The groundwater there moves very slowly. There is no analysis that says there could be groundwater contamination at all, period.

With respect to the earthquake, and administrative law judges did state in their denial of the site a specific request that the earthquake analysis had not been adequately addressed. But they also said that that, in and of itself, was not a reason to deny the site.

I want to go through some of the earthquake site-specific issues. The strongest earthquake that has ever been recorded in Texas history is 6.4 on the Richter scale. This site is designed to withstand an earthquake of a magnitude of 6.0 directly beneath the site. The last time they can calculate there was ever an earthquake in the area was between 750,000 and 12 million years ago, Mr. Speaker, 750,000 and 12 million years ago. That is 730,000 years before the pyramids were built in Egypt.

The earthquake seismic activity rating for the region is, one, the same as Washington, D.C. This Capitol could not withstand an earthquake of 6.0 on the Richter scale directly beneath it. So I think there are some issues there. But again, even according to the administrative law judges' recommendation, in and of itself, the seismic concerns—

Mr. BONILLA. Mr. Speaker, will the gentleman yield?

Mr. BARTON. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, I appreciate the gentleman yielding.

I just want to remind my friend about the earthquake that struck in West Texas, I believe, if I am not mistaken it was just 2 years ago and there was damage caused. It was not right at this location, but it was not far away, in the Alpine area that, as the gentleman probably knows, is just a few miles away.

Mr. BARTON of Texas. Mr. Speaker, a few miles away. My understanding is it was over 100 miles away, and it was less than 3 on the Richter scale. That is my understanding, but I could obviously be corrected.

Mr. BONILLA. Mr. Speaker, if the gentleman will yield further, the earthquake did cause damage, enough to cause concern out in the West Texas area. And, as the gentleman knows, even though it covers vast distances that community is considered 100 miles up the road. As my friend knows, in that part of Texas, that is, in fact, just up the road.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, it is just up the road, I will admit to that, my good friend. But this site could withstand a 6.0 magnitude effort quake directly beneath it and sustain no damage; and, again, there was been no earthquake of this magnitude in the region in over 750,000 years.

Let us talk about local support. My good friend (Mr. BONILLA) waved and alluded to a great list of Texas coun-

ties that oppose this site, and I have no doubt that that is a true list. In this county, the local elected officials that ran for reelection in the last local election supported the site and were re-elected.

Recently, in the office of American Statesmen there was an open letter asking that the site be approved signed by over 100 local residents, many of them elected officials. So I think that there is support for it in the region.

Finally, Mr. Speaker, this bill passed the House 309 to 107 back in October. Based on the rule vote that we just had, it is hopefully going to pass with that order of magnitude again in the next 30 or 40 minutes. We need to pass this bill; we need to let Texas, Vermont and Maine go about their business; we need to let the State of Texas go ahead and address the concerns that have been raised by the administrative law judge.

In conclusion, I want to read the conclusion of the administrative law judge's report. This is on page 7 TNRCC, docket number 96-1206-RAW. It says, and I quote,

If the Commission approves the application, the draft license should be modified to clarify that the facility could accept waste containing a total of no more than 1 million curies of radioactivity over the 20-year license term. With this clarification, the performance assessment, including the consideration of nonradiological impacts and accident scenarios, is adequate.

So the administrative law judge did not approve the site, but they did not disapprove it. They said that there are some concerns that need to be addressed by the Licensing Commission in Texas, and if those concerns were addressed, it should be approved.

Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, I rise in support of the conference report for H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act.

I believe this bill is vital to protecting Texas from increasing amounts of out-of-State waste by entering into the compact. By ratifying this agreement, Texas will receive added protection to stop other States from shipping their low-level radioactive waste into the State. Texas will maintain complete control over the disposal site. Only Texas will decide whether or not another State may join the compact.

Mr. Speaker, at this time I would like to enter into the RECORD an article from the El Paso Times where Governor George Bush, the current governor of the State of Texas, says that he will ask the legislature to adopt such legislation when they meet in 1999, assuming, of course, he is re-elected governor.

[From the El Paso Times, June 26, 1998]  
BUSH WANTS NUCLEAR WASTE LIMIT FOR  
DUMP

(By Gary Scharrer)

BROWNSVILLE.—Gov. George W. Bush will ask Texas lawmakers to pass a law next year making it absolutely clear that only Vermont and Maine may export nuclear waste to the Lone Star State under a compact moving through the U.S. Congress.

"I think we ought to take this to the floor of the state House and Senate and say, 'We will limit future (compact) commissioners to Maine and Vermont and Texas,'" Bush said Thursday at the start of the 16th annual Border Governor Conference.

Bush said he agrees with the spirit of an amendment by U.S. Rep. Lloyd Doggett, D-Austin, and U.S. Sen. Paul Wellstone, D-Minn., that would restrict the proposed compact to low-level nuclear waste from those three states. But the nuclear power industry opposes the amendment, which it contends will delay opening of the state's low level nuclear waste dump near Sierra Blanca.

"If it passes without that amendment, I think it makes sense for the governor to propose a bill out of the Texas Legislature that forever limits low level radioactive waste to Texas, Maine and Vermont," Bush said.

Opponents of the proposed dump site 90 miles southeast of El Paso contend that for West Texas stands to become a national dumping ground if the compact passes without restrictions.

A majority of appointed compact commissioners could decide to accept nuclear waste from other states, according to the pact already approved by the three states.

More than 50 Mexican journalists are covering the Border Governors Conference. The issue of low-level waste dominated Bush's opening-day news conference.

Bush assured Mexico's news media that Texas won't open the dump "unless it's safe."

The Texas Natural Resource Conservation Commission is expected to act later this year on a license application necessary for opening and operating the dump.

Some elected officials in Mexico contend the planned dump will violate the La Paz Agreement negotiated by the two nations in 1983 to prevent and eliminate pollution sources within 52 miles of the international border. The Sierra site is about 16 miles from the Rio Grande.

Bush said he's already received a legal opinion indicating the proposed dump does not violate the La Paz Agreement. Those who disagree need to appeal to federal officials, he said.

"This is a federal treaty. I would strongly urge Mexican officials take it up with federal officials in Washington, DC, to determine whether or not the treaty negotiated between federal governments pertains," he said.

Governors from Texas, New Mexico, Arizona and California and most governors from the six Mexican border states are at the two-day conference.

Water and border crossings probably will get the most attention, Bush predicted.

Texas and bordering Mexican states face the second drought in three years. A plan used two years ago to conserve and share water is likely to be used again this summer, Bush said.

Both he and Republican Arizona Gov. Jane Dee Hull said a proposed larger border-crossing card won't work because Mexican citizens can't afford it.

"The idea of the card is fine," she said. "I like the high-tech idea, but it is far too expensive for the Mexican family to afford. And I don't believe we will be able to imple-

ment it this quickly, . . . I have suggested that they delay implementation."

A laser card would cost \$45 and would be good for 10 years, but doesn't include photo, passport and visa costs.

"It's very important," Bush said, "for the U.S. federal government and the State Department to understand how important daily traffic is between our sister cities along the border, and we ought to make it easy for people to receive a modern card.

"The idea of modernizing border-crossing cards is a good idea. But to make it very expensive and difficult to obtain is not a good idea."

Mr. BENTSEN. Mr. Speaker, just to make it clear, both Governor Bush, a Republican, and former governor Ann Richards, a Democrat, have supported this, as well as the Texas State legislature, which is a split legislature between Republican and Democrat. By entering into the compact, Texas can keep other out-of-State compact waste from entering into our State. Currently, 41 other States have entered into these types of compacts to prevent further importation of out-of-State waste.

Now, with respect to the issue of the site, as was raised by my colleague from North Texas, the question of the administrative law judge as to the suitability of the site is again an issue for the State to decide. What we are talking about here is the issue of the compact with Maine and Vermont, and that is what we ought to concern ourselves with.

It is very important to the State of Texas as it relates to the low-level radioactive waste that we produce in my district at the Texas Medical Center all across the State of Texas. This is an issue that the State will decide. The bill establishes a structure for the State to decide, and it limits the amount of out-of-State waste that can come in.

So I would urge my colleagues to do as they have done in the past and support the conference report.

Mr. BONILLA. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from San Antonio, South Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in opposition to H.R. 629, which is the Texas-Maine-Vermont low-level radiation waste dump bill. This bill, as originally written, would allow waste dump operators to dispose of waste in Texas from States other than Texas, Vermont and Maine. That is simply unacceptable.

I served in the Texas legislature; and, in fact, of the Members that are here, I am one of the few that voted for the bill in 1993 when the low-level waste radioactive compact was approved. At that time, supporters of the bill insisted that the only waste generated of the three-member States would be disposed of at that site. It was on that understanding to the legislators that it was approved that only those three States would be able to dump in Texas.

The House and the Senate have both passed amendments by my colleague

from Texas and the Senator from Minnesota to require that only that waste generated in those three States be dumped there.

Now, this is the first time, and I find it very unconscionable, that an amendment that is both put in on the House side and on the Senate side would now all of a sudden be stripped from both sides. Now, if my colleague from Texas indicated earlier that only waste from those three sites would be acceptable, then why not accept that amendment? Because we know otherwise, that basically they want to be able to dump from throughout the States; the other 49 States will be able to dump in Texas.

Furthermore, I urge inclusion of the environmental justice amendment that was put on the Senate. This allows a party to bring suit in the case of discriminatory waste dumping. This particular locality has a major concentration of Mexican-Americans. I believe this is a safeguard for residents of the Sierra Blanca, and it is necessary in light of the predominantly minority population in that region where the facility is located.

Supporters insist that the site is not finalized, but, in all honesty, they have already picked their site, and the judges have ruled against the site and they have ruled.

I would disagree with my friend from Texas, there has been an earthquake there. I was in the Texas legislature prior to 1993 when we allocated some resources because of some structural damage on some State facilities in the region. So we need to honestly look at this issue and take it into consideration.

Mr. REYES. Mr. Speaker, could I ask as to the availability of time that we all have?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. DAN SCHAEFER) has 10½ minutes remaining; the gentleman from Texas (Mr. HALL) has 14 minutes remaining; the gentleman from Texas (Mr. BONILLA) has 2½ minutes remaining; and the gentleman from Texas (Mr. REYES) has 7½ minutes remaining.

Mr. REYES. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas; excuse me, the gentleman from California (Mr. BECERRA). He wants to be from Texas.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding, but if this bill goes through, I definitely would not want to be from Texas.

I know my colleagues have heard quite a bit on this. I think it is unfortunate that, once again, we are seeing communities that are poor, oftentimes unrepresented well in the Congress because they may not be sophisticated politically; they may not have a lot of money to give to campaigns, or for whatever the reasons, now again being dumped upon.

If I may, rather than speak words that I believe will be spoken by others of my colleagues here, let me read a letter that was just yesterday issued by

the largest Hispanic national organization in the country, the League of United Latin American Citizens.

□ 1215

LULAC goes on to say,

The selection of a poor Mexican-American community (which is already the site of one of the largest sewage sludge projects in the country) brings to mind serious considerations of environmental justice . . . The decision Congress now faces on this matter cannot be made in a vacuum, ignoring serious environmental justice questions that have been raised about the site selection process. These unjust procedures are an apparent contradiction of the 1994 Executive Order that firmly upheld environmental justice.

LULAC would caution Congress not to be complicit in what has become, whether intentional or not, a repulsive trend in this country of setting the most hazardous and undesirable facilities in poor, politically powerless communities with high percentages of poor people of color. Only a vote against the Texas, Maine, and Vermont Radioactive Waste Compact conference committee report will ensure that this trend is not extended into Hudspeth County, Texas.

I would urge all Members to heed what one of the largest and oldest national organizations, representing a very large section of this country, is saying, not because of what it says, but because of what this bill will do to the people that live in those areas.

We are looking at affecting the lives of more than 5 million people that live in that area of Texas, and I would hope that my colleagues would look a little closer before moving forward on a compact that would jeopardize the safety not just of people, but mostly of children.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I listened to my colleagues harangue here about some of the things that are going on. They were in the legislature and voted on that in Texas, and so did I. I was there at the time.

I hear people bad-mouth Ann Richards, our Governor at the time. She was of the other party, but I want to tell the Members, I thought Ann Richards handled the waste company issue well, and she and George Bush support this compact. To say that it is not the right thing to do is crazy. I do not know where these Members are coming from. If they voted for it, they ought to be for it. It is a State matter, not a Federal matter.

For the gentleman to sit there and say that we have to determine our own destiny, and then turn around and say it is up to the Federal Government to put our destiny at risk, it is not, it is up to the States. The States made a compact. Three States made a compact, Vermont, Maine and Texas.

To not approve that compact, which is in a conference report now, and it

has been passed through both Houses, it is time for Congress to pass this compact so that those three States can get on down the road, and so that, in spite of what my colleagues are saying, Texas, Maine, and Vermont can store their low-level radioactive material. Because if we do not do it, Texas can be forced to take waste from other States in the Union, I am told. I think that is correct.

Also, to sit there and talk about Mexico, when they are one of the worst violators of the environment I have ever seen, that they are going to oppose us putting clean, well-packaged waste into the ground, is crazy. And then for somebody to bring up the idea that we are attacking a low-wage earning community is also ridiculous. I cannot believe it. That area was picked because of the soil, because of the ground around it, because it is a safe storage place.

The way we package these low-level radioactive items today, it is not dangerous. Members ought to go out to Nevada where they tested nuclear weapons. That is real hazard. I happened to be out there when they were testing them, and flew through some of those things as part of a test. I am not dead.

I think that anything that Members try to say about this compact as far as earthquakes, floods, water contamination, et cetera, is just crazy. It is time we voted for this report, the way it should be. It is up to the Congress to confirm what the States have asked. I urge consideration and passage.

Mr. HALL of Texas. Mr. Speaker, I yield 3½ minutes to the gentleman from Vermont (Mr. SANDERS), who represents one of the States.

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of the conference report. Let me say a few words on process, and then a few words on substance.

In terms of process, what is important for everyone to understand is that this compact bill has been passed overwhelmingly by the legislatures of Texas, Maine, and Vermont, and the legislation is strongly endorsed by the Governors of Texas, Maine, and Vermont.

In fact, in Vermont the legislature approved this legislation by voice vote in the State Senate and by a 3 to 1 margin in the House. In Texas, the Texas State Senate approved this legislation 26 to 2, while the Texas House approved it by voice vote. In Maine, both the House and Senate approved the bill by wide margins. Under a statewide referendum held in Maine, the legislation passed by better than a 2 to 1 margin.

This bill, Mr. Speaker, is supported by both Senators from Texas, both Senators from Maine, both Senators from Vermont. It is supported by the entire Maine delegation in the House, all two Members; the entire Vermont delegation, me; and as I understand it,

two-thirds of the Texas House. So there is opposition from some Members of the Texas House here, but two-thirds support this legislation.

Mr. Speaker, this compact is not a new idea. Since 1985, nine interstate low-level radioactive waste compacts have been approved by Congress, encompassing 41 States. I think all we are saying, if this approach is valid for 41 States in nine compacts, it certainly should be valid for Texas, Maine, and Vermont. That is the process.

Let me say a few words on substance. Here, my views may be a little different than some of the people who are supporting this compact. I am an opponent of nuclear power. I think the nuclear power industry did us a disservice many, many years ago when they said, let us build the plants, except they forgot to tell us how we were going to get rid of the waste; a slight little problem.

Now, all over this country, serious people, environmentalists, are worried, how do you get rid of low-level radioactive waste, which we are dealing with here? How do you get rid of high-level waste? That is a very serious problem.

If I had my druthers, I would close down every nuclear power plant in America as quickly as we safely can. But the issue today is something different. The reality is, we have nuclear power plants. We have universities and hospitals that are using nuclear power. The environmental question today, therefore, is how do we get rid of that low-level waste in the safest possible way? In my view, that is what this legislation is about. I think the evidence is pretty clear that Texas is in fact the best location to get rid of this waste.

The last point that I would make is there is nowhere in this legislation that talks about a specific site. Nowhere will we find that. We are not voting on a site. That decision is left to the authorities and the people of the State of Texas.

Mr. HALL of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN), another of the Member compacts.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in strong support of the conference report to H.R. 629, and urge all Members to support this agreement. I have spoken on this issue now many times in the past. The issue is still the same. This is simply the opportunity for Texas, Maine, and Vermont to do what 41 other States have already done, enter into a compact for the disposal of their low-level radioactive waste.

Last November the House overwhelmingly approved this compact by a vote of 309 to 107. The Low-Level Radioactive Waste Act places the responsibility for the disposal of low-level radioactive waste on the States. In order to dispose of waste safely and properly, States are allowed to enter into compacts.

Under the Act, the States of Maine, Vermont, and Texas have crafted a compact to meet their needs. Maine's voters approved the compact by a 3 to 1 margin at referendum, so it has not only been approved by the Governor and by the State legislature, but also by the people voting at referendum. Over the past years, several years, Congress has approved nine such compacts covering 41 States, and the time has come to add to that list.

We have heard Members stand up and argue that amendments were stripped in conference, and therefore the bill should be voted down. But not one of the other nine compacts, not one of them, had amendments to their agreements. Not one of them, in not one of those cases did the Congress try to impose on the parties that were agreeing additional requirements.

In particular, the amendment that has been proposed, we will not find that as part of any of the other compacts. This compact is like the others. It does not need a different amendment, and it should not have it.

I would say this, as well. We are opposed to this amendment because we have checked with the Governors of all three States. They are opposed to the amendments. There is no question that if this agreement, if this compact is amended here, it has to go back to the States and we start this process all over again. That spells delay.

Frankly, we have had enough delay in this process. We need to move ahead today. We need to vote to approve this compact. We do not need delay and added cost due to likely litigation. The compact was the result of years of negotiation and good faith by the three member States. They do not deserve additional costs and delays due to unwanted amendments.

Mr. Speaker, we must move this issue forward and allow Texas, Maine, and Vermont the opportunity to dispose of their low-level radioactive waste. I urge all Members to support this legislation.

Mr. HALL of Texas. Mr. Speaker I yield 2 minutes to the gentlewoman from Dallas, Texas, (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, we are at a crossroads. All of us support cancer treatment and X-rays. For the most part, much of that is done in our large university hospitals and medical centers and urban areas. We need to put the waste somewhere. It cannot be outside every doctor's office door or every hospital door. We must pick places that are sparsely populated.

There is no good answer, except we are not willing to sacrifice many of the scientific findings that we are using now to save people's lives. It is much more hazardous to have it scattered out all over very heavily populated areas.

If I thought for a moment that this would endanger the lives of the people that live somewhere in the area, in a

very sparsely populated area, I would not be standing here. It is never comfortable to stand and speak against people that you stand with most of the time. But they are not going to be happy. If I represented the area, I would be standing in the same place they are standing, but I am representing a whole lot more people who are not willing to sacrifice what creates this waste.

None of us are willing to sacrifice cancer treatment, none of us are willing to sacrifice x-rays for diagnostic treatment. We are simply not going to do that. We must make hard choices, but we must find the best places that we can to deposit this waste. This is one of the best places we can come up with. It is sparsely populated, out in the middle of nowhere. Texas has more space than most States. But we are going to limit it to these two States.

The best environmental Governor that Texas has ever elected is Ann Richards. She stands for this legislation. As a matter of fact, she was very progressive in looking out for the environment in Texas.

□ 1230

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I thank the gentleman from Colorado (Mr. DAN SCHAEFER) for yielding me this time.

Mr. Speaker, this legislation has been before this body numerous times in the past. This legislation represents years of negotiation between the States of Maine, Vermont, and Texas. It is in each of those States' interest. The people in those States have voted for it. The Governors of those States support this. This Congress has approved compacts for 41 other States. This is no different.

I appreciate the concerns that have been raised, but those concerns will be addressed in the process. Each one of our Members knows that there will be an environmental impact statement. Just by voting for this approval for the process to move forward does not mean that the environment and the people and the public hearings that are to ensue will not occur. They will occur. So the public will be involved. The process will have the environmental safeguards, and the right siting will take place in regards to the public and the environment. To suggest otherwise is not to be accurate to the facts that take place.

Mr. Speaker, it is in our State's interest, it is in Vermont's State interest and it is in Texas' State interest. By law, Texas has to have a facility for the waste that it is producing. The States of Maine and Vermont are providing the resources with a low impact amount of waste in order to establish the compact, so that each one of our States will not be open to a site or trash or other things coming in from all over the country. That is why we were told and given legislation on a national level to form these compacts.

We are following through on the legislation that was initially passed in 1985. We are complying with the Federal legislation in the best interest of the people of our States. We ask for Congress to reaffirm its support that it had overwhelmingly supported in the past and to maintain that support and also to assure the citizens of the public hearings, the environmental impacts, and the process that will be taking place after this vote has been completed.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN), the chairman of the Texas Democratic delegation, who would inform the Chair that the Texas group is meeting; and I suggest that he take the gentleman from Texas (Mr. REYES), the gentleman from Texas (Mr. RODRIGUEZ), and the gentleman from Texas (Mr. DOGGETT) with him.

(Mr. GREEN asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, I thank the gentleman from Texas (Mr. HALL) for yielding me this time, and I will be glad to take my three colleagues to lunch today for our weekly luncheon.

Mr. BARTON of Texas. Mr. Speaker, if the gentleman would yield, does that include Republicans?

Mr. GREEN. Mr. Speaker, the gentleman may come as our guest.

Mr. BARTON of Texas. There is no such thing as a free lunch.

Mr. GREEN. Mr. Speaker, I rise in support of the conference committee regard.

Mr. Speaker, I have a prepared statement, and talking about the history of it, we have heard that already. Again, if we do not have a compact, then a State site in Texas will be subject to waste from all over the country.

The policy was developed in the State of Texas. I would not have picked Sierra Blanca if I had a vote, but I did not have a vote when I was in the legislature or a vote now as a Member of the House. That is going to be decided by the people in the legislature who confirm the people who make that decision and the governor appoints them.

Let me talk about some of the debate that we have had. One, the interstate commerce clause requires that Texas would take low-level waste from everyone if we do not have a compact. My colleague from California is opposed to it because of the Sierra Blanca location and the poor community. I represent a very poor community in Houston, Texas, and we have some of the same problems.

A statement, the letter from LULAC opposing the site, I am a member of LULAC and work with my local councils in Houston on a lot of issues and I share their concern. But, this is not the venue for their opposition. Granted, if they defeat it here, they could still create a compact and we could have it for

Texas, but it would be for all the country.

Mr. Speaker, I notice that the State of California does have a compact and I do not know where their site is. But I was wondering if it was in a site that was also a rural area that was sparsely populated, compared to an urban area. That is why this is something that has been done by this Congress many times before, allowing States to join together to dispose of these low-level nuclear wastes.

I have a district in an urban area and we have this material all over our district right now and we would like to have a permanent place for it.

Mr. Speaker, I rise in support of the Conference Report on H.R. 629, the Texas Compact Consent Act. This bill grants Congressional approval to the proposed Texas, Maine, and Vermont compact for low-level radioactive waste disposal and deserves the quick support of the House.

As my colleagues know, the national policy for managing low-level radioactive waste is spelled out in the Low-Level Radioactive Waste Policy Amendments Act of 1985. This policy was developed by the states and passed by Congress, with overwhelming bipartisan support.

The objective of the policy is to provide for the safe, permanent disposal of the nation's low-level waste.

Under the terms of the Texas-Maine-Vermont compact, low-level radioactive waste produced in each state will be carefully disposed at a single facility in the State of Texas. The waste will be transported from the hospitals, university research centers, utilities or other waste producers in each state to a safe, permanent disposal and storage facility which will be built in Texas.

It is very important to understand that H.R. 629 does not designate a site for the Texas disposal facility. In the Low-Level Radioactive Waste Policy Amendments Act of 1985, Congress clearly reserved for the states the authority to decide where low-level radioactive waste facilities would be built within their borders. Even though H.R. 629 does not designate a specific site for the Texas facility, federal and state law requires that any low-level radioactive waste facility built by a state must be engineered to withstand any potential natural disasters that might occur at the chosen site.

Much has been said about the proposed site for the waste disposal facility. In fact, a permit to build a waste disposal facility in West Texas has been requested from the Texas Natural Resources Conservation Commission. If the Commission finds that the permit meets all the necessary requirements, it will grant the permit. If the Congress does not approve this bill, under the Interstate Commerce Clause, Texas must accept low-level radioactive waste from other states. H.R. 629 will allow Texas to limit who sends waste to the facility and be in compliance with the Low-Level Radioactive Waste Policy Act.

With this compact in place, Texas will be able to limit access to its facility to only those states that are signatories to the compact—Maine and Vermont. The compact makes it possible to manage Texas' facility in an orderly, effective manner. Without the compact, the State of Texas would have no effective control over access.

The Texas, Maine, and Vermont compact is an excellent arrangement for the three states. It received overwhelming bipartisan support in the state legislatures of the three states. At a time when state budgets are constrained, the ratification of this compact will result in shared cost for the construction and subsequent operation of the low-level waste disposal facility.

Since 1985, the Congress has approved nine compacts which now include 41 states. It is vitally important that we move forward with the approval of the Texas-Vermont-Maine compact. I urge my colleagues to support this very important bill.

Mr. REYES. Mr. Speaker I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. TURNER).

(Mr. TURNER asked and was given permission to revise and extend his remarks.)

Mr. TURNER. Mr. Speaker, it is not every day that we see the Texas delegation on the floor of this House divided. Normally, we are a group who hangs together. It is true, however, that six of our members, out of 31, have opposed this compact, I think primarily because it is a local issue with them, and I understand that. I fought a low-level nuclear waste disposal facility in my legislative district when I was a member of that body in 1981, and I understand where they are coming from.

But I think it is important for the other Members of this body to understand that, though six Texans out of 31 oppose this compact, that this compact really is not about the selection of the site. In fact, under this compact, the State of Texas and the Low-Level Nuclear Waste Disposal Authority could select any site. It just so happens that the Sierra Blanca site is the site now under consideration. But that is a matter that will remain under the control of the Low-Level Nuclear Waste Disposal Authority in Texas.

Mr. Speaker, I want to share a little bit of history. The State of Texas created a Low-Level Nuclear Waste Disposal Authority in our State in 1981 when I was a freshman member of the Texas House. We did it because we were having an increasing problem at our medical facilities and with our utilities and finding out where we could permanently dispose of low-level waste. What we decided to do was create a State commission to select a permanent site. It was the right thing to do. It was approved unanimously by the legislature.

Later, the Congress came along and created a statute that said that States could form compacts, compacts for the purpose of uniting States together that would store their waste in one site facility, a means whereby a State like Texas can prevent out-of-State waste from coming into Texas.

This Congress passed that bill, and 41 States have already taken advantage of it, and nine compacts have been ratified by this Congress. Texas, Vermont, and Maine come today asking that they be the tenth compact to be approved. The Texas legislature overwhelmingly approved this compact.

Mr. Speaker, I urge the Members of this body to join with the majority of the members of the Texas delegation and allow Texas, Vermont, and Maine to be the tenth compact to be approved by this Congress. This is an issue that will not go away. The low-level nuclear waste that is building up in temporary stockpiles in Texas will not go away. We need this compact, and we urge our colleagues to support us in this effort.

Mr. REYES. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, with all deference to the gentleman from east Texas, he made the statement that this is an issue that will not go away. He is absolutely right. The issue will not go away. But with the decision that we are making here today, we expect that a whole community can potentially go away.

We have been called crazy because we are in opposition to this. I think it would be irresponsible not to oppose a proposal that could affect a whole area, a whole region. It could affect up to 5 million people that utilize the Rio Grande River as a primary water source. It could affect the underground water tables. It could conceivably affect a whole region of our border area.

We have been told that to send it back would be to delay it. Well, I would ask my colleagues, with all due respect, what do they expect us to do when we have got the consequences facing us that could potentially affect future generations of west Texans in a way that we at this point cannot even imagine?

I ask my colleagues who are talking about what a good deal it is, how it can be very safe, how it has been well thought out, how it will be well packaged, if it is so good, why do they not take it? Why do they not put it in their district? Why do they not put it in a place where the people want it?

Mr. Speaker, the people of Sierra Blanca, the people of El Paso, the people along the border in our region simply do not want it. We have been told that Governor Richards and Governor Bush want it. Let them hear loud and clear that in this area, we do not want it. We do not need it. And we should not have it.

Mr. Speaker, I rise in opposition to the conference report on H.R. 629. As I mentioned earlier, I do not believe we should be considering a conference report that ignores the will of the House and Senate. I do not believe we should be considering a conference report that has stripped a key provision from the bill that both the House and Senate had adopted. Unlike both the House and Senate passed measures, the conference report does not include a provision that would restrict waste at the selected site of the states of Texas, Maine and Vermont.

As far as I am concerned, that's reason enough not to move this bill forward.

But, if you need another reason to vote against this conference report, I'd like to enter into the record an article printed in The Dallas Morning News on July 8.

As you can see, two Texas hearing examiners recommended against licensing a low-level

nuclear waste dump in the far West Texas community of Sierra Blanca. The hearing examiners explained that the "State Low-Level Radioactive Waste Disposal Authority did not adequately determine whether a fault under the site posed an environmental hazard."

The examiners further stated that the Authority did not adequately address how the proposed facility might harm the quality of life in the area.

These findings are further evidence that the proposed radioactive waste dump is a potential environmental hazard which has not undergone adequate study by various state agencies. If Texas state regulators don't support the Sierra Blanca site, why should you?

I don't care how many times supporters of this bill say that a vote for H.R. 629 is not a vote for the Sierra Blanca site—it is. They know it, I know it, the people of Sierra Blanca know it and you know it. If H.R. 629 becomes law, it will endanger the safety and welfare of the community and the people who live there.

If you need still another reason to oppose this conference report, I want to enter into the record a copy of the resolution that unanimously passed the Mexican Congress. This resolution was passed on April 30 of this year.

Let me read some of it to you. "The Mexican Congress declares that the proposed project of Sierra Blanca, Texas, like other proposed disposal facilities on the Mexican border, puts at risk the health of the population in the border zone and constitutes an aggression to our national dignity."

"The position that the Mexican government assumes with relation to the proposed disposal facility of Sierra Blanca will constitute a clear precedent that can be invoked relating to disposal facilities that are planned in the future within 100 kilometers along the common border."

"This represents high potential risk of contamination for the Rio Bravo and the underground aquifers, which could cause a negative impact for the health of the population, the environment, and the natural resources on both sides of the border."

"The construction of the disposal facility in dispute would violate the spirit of . . . international law and would implicate the non-compliance of the commitments assumed by the United States after the signature of the 1983 Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area—better known as the La Paz Agreement—particularly Article 2 of the Agreement, which states: 'The Parties undertake to the fullest extent practical to adopt the appropriate measures to prevent, reduce, and eliminate sources of pollution in their respective territory which affect the border area of the other.'"

The Agreement also "commits the Parties to cooperate in reciprocity, and mutual benefit. In complying with these dispositions, the United States Government must take measures in this case with the appropriate authorities, in order that the Sierra Blanca project not be authorized."

The Resolution further states, "due to the adverse effects that this project could have on the health of [the Mexican] population and the natural resources, we present the following Pronouncement:

"We reiterate our complete rejection of the project which is the construction and operation of the nuclear waste disposal facility that the

Government of Texas plans to build in Sierra Blanca, Texas, and express our disagreement, concern, and unconformity with the policy adopted and followed up to now by the Government of the United States, that favors the construction of disposal facilities on the southern border with Mexico, without taking into account the potential negative impacts that this policy can have regarding human health and the environment in the communities located on both sides of the border."

The Mexican Congress asks the "House of Representatives of the United States to vote against the Compact Law that authorizes the disposal of wastes between the states of Texas, Maine, and Vermont in virtue that its approval signifies a relevant approval for the construction and management of the disposal facility of radioactive wastes in Sierra Blanca, Texas and represents a violation of the spirit of the La Paz Agreement."

Mr. Speaker, I urge all of my colleagues to listen to the Mexican Congress and to the people of far West Texas. Vote against this conference report because it's the right thing to do.

Mr. Speaker, I include the following material for the RECORD:

[From the Dallas Morning News]

EXAMINERS RECOMMEND NO LICENSE FOR PROPOSED NUCLEAR-WASTE DUMP—STATE AGENCY HASN'T FULLY EXPLORED POSSIBLE HAZARDS OF W. TEXAS FACILITY, THEY SAY  
(By George Kuempel)

AUSTIN.—In a victory for environmental groups, two state hearing examiners Tuesday recommended against licensing a low-level nuclear-waste dump in far West Texas.

The recommendation was a setback for Gov. George W. Bush, who has tentatively backed the proposed dump, near Sierra Blanca just 18 miles from the Rio Grande.

The hearing examiners found that the State Low-Level Radioactive Waste Disposal Authority, which wants to build the facility, did not adequately determine whether a fault under the proposed site posed an environmental hazard.

Kerry Sullivan and Mike Rogan of the State Office of Administrative Hearings also said the agency failed to adequately address how the proposed facility might harm the quality of life in the area.

The examiners' report was forwarded to the three-member Texas Natural Resource Conservation Commission.

The commission staff already has recommended that a license be issued, but the final decision rests with the commissioners, all of whom were appointed by Mr. Bush.

Their decision is not expected soon. Congress is considering a proposed pact favored by Mr. Bush that would allow for low-level nuclear waste from Texas, Vermont and Maine to be buried at the site.

Mr. Bush said in a written statement that he was "troubled" by the examiners' findings.

"I have said all along that if the site is not proven safe, I will not support it," he said. "I urge the Texas Natural Resource Conservation Commission to thoroughly review this recommendation and the facts and to make their decision based on sound science and the health and safety of Texans."

Democrat Garry Mauro, who is running against Mr. Bush in this year's governor's race, praised the examiners' ruling.

"I hope Governor Bush calls on his three [TNRCC] appointees to immediately reject this permit," he said.

Mr. Mauro said that he is pleased the administrative judges also raised the "specter

of environmental racism" but that he is sorry they didn't address Mexico's concerns about a possible treaty violation.

Critics have said Sierra Blanca was chosen because of its largely poor Hispanic population, an allegation that supporters have disputed.

Mexican lawmakers visited Austin last month to protest the dump, saying it would violate an agreement between the nations to curb pollution along the border.

Mr. Sullivan and Mr. Rogan spent three months hearing from both sides on the issue. Dump opponents said they were pleased with the findings.

"Politically and legally, it's a victory," said Bill Addington, a merchant in Sierra Blanca, a town of 700 in Hudspeth County, about 90 miles southeast of El Paso. "The authority has not done its job, even with all the money and resources they have at their disposal."

But Mr. Addington also was cautious because the final decision on the dump license rests with the TNRCC, which is not bound by the hearings officers' recommendation.

The dump, which would be built on a sprawling ranch just outside the rural town, is intended to hold radioactive waste primarily from the state's utilities hospitals and universities.

It spawned opposition from critics in West Texas and Mexico, who fear that it would contaminate precious groundwater reserves.

Unofficial Translation of Pronouncements passed by the Mexican National Chamber of Deputies (Camara de Diputados) and Senate in opposition to the proposed nuclear waste disposal facility in Sierra Blanca, Texas. Translation by Richard Boren

The Pronouncement was approved unanimously by the Chamber of Deputies on April 27, 1998 and by the Senate on April 30, 1998. The Senate and Chamber of Deputies Pronouncements are nearly identical. Following is the translation of the Senate Pronouncement.

PRONOUNCEMENT OF THE UNITED COMMISSIONS OF ENVIRONMENT AND NATURAL RESOURCES, BORDER AFFAIRS, AND FOREIGN RELATIONS OF THE SENATE OF THE REPUBLIC REGARDING THE NUCLEAR WASTE DISPOSAL FACILITY THAT IS PLANNED IN SIERRA BLANCA, TEXAS

Honorable Assembly: The United Commissions of Environment and Natural Resources, Border Affairs, and Foreign Relations of the Senate was given for their study and analysis the point of agreement passed by the Plenary of the Permanent Commission of the Honorable Congress of the Union on February 11, 1998, that is transcribed as follows:

First—That the Mexican Congress, through the Permanent Commission, declares that the proposed project of Sierra Blanca, Texas, like other proposed disposal facilities on the Mexican border, puts at risk the health of the population in the border zone and constitutes an aggression to the national dignity;

Second—That the United Commissions of Ecology and Environment, Border Affairs, and Foreign Relations of the House of Deputies and the Senate, meet with the Intersectorial Group made up of the Department of Foreign Relations, Department of Energy, Environment, Natural Resources and Fishing, and the National Commission of Nuclear Safety and Safeguarding, in order to analyze in depth the consequences for Mexico of the installation of the radioactive waste disposal facility in Sierra Blanca and of the disposal facilities of toxic and radioactive wastes in the border zone of the country with the United States of America, with the purpose of carrying out the pronouncements and necessary measures to impede their installation.

In order to proceed and comply with the mandate granted by the Plenary of the Permanent Commission of the Honorable Congress of the Union, the members of the United Commissions of Environment and Natural Resources, Border Affairs, and Foreign Relations of the Chamber of Senators, have analyzed existing documentation and studies about the radioactive waste disposal facility that is planned in Sierra Blanca, Texas, meeting on various occasions to design a political action strategy. Likewise a work session was held with the intersectorial group, with the purpose of integrating the present Pronouncement.

Considering That: (a) the communities on both sides of the border, diverse non-governmental organizations, political organizations, and public officials from Mexico and the United States of America have manifested their total opposition to the construction of the nuclear waste disposal facility that the government of the State of Texas plans to install in the community of Sierra Blanca, Texas, at a distance of approximately 30 kilometers from the Mexican border;

(b) the administrative authorities of the State of Texas convened public hearings with the purpose of hearing the opinions of interested sectors regarding the possible construction of the disposal facility in Sierra Blanca;

(c) the position that the Mexican government assumes with relation to the proposed disposal facility of Sierra Blanca will constitute a clear precedent that can be invoked relating to disposal facilities that are planned in the future within 100 kilometers along the common border;

(d) the intersectorial group—created in 1995 by the Federal Executive Power with the purpose of defining the policy of the Mexican government regarding disposal facilities in the border zone and to continue to review the projects that are planned in the states of the southern United States—wrote a preliminary study regarding the disposal facility being questioned;

(e) the United Commissions have received diverse studies that demonstrate the existence of risks in the zone, not only the seismic activity of the terrain, but also due to the meteorological and hydro-geological registers observed in the chosen site. This represents a high potential risk of contamination for the Rio Bravo and the underground aquifers, which could cause a negative impact for the health of the population, the environment, and the natural resources on both sides of the border;

(f) other adequate sites exist in the United States for the installation of radioactive waste disposal facilities, located outside of the border zone of 100 kilometers which shows that the chosen site in Sierra Blanca doesn't represent the only option for the proposed project;

(g) the radioactive wastes that are planned for disposal in Sierra Blanca, next to the Mexican border, don't only include wastes generated in the State of Texas, but also it is foreseen to deposit wastes from the states of Vermont and Maine, located on the border between United States and Canada;

(h) the construction of the disposal facility in dispute would violate the spirit of diverse precepts of international law and would implicate the noncompliance of the commitments assumed by the United States after the signature of the Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area (La Paz Agreement), particularly Article 2 of the Agreement approved in 1983, which states: "The Parties undertake to the fullest extent practical to adopt the appropriate measures to prevent, reduce, and eliminate sources of

pollution in their respective territory which affect the border area of the other." In like manner, the Agreement commits the Parties to cooperate in the field of environmental protection in the border zone, on the basis of equality, reciprocity, and mutual benefit. In complying with these dispositions, the United States Government must take measures in this case with the appropriate authorities, in order that the project not be authorized.

On the basis of what has already been stated and being founded in articles 58 and 59 of the Rules for the Interior Government of the General Congress of the United Mexican States, just as for dealing with a matter that merits an urgent resolution of the Honorable Senate of the Republic, due to the adverse effects that this project could have on the health of our population and the natural resources, we present the following Pronouncement.

#### Pronouncement

First—the Senate of the Republic reiterates its complete rejection of the project which is the construction and operation of the nuclear waste disposal facility that the Government of Texas plans to build in Sierra Blanca, Texas, and expresses its disagreement, concern, and inconformity with the policy adopted and followed up to now by the government of the United States, that favors the construction of disposal facilities on the southern border with Mexico, without taking into account the potential negative impacts that this policy can have regarding human health and the environment in the communities located on both sides of the border.

Second—The Senate of the Republic has carried out an evaluation of the available information about this disposal project, whose result demonstrates that its operation will bring with it potential adverse impacts. Based on this, being aware that the administrative authorities in the State of Texas have convened public hearings with the intention of analyzing the implications derived from the construction of said project, it is appropriate that the Mexican Government reiterate their concern and inconformity in light of the possibility that the project will be authorized.

Third—The Senate of the Republic sets forth to the Department of Foreign Relations to consider the formulation of the following proposals to the United States Government:

(a) Manifest the disagreement of the Senate of the Republic regarding the policy of the United States that favors the installation of nuclear and toxic waste disposal facilities in the border area.

(b) Insist in the possibility of relocating the Sierra Blanca project to a site located outside of the 100 kilometer common border zone.

(c) Manifest the wishes of the Senate of the Republic to the members of the House of Representatives of the United States so that they vote against the Compact Law that authorizes the disposal of wastes between the states of Texas, Maine, and Vermont in virtue that its approval signifies a relevant approval for the construction and the management of the disposal facility of radioactive wastes in Sierra Blanca, Texas and represents a violation of the spirit of the La Paz Agreement.

(d) Include the subject of the disposal facilities for radioactive and toxic wastes in the next meeting of the Mexico-United States Bi-national Commission in order to:

I. design criteria for the installation and operation of disposal facilities in the border zone of 100 kilometers within the framework of the La Paz Agreement and the Border 21 Program, in order to include the possibility

of establishing a reciprocal moratorium on the installation of disposal facilities for radioactive waste inside the 100 kilometer border zone.

II. establish that a group of experts from both countries analyze the impacts of the proposed disposal facilities in the 100 kilometer border zone.

Fourth—The Senate of the Republic proposes:

(a) To inform the Governors and municipal mayors of the states of the Republic of Mexico in the border zone with the United States about the current status of the Sierra Blanca project and other disposal projects that are being planned in the 100 kilometer border zone with the objective of adopting any measures that are considered opportune.

(b) To transmit existing information about the Sierra Blanca project to the local legislatures of the border states of the Mexican Republic with the objective of making this information available to them so they can adopt any measures which they consider appropriate.

(c) That a multi-party commission of senators be formed with the purpose of meeting with the governor of Texas, George Bush, with the purpose of telling him that the Mexican Senate believes that the Sierra Blanca project violates the spirit of the commitments made with the signing of the La Paz Agreement and that are linked to the state which he governs and which don't contribute to the strengthening of the good relations of friendship and neighborliness that must prevail between both countries.

Fifth—That the Senate of the Republic proposes including this matter in the agenda of the next interparliamentary meeting between Mexico and the United States.

Sixth—The Senate of the Republic expresses that this case constitutes a valuable opportunity for both countries to demonstrate their good will, responsibility, and capacity for cooperating in dealing with similar matters of common interest.

Seventh—So that the public opinion has greater knowledge on this subject, it is suggested to prepare as soon as possible a document that can be disseminated through the national and international media, in order to express the nature of this problem and the current status of the project in dispute.

Approved in the Honorable Chambers of the Senators April 30, 1998.

TESTIMONY OF REP. SILVESTRE REYES, JULY 29, 1998

Mr. Speaker, I want to make sure that every member of this House is aware of the substantial opposition to this compact. I want to read you a list of those cities and counties that have passed resolutions opposing it:

El Paso County, Presidio County, Jeff Davis County, Culberson County, Val Verde County, Webb County, Starr County, Hidalgo County, Cameron County, Zapata County, Reeves County, Brewster County, Ward County, Sutton County, Kimble County, Kinney County, Crockett County, Pecos County, Maverick County, Ector County, City of Austin, City of Del Rio, City of Bracketville, City of Marfa, City of Van Horn, City of El Paso, City of Alpine, Horizon City, City of Ft. Stockton, City of Laredo, City of Eagle Pass, City of Presidio, City of McAllen, City Council of Juarez.

Mexican State Congress of Coahuila, Mexican State Congress of Chihuahua, Mexican State Congress of Nuevo Leon, Mexican National Chamber of Deputies, Mexican National Senate, Mexican State Congress of Sonora, Mexican State Congress of Tamaulipas.

Mr. Speaker, I also want to enter into the record a letter dated yesterday from the League of United Latin American Citizens.

LULAC is asking all members of this House to vote NO on the conference report for H.R. 629.

As most of you know, LULAC is the oldest and largest Hispanic civil rights organization in the nation. Let me read part of their letter to you:

"The selection of a poor Mexican-American community (which is already the site of one of the largest sewage sludge projects in the country) brings to mind serious considerations of environmental justice . . . The decision Congress now faces on this matter cannot be made in a vacuum, ignoring serious environmental justice questions that have been raised about the site selection process. These unjust procedures are in apparent contradiction of the 1994 Executive Order that firmly upheld environmental justice."

"LULAC would caution Congress not to be complicit in what has become, whether intentional or not, a repulsive trend in this country of setting the most hazardous and undesirable facilities in poor, politically powerless communities with high percentages of people of color. Only a vote against the Texas Maine Vermont Radioactive Waste Compact conference committee report will ensure that this trend is not extended into Hudspeth County Texas."

I urge all of my colleagues to follow the advice of LULAC and vote against this conference report.

LEAGUE OF UNITED LATIN  
AMERICAN CITIZENS,

Washington, DC, July 28, 1998.

DEAR REPRESENTATIVE: On behalf of the League of United Latin American Citizens (LULAC), I urge you to vote No on the Conference Committee Report for The Texas Maine Vermont Radioactive Waste Compact. LULAC is the oldest and largest Hispanic civil rights organization in the nation. Since 1929, we have been providing a voice to our community throughout the U.S. and Puerto Rico. A major concern of ours is the proposed site of a nuclear waste dump near Sierra Blanca in Texas.

As you know, The Compact proposes the construction of shallow, unlined soil trenches for the burial of "low-level" radioactive waste. LULAC strongly opposes this Compact. Serious issues of environmental justice and blatant discrimination arise when one considers this bill. One should not only vote against this proposal because of serious environmental and health matters, but also because of the racial discrimination practiced against the predominantly Mexican-American population of the area.

Just this month, two Texas administrative law judges recommended the Sierra Blanca compact dump license be denied because of severe geological problems and unanswered questions about environmental racism. If Congress ignores these problems and approves the compact, thus funding the dump, tremendous pressure will be placed on the political appointees at the Texas Natural Resource Conservation Commission to approve the license despite the judges' recommendation to deny it.

The selection of a poor Mexican-American community (which is already the site of one of the largest sewage sludge projects in the country) brings to mind serious considerations of environmental justice. Although the bill does not expressly designate Hudspeth County as the location for the site, the Faskin Ranch near Sierra Blanca has clearly been earmarked and a draft license has been approved. The decision Congress now faces on this matter cannot be made in a vacuum, ignoring serious environmental justice questions that have been raised about the site selection process. These unjust procedures are in apparent contradiction of the

1994 Executive Order that firmly upheld environmental justice.

There are also matters of international relevance that must be considered. The dumping of nuclear waste near Sierra Blanca, approximately 16 miles from the Rio Grande, would violate that 1983 La Paz Agreement between the U.S. and Mexico. With this agreement, both nations committed their efforts to prevent, reduce and eliminate pollution in the U.S./Mexico border area. The proposed site is well within the "border area" of 63 miles on each side of the border. The government of Mexico has already expressed its strong opposition to the project in communications to the U.S. Department of State. LULAC would caution Congress not to be complicit in what has become, whether intentional or not, a repulsive trend in this country of setting the most hazardous and undesirable facilities in poor, politically powerless communities with high percentages of people of color. Only a vote against The Texas Maine Vermont Radioactive Waste Compact Conference Committee Report will ensure that this trend is not extended into Hudspeth County.

Thank you for your consideration of this issue. If you need more information please call Cuauhtémoc Figueroa, Director of Policy and Communications at (202) 408-0060.

Sincerely,

RICK DOVALINA,  
LULAC National President.

Mr. REYES. Mr. Speaker, I reserve the balance of my time.

Mr. BONILLA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I first of all would like to thank the gentleman from Colorado (Chairman SCHAEFER) and the gentleman from Texas (Chairman BARTON) and the gentleman from Texas (Mr. HALL), my friend, who were speaking in support of this bill today. They have been most gracious in allowing those who have strong feelings about this conference report to work with them very closely, and I just wanted to express my appreciation for that.

The whole idea of having compacts is one that I have no problem with, and I do not think Members generally have a problem with the process of States getting together to decide where waste is going to go. Of course, then, as I stated strongly over and over again for many years now, the problem that I have and other Members who have nearby congressional areas in Texas have, is the threat to the environment in this area, the unstable geology, and also the threat to the economic future of these communities.

Quite simply speaking, they do not want it there. Again, I have 20 counties and 13 cities and municipalities on record as opposing this conference report and this whole idea. There is a county in Texas that is very strongly in favor of having this kind of dump in their community and I would gladly work with that community to try to have this dump moved to that area in the future, if that is even a possibility.

Though the whole idea of having places to put nuclear waste, low-level radioactive waste is an issue that I understand is very necessary, I know that my colleagues understand how strongly at this point my people feel about this issue, as do I.

There is another issue I want to bring up as well. All of us in Texas are going through an incredible drought at this point. The agriculture community is suffering. Local governments are implementing water rationing in some areas. I want to emphasize above all that now should be the time that we understand, as Texans, that any potential threat to water supplies in any community in Texas is something that we should all be concerned about.

I do not think any of us have anticipated being at this point in Texas right now with the shortage of water and the unbearable heat that is upon us every day at this time in Texas with no end in sight. So I would appeal to my colleagues in other areas of the State and other parts of the Nation suffering from droughts and heat waves that they could identify with the needs that could occur if the water supplies were threatened by a dump like this in the future.

So, I thank my colleagues for working with me on this issue and I ask them, I plead for every citizen in my congressional area who has ever pleaded with me to make their case before this body. I hope that I have made it and I hope that we have had an impact on those who are considering opposing this conference report. The people of West Texas need all the help they can get.

□ 1245

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HALL).

Mr. HALL of Texas. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Texas (Mr. HALL) is recognized for 2 minutes and 30 seconds.

Mr. HALL of Texas. Mr. Speaker, I thank the gentleman for yielding me the time.

I could not close without sending accolades toward the gentleman from Texas (Mr. BONILLA), the gentleman from Texas (Mr. REYES), the gentleman from Texas (Mr. RODRIGUEZ), the gentleman from Texas (Mr. DOGGETT). They have done a good job. They have been an honorable opposition, and they have been an effective opposition. Because no matter how the vote goes, I think the vote is going to go favorable on this, as it has before, but regardless of the outcome of this vote, they have made it a better compact.

Their opposition has spawned article 3 where it provides a way to amend the contract or to protect the depository State if the commission, in its wisdom, decides not to allow any other waste to come into the State. Then that is set up as to how that is done. There are 6 voting members. The host State has 6 voting Members. Each of the other two States have one. So the State of Texas, where it will be deposited, has the right to determine whether or not any other waste comes into the State.

We have to have faith in those who are going to represent the State and

the local bodies in the future. I have that faith. I think it is going to work. On local support, on how good it has been, everybody out in Sierra Blanca and Hudspeth County and all of west Texas does not oppose this compact. Actually, there has been some signatures by a lot of adult citizens from Sierra Blanca asking for it. It has not been without meetings and keeping them advised. They have had monthly meetings out there, since 1992, in Hudspeth County to address the concerns, the concerns that are there. Perhaps this came about because of the insistence of the gentleman from Texas (Mr. REYES) that they be kept advised of it.

Benefits to Sierra Blanca, the host county has received over \$2 million in benefits payable through housing, additional housing, medical services and others. They are going to receive \$5 million from the other two States. They are going to receive a half a million dollars per year after start-up. This brings prosperity, it brings jobs. It brings opportunity. That brings dignity to this part of the State.

I think, as has been said before, the relations to earthquakes and all these others things, there is protection against that.

I urge the passage of this amendment.

Mr. REYES. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I would close by simply emphasizing to my colleagues 5 points.

First, when we talk about this radioactive waste as being low level, that is good for public relations purposes but not for health purposes. The radioactive waste that will be buried at Sierra Blanca will be deadly to human beings for longer than all recorded human history. It is extraordinarily lethal and makes this debate all the more important.

Number two, the Sierra Blanca site was not chosen because of its suitability but solely because of its vulnerability, its political vulnerability, which is playing out here today. It was not the best site for a storage facility. It was the easiest site, because it is a largely poor, Hispanic area.

That is one of the reasons that the Texas State conference of the NAACP this year called this "environmental racism." It is one of the reasons that the League of Conservation Voters has spotlighted this as one of the key anti-environmental votes of this Congress.

Number three, we do not need this dump. It is great public relations to talk about slowing scientific research or the health isotopes that are vital to the future of our health, but that has absolutely nothing to do with what is really at stake in this debate. We have heard much about all the other compacts that have already been approved. What our colleagues have not pointed out is that of those 9 compacts that Congress has approved, not one of them

has secured a license agreement, not one. And two of them have actually stopped looking for a site. This leads to the conclusion that if they sought those compacts, but they are not doing anything with them, why should we approve another one in Texas?

Indeed, as the most recent report on radioactive waste storage by Dr. F. Gregory Hayden has pointed out, "There is currently an excess capacity for this type of disposal in the United States without any change to current law or practice."

That leads to the fourth and very important point, that the safeguards that are in this compact, without the amendments that have been stripped out, are meaningless.

My colleague, the gentleman from Texas (Mr. HALL) from Rockwall, is always eloquent, and he has been very candid in this debate. He has said it is not the fellow with the biggest truck that is going to be decisive here. I agree.

My concern is it will be determined by the place with the biggest dump. We all know Texas is bigger than most any other place, and we are about to have one heck of a big dump out there in west Texas. It will become the dumping site for all the people from those other places around the country because, as Mr. HALL has quite appropriately noted, and I quote him from this debate today, "It might reduce the operating cost."

The economic factors for those special interests, who want a cheaper place to put their radioactive garbage and found a convenient place among the poor people of Sierra Blanca, who now will have no adequate safeguards.

To suggest that the compact limits it to 20 percent from out of State is misleading. If we read the fine print, it is 20 percent that could come from Maine and Vermont, but there is no limitation that I see with regard to the rest of the States.

Finally, my colleague, the gentleman from Texas (Mr. BARTON) has been fair and direct with me. He told me on this floor that he would check with the governor. That is exactly what he did.

My final point is that without the blessing of Governor George Bush, we would be limited to three States. Governor Bush said one thing in Texas; he did another in Washington. That is most unfortunate for Texas.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 3 minutes the gentleman from Texas (Mr. BARTON), the author of the bill.

Mr. BARTON of Texas. Mr. Speaker, I will try to go through this very quickly. I believe my good friend from Austin was the president of the student body at the University of Texas. He obviously has a golden throat and is able to weave words very carefully. I was just a poor engineering student at Texas A&M trying to see how to use a slide rule so I do not claim that I am as eloquent as he is.

I did try to list his 5 points down as he enumerated them. He talked about

waste being there for all mankind. Eighty-five percent of the waste is going to decay to harmless levels within 30 years. Ninety-eight percent within harmless levels within 100 years. The canisters are designed to last 500 years. I do not think there is any question but there will not be any danger if we accept this waste on this site.

He talked about site location. That has been determined by the State of Texas, not by the U.S. Congress.

He talked about the administrative law judge saying that we do not really need a site. Actually the administrative law judge said that there is no other acceptable site. The waste that is being generated now at 97 locations in Texas and several in Vermont and Maine is being stored on site. The administrative law judge says that is simply not acceptable. He talked about the safeguards being meaningless. Again, the administrative law judge, in their application review, has said that we should limit the amount of waste stored to no more than 1 million curies.

The gentleman from Texas (Mr. HALL) has pointed out there are going to be 6 commissioners from Texas and one from Vermont and Maine. They will have the safeguards of the populations of their States high in their mind.

I guess to close I would simply state that we have debated this issue several times. It passed the House in October, 309 to 107. Hopefully it will pass again with a margin that large in the very next few minutes.

Let us do the right thing. Let us let Texas, Vermont and Maine adopt this compact, and let them go about the business of safeguarding the low-level waste that these three States generate.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we have heard eloquent debate here. I do have to say, I feel like a little bit of an orphan here between Maine and Vermont and Texas, being from the State of Colorado, but I think what our committee has done is the right thing, to move this legislation, give it a chance to rise or fall on its merits here on the floor by a democratic process.

I think it is an important thing also to notice, I mentioned before, if we do nothing, then Texas may well have to be taking waste from a number of States, not just in addition to Maine and Vermont.

I thank the gentleman from Texas and the other gentlemen from Texas. And I would also like to say to the gentleman from Texas (Mr. BONILLA), his efforts on this have been admirable. We have worked real hard on this one over a period of time. I think that he has done a terrific job on this.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Texas Low-Level Radioactive Waste Disposal Compact going to conference. This agreement will allow the State of Texas, Maine and Vermont to enter

into an agreement to dispose of Low-Level Radioactive Waste produced in their states.

The Congressional consideration of this bill was thorough and thoughtful and we must at this time allow a contractual agreement to be developed by Texas, Maine, and Vermont for the cooperative resolution of the problem of disposing of low-level radioactive waste.

The Commerce Clause found in Article I, Section 8, Clause 3 of the United States Constitution provides that Congress—not the States—has the power to regulate commerce among states. \* \* \* This clause has been interpreted by the courts to restrict a state's ability to regulate in a manner that would be an impermissible burden or discriminate against interstate commerce.

Under this law, without the Compact's protection, the site if opened in Texas would be forced to take Low-Level Radioactive Waste from all fifty states.

Through legislative action in 1980 and 1985, the Congress encouraged states to form compacts to provide for new low-level radioactive waste disposal. Since 1985, 9 interstate low-level radioactive waste compacts have been approved by Congress, encompassing 41 states.

All radioactive materials lose radioactivity at predictable rates. Therefore, agreements are necessary for the proper disposal and storage of low-level radioactive waste until it reaches harmless levels at the end of 100 years.

This compact would not designate a particular site, but only the agreement among the participating states for the development of a low-level radioactive facility.

My position on any site location, which I have expressed in the past, is that public hearings must and should be part of the process in order to give concerned citizens an opportunity to express their views on the site and that no site be selected that presents an undue burden on people with low incomes. I will continue to work with my Texas congressional colleagues who seek to resolve this questionable process that has allowed a low-income minority area to be selected, for the site in Texas.

Before any final decision of location is made these hearings should allow for proper comment and evaluation of those comments to take place. It is my understanding that the Texas state planners are committed to as public a process as possible.

The Texas Compact specifies that commercial low-level radioactive waste generated in the party states of Texas, Maine, and Vermont will be accepted at the Texas Low-Level Radioactive Waste Disposal Facility. "Low-Level radioactive waste is defined the same way as the Low-Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240.

With the needs for storage facilities constantly increasing with the number of nuclear research projects and medical applications which use radioactive materials in their treatment of patients with serious illnesses this Compact is needed.

Commerce low-level radioactive waste typically consists of wastes from operations and decommissioning of nuclear power plants, hospitals, research laboratories, industries, and universities. Typical low-level radioactive waste is trash-like materials consisting of metals, paper, plastics, and construction materials that are contaminated with low-levels of radioactive materials.

A compact is a serious matter, and a compact regarding the disposal or storage of Low-Level Radioactive Waste is extremely important. This compact will be managed by the participating states and especially by the State of Texas with the greatest care and professionalism possible.

I urge my colleagues to support this compact.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. REYES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 117, not voting 12, as follows:

[Roll No. 344]

YEAS—305

Aderholt	Condit	Hamilton
Allen	Cook	Hansen
Archer	Cooksey	Harman
Army	Costello	Hastert
Baker	Cox	Hastings (WA)
Baldacci	Coyne	Hayworth
Ballenger	Cramer	Hefley
Barcia	Crane	Hefner
Barr	Crapo	Herger
Barrett (NE)	Cubin	Hill
Barrett (WI)	Cunningham	Hilleary
Bartlett	Danner	Hilliard
Barton	Davis (FL)	Hobson
Bass	Davis (VA)	Hoekstra
Bateman	DeGette	Horn
Bentsen	DeLay	Hostettler
Bereuter	Deutsch	Houghton
Berry	Dickey	Hoyer
Bilbray	Dicks	Hulshof
Bilirakis	Dingell	Hunter
Bishop	Dooley	Hutchinson
Biley	Doolittle	Hyde
Blumenauer	Dreier	Inglis
Blunt	Duncan	Istook
Boehlert	Dunn	Jackson-Lee
Boehner	Edwards	(TX)
Bono	Ehlers	John
Borski	Ehrlich	Johnson (CT)
Boswell	Emerson	Johnson (WI)
Boucher	Everett	Johnson, E. B.
Boyd	Ewing	Johnson, Sam
Brady (TX)	Fawell	Jones
Brown (CA)	Fazio	Kaptur
Brown (FL)	Foley	Kim
Brown (OH)	Fossella	Kind (WI)
Bryant	Fowler	King (NY)
Bunning	Fox	Kingston
Burr	Frank (MA)	Klecicka
Burton	Frelinghuysen	Klink
Buyer	Frost	Klug
Callahan	Gallegly	Knollenberg
Calvert	Ganske	Kolbe
Camp	Gejdenson	LaFalce
Campbell	Gekas	Lampson
Canady	Gephardt	Largent
Cannon	Gilchrest	Latham
Cardin	Gillmor	LaTourette
Carson	Gilman	Lazio
Chabot	Goode	Leach
Chambliss	Goodlatte	Levin
Chenoweth	Goodling	Lewis (CA)
Christensen	Gordon	Lewis (KY)
Clay	Goss	Linder
Clement	Graham	Lipinski
Clyburn	Green	Livingston
Coble	Greenwood	Lowey
Coburn	Gutknecht	Lucas
Collins	Hall (OH)	Luther
Combest	Hall (TX)	Maloney (CT)

Manton	Pomeroy	Smith, Adam
Manzullo	Porter	Smith, Linda
Martinez	Portman	Snowbarger
Mascara	Poshard	Snyder
Matsui	Pryce (OH)	Solomon
McCarthy (MO)	Quinn	Souder
McCarthy (NY)	Radanovich	Spence
McCollum	Ramstad	Spratt
McCrery	Redmond	Stearns
McDade	Regula	Stenholm
McHugh	Riggs	Stokes
McInnis	Riley	Stump
McIntosh	Rivers	Stupak
McIntyre	Roemer	Sununu
McKeon	Rogan	Tanner
Metcalf	Rogers	Tauscher
Mica	Rohrabacher	Tauzin
Miller (FL)	Roukema	Taylor (MS)
Minge	Royce	Taylor (NC)
Mollohan	Ryun	Thomas
Moran (KS)	Sabo	Thornberry
Moran (VA)	Salmon	Thune
Murtha	Sanders	Thurman
Myrick	Sandlin	Tiahrt
Neal	Sanford	Traficant
Neumann	Sawyer	Turner
Ney	Saxton	Upton
Northup	Scarborough	Vento
Norwood	Schaefer, Dan	Walsh
Nussle	Schaffer, Bob	Wamp
Oberstar	Scott	Watkins
Obey	Serrano	Watts (OK)
Olver	Sessions	Weldon (FL)
Oxley	Shadegg	Weldon (PA)
Packard	Shaw	White
Parker	Shimkus	Whitfield
Paxon	Shuster	Wicker
Pease	Sisisky	Wilson
Peterson (MN)	Skaggs	Wise
Peterson (PA)	Skelton	Wolf
Pickering	Smith (MI)	Wynn
Pickett	Smith (OR)	Yates
Pitts	Smith (TX)	Young (AK)

NAYS—117

Abercrombie	Hinchey	Pascrell
Ackerman	Holden	Pastor
Andrews	Hooley	Paul
Bachus	Jackson (IL)	Payne
Baesler	Jefferson	Pelosi
Becerra	Kanjorski	Petri
Berman	Kasich	Pombo
Blagojevich	Kelly	Rahall
Bonilla	Kennedy (MA)	Rangel
Bonior	Kennedy (RI)	Reyes
Brady (PA)	Kennelly	Rodriguez
Capps	Kildee	Ros-Lehtinen
Castle	Kilpatrick	Rothman
Conyers	Kucinich	Roybal-Allard
Cummings	LaHood	Rush
Davis (IL)	Lantos	Sanchez
Deal	Lee	Schumer
DeFazio	Lewis (GA)	Sensenbrenner
Delahunt	LoBiondo	Shays
DeLauro	Lofgren	Sherman
Diaz-Balart	Maloney (NY)	Skeen
Dixon	Markey	Slaughter
Doggett	McDermott	Smith (NJ)
Doyle	McGovern	Stabenow
Engel	McKinney	Stark
English	McNulty	Strickland
Ensign	Meehan	Thompson
Eshoo	Meek (FL)	Tierney
Evans	Meeks (NY)	Torres
Farr	Menendez	Towns
Fattah	Miller (CA)	Velazquez
Filner	Mink	Visclosky
Forbes	Morella	Waters
Ford	Nadler	Watt (NC)
Franks (NJ)	Nethercutt	Waxman
Furse	Ortiz	Weller
Gibbons	Owens	Wexler
Gutierrez	Pallone	Weygand
Hastings (FL)	Pappas	Woolsey

NOT VOTING—12

Clayton	Jenkins	Price (NC)
Etheridge	McHale	Talent
Gonzalez	Millender	Young (FL)
Granger	McDonald	
Hinojosa	Moakley	

□ 1317

Ms. KILPATRICK and Messrs. LAHOOD, CONYERS, PAYNE, WATT of North Carolina and FORD changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER ON THURSDAY, JULY 30, 1998, CONSIDERATION OF HOUSE JOINT RESOLUTION 120, DISAPPROVING EXTENSION OF WAIVER AUTHORITY WITH RESPECT TO VIETNAM

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Thursday, July 30, 1998, to consider in the House the joint resolution (H.J. Res. 120) disapproving the extension of the waiver of authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; that the joint resolution be considered as read for amendment; that all points of order against the joint resolution and against its consideration be waived; that the joint resolution be debatable for 1 hour equally divided and controlled by the chairman of the Committee on Ways and Means (in opposition to the joint resolution) and the gentlewoman from California (Ms. LOFGREN) or her designee in support of the joint resolution; that pursuant to sections 152 and 153 of the Trade Act, the previous question be considered as ordered on the joint resolution to final passage without intervening motion; and that the provisions of sections 152 and 153 of the Trade Act of 1974 shall not otherwise apply to any joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam for the remainder of the second session of the 105th Congress.

Mr. Speaker, it is the intention of this unanimous consent request that the majority manager in opposition to the joint resolution, who will probably be the gentleman from Illinois (Mr. CRANE), will yield half of his time to a majority Member in support of the joint resolution; that will be the gentleman from California (Mr. ROHRABACHER); and that the minority Member in support of the joint resolution, the gentlewoman from California (Ms. LOFGREN) on the Democrat side of the aisle yield half of her time to a minority Member in opposition to the joint resolution, and that will probably be the gentleman from California (Mr. MATSUI).

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their re-

marks on the further consideration of the bill, H.R. 4194, and that I be permitted to include tables, charts and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 501 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4194.

□ 1320

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday July 23, 1998, the request for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. ROEMER) had been postponed and the bill was open from page 72, line 3, through page 72, line 16.

Are there further amendments to this portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$5,541,600,000, to remain available until September 30, 2000.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or con-

demnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed \$35,000 for official reception and representation expenses; and purchase (not to exceed 33 for replacement only) and hire of passenger motor vehicles; \$2,458,600,000, to remain available until September 30, 2000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$19,000,000.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2001.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1999 and may be used to enter into contracts for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

NASA shall develop a revised appropriation structure for submission in the Fiscal Year 2000 budget request consisting of two basic appropriations (the Human Space Flight Appropriation and the Science, Aeronautics and Technology Appropriation) with a separate (third) appropriation for the Office of Inspector General. The appropriations shall each include the planned full costs (direct and indirect costs) of NASA's related activities and allow NASA to shift civil service salaries, benefits and support between and/or among appropriations or accounts, as required, for the safe, timely, and successful accomplishment of NASA missions.

None of the funds made available by this Act may be used for feasibility studies for, or construction or procurement of satellite hardware for, a mission to a region of space identified as an Earth LaGrange point, other than for the Solar and Heliospheric Observatory (SOHO), Advanced Composition Explorer (ACE), or Genesis mission. Such funds shall also not be used for the addition of an Earth-observing payload to any of the missions named in the preceding sentence.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1999, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by the National Credit Union Central Liquidity Facility Act

(12 U.S.C. 1795), shall not exceed \$600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1999 shall not exceed \$176,000: *Provided further*, That \$2,000,000, together with amounts of principal and interest on loans repaid, to be available until expended, is available for loans to community development credit unions.

NATIONAL SCIENCE FOUNDATION  
RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; \$2,745,000,000, of which not to exceed \$244,960,000, shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 2000: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That none of the funds appropriated or otherwise made available to the National Science Foundation in this or any prior Act may be obligated or expended by the National Science Foundation to enter into or extend a grant, contract, or cooperative agreement for the support of administering the domain name and numbering system of the Internet after September 30, 1998.

AMENDMENT NO. 26 OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mr. ROYCE: page 76, line 24 strike “2,745,000,000” and insert “2,545,700,000.”

Page 90, line 18 strike “,” and \$70,000,000 is appropriated to the National Science Foundation, “Research and related activities.” and insert “.”

Mr. ROYCE. Mr. Chairman, I rise in strong support of this amendment. It will merely freeze grant research funding at the same amount that was appropriated last year. There is no cut in the amendment. Our concern is with some of the grants; do we really think it is a good idea to take \$176,000 from working families so that we can figure out the different meaning of smiles, and that was one of the grants.

Mr. Chairman, we have a responsibility to the American people to see that their tax money is being spent wisely. Asking them to dip just a little further into their pockets to pay \$178,000 for a study on maintaining self-esteem does not fulfill that responsibility.

During debate on this bill last year, an amendment was adopted that struck

\$174,000 from the National Science Foundation because of previous inappropriate grant making. As I understand it, this was meant as a demonstration to NSF that they should take greater care of taxpayer money. Given some of the recent grants that it has doled out since that time, it seems that they have not taken heed of that action.

Another recent grant for \$220,000 was handed over to a researcher for a study entitled “Status Dominance and Motivational Effects on Nonverbal Sensitivity and Smiling.” I will submit my finding for free. Spending that much hard-earned money on sensitivity and smiling will wipe the smiles off the taxpayers’ faces and make them pretty darn insensitive.

Another researcher was given over \$476,000 for his study. For this amount he would perform a manufacturing analysis of coffee makers related to the grammar rules and the grammar itself which will be implemented.

Now, as we go down these grants, one enterprising researcher has received over \$29 million since 1992 in nine different grants. From all indications, the bureaucrats have been busy shoveling out the door in the name of science to make sure we do not slide back into the dark ages. For example, research into the sex selection and evolution of horns in the dung beetle, \$331,000 for the study of nitrogen excretion in fish, \$113,000 for research into the agenda effects on group decisions.

I could go on, but our current agenda calls for a group decision. Two hundred twenty-eight years ago, when the Founding Fathers gathered in Philadelphia, they did not declare our independence so that the new government could tax American citizens and hand out \$25,000 to study microwave methods for lower fat patties in meatballs.

I urge my colleagues to support this amendment, Mr. Chairman.

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, the poet Alexander Pope remarked centuries ago that a little learning is a dangerous thing. This amendment is a good example of that principle.

First of all, the Dear Colleague letters about this amendment have cited several NSF project titles that have been grossly misinterpreted. For example, grants researching asynchronous transfer mode, which is a computer technology known as ATM, were misconstrued as research on automated teller machines. Grants concerning billiards were thought to be about the game of pool when actually they concern abstruse matters in high-energy physics. The only trouble we have right here in River City is with this amendment.

Mr. Chairman, this amendment is a product of faulty research.

Now I would never claim that the National Science Foundation has never given out a misguided grant or that

their grants should not be opened to congressional scrutiny, but as the ranking Republican on the House Committee on Science I am quite familiar with NSF operations, and I have helped oversee them for 15 years. And I can attest that the National Science Foundation is a model agency that provides grants through a peer review process that is the envy of other institutions and other nations. As a result, the research it funds is of high quality and has provided enormous insights that have improved our understanding and our lives.

A little learning is a dangerous thing for a Nation as well as an individual, and NSF’s work ensures that our Nation is never hobbled by inadequate learning.

Mr. Chairman, let us not make the mistake of judging a grant by its title. We should resoundingly vote down this amendment and demonstrate our continued support for the outstanding work performed by the National Science Foundation.

□ 1330

Mr. SANFORD. Mr. Chairman, I rise in support of this amendment because it is a very simple amendment. This amendment simply freezes the research and related categories funding area of NSF at about \$2.5 billion. It freezes at this year’s level of spending.

The reason that this amendment is offered by Mr. ROYCE and myself and the reason supported by the National Taxpayers Union, the reason supporting it by Citizens against Government Waste is because it makes common sense.

It, in the whole, boils down to one very simple thought, and that is the issue of priorities. When I stand in front of a grocery store back home in my district and talk to folks, they talk about how they have to set priorities within their homes.

When they are given the choice between, let us say, the study of people’s reaction to dirty jokes, specifically to sex and fart jokes, and cancer or diabetes research, they say that a study of sex and fart jokes is interesting, but not vital, and that they would rather see those same dollars go into cancer research or diabetes research.

On that same vain, again, this is simply an amendment about priorities. Again, it leaves in place \$2.5 billion for funding for the National Science Foundation research. It simply says let us put our house in order.

I mean, the same folks that I talked to back home, they say, if they had to set no priorities, when they walked into Wal-Mart, they would essentially walk out of Wal-Mart with everything that is in the store. But they cannot do that. They have to set a budget. They have to set numbers. They come up with what they can spend overall.

So this amendment is simply a way of signaling to the National Science Foundation please look at those things. Because the gentleman from

California (Mr. LEWIS) himself last year offered an amendment that said there was a grant that, as I understand it, would have studied, for about \$174,000, why some people choose to run for office or choose not to run for office. Again, interesting but not vital.

I think that we ought to look more at what is vital when we fund these grants. I have other examples that have come up in this year's list. An example is \$334,000 to develop methods for routing pickup and delivery vehicles in realtime. Again, that has something that is interesting, but not vital. The part that is vital is vital to the likes of UPS or FedEx. If that is at the case, why can UPS or FedEx not pay for them?

It has \$14,000 to study the long-term profitability of automobile leasing. Interesting, but not vital. The part that is vital is vital to Budget or Hertz. Why can they not pay for it?

It has \$12,000 to cheap talk. It has \$137,000 to study how legislative leaders help shape their parties issues outside the legislature particularly in the media. Interesting, but not vital.

I could come up with others, but I think the main point is quite simple. That is that the National Science Foundation in funding research needs to look at two things: One, a clear criteria that answers the question for the taxpayer, is this interesting or is it vital? And that it answers the question of, is it worth the cost? Because you can simply turn on the Internet and see that there is all kinds of information out there. The question before us, though, is not, is there information, but is it vital information?

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to respond to the amendment and the comments just made. I would remind my colleague, the gentleman from South Carolina, that when his people come out of the store, my colleague might ask them what they think of the laser scanner that was used to get them out of the store more quickly and more efficiently, because development of the laser was financed in part by the National Science Foundation.

My colleague might ask, too, whether they enjoy the rapid delivery of their FedEx packages. Indeed, part of that research has been done by the National Science Foundation. My colleague suggested that FedEx should pay for it themselves, but, in fact, Federal Express developed into what it is today, because of the techniques resulting from such research, and the taxes that FedEx pays today far more than cover the cost of any research that was done which may have helped to develop the system.

My point is that the United States has a vibrant and booming economy today, especially compared to that of other nations, because we also have a booming and vital research enterprise in this Nation. There is a direct cor-

relation between economic growth and the amount of money spent on research, and all of us should recognize that.

Let me also comment on a few other specifics because, as the gentleman from New York (Mr. BOEHLERT) said earlier, much of this debate arises out of a misunderstanding of the scientific terms used.

Some terms used in science which are similar to everyday language have totally different meanings when used scientifically. As an example, consider "billiards", which was referred to in one of the "Dear Colleagues" sent out by the sponsors of the amendment. Billiards we all understand is a game. But, in science, the word is used to describe a theory which originally was developed to explain the collisions and interaction between rigid objects, but today is used to describe collisions and trajectories of small objects, such as atoms, molecules and nuclei, within confined areas.

This is crucial to the study of air flow and turbulence around aircraft. In fact, a recent development was the discovery that ripples in the surface of an aircraft wing reduce turbulence substantially, resulting in fuel savings and cost savings.

It is interesting that you can now buy swimsuits that incorporate the same effect and will now allow for faster swimming in competition. That was not the intent of the research, but this is a by-product that is beneficial.

ATMs were criticized in one of the "Dear Colleagues." As used in science, that does not refer to "automated teller machines," where you withdraw money, but rather refers to "asynchronous transfer modes," which is today the most modern and most rapid method of transmitting information over the Internet or between computers in general. This is very beneficial to society, and allows sending more information for less money.

That brings us into the next item of criticism: that NSF spent \$12,887 to study cheap talk. That is not referring to what you might in common parlance think of as "cheap talk," but rather refers to the cost of information transmitted over the Internet or used in commerce.

All of these are very beneficial grants. They have helped us. They have helped our economy and made us one of the strongest nations on this earth. It is hard to find a Federal agency that gives us as much for our money as the National Science Foundation, and it certainly does help our economy to a great extent. Therefore, Mr. Chairman, I strongly urge the defeat of this amendment.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Chairman, I know that it is not necessary to

extend this discussion and that the comments made by our distinguished colleagues, the gentleman from Michigan (Mr. EHLERS) as well as the gentleman from New York (Mr. BOEHLERT), probably adequately deal with this subject. But having risen to debate it many times over the last 20 years, I would feel remiss if I did not stand up and say a few words.

Let me identify myself with the remarks already made by my two distinguished colleagues. Let me point out that this simple innocuous amendment is approximately a 10 percent cut in the amount of money that would otherwise go to this fine agency and is much more important than might be thought.

Let me say that I appreciate the close scrutiny being given to the research done at the National Science Foundation. That close scrutiny is healthy. I would not want to have it discouraged. For one thing, it gives those of us in close touch with N.S.F. research an opportunity to praise the work being done. It encourages others to take a closer look at the work of the National Science Foundation and to see if they cannot come to appreciate the value of that work.

I remember when we first started debating this subject of research grant titles one popular target was a grant titled "The sex life of the Screw worm" a subject of great importance in Texas. Everybody thought they knew what sex life was about, and they could not understand why we needed to spend money researching it.

But, actually, as we pointed out many times, this innocuous piece of research has saved the cattle industry of Texas hundreds of times over what the cost of the actual research project was, because it involves the mode of reproduction of one of the pests that is of greatest importance to the Texas cattle industry, as I am sure the chairman of the committee well knows.

But this is merely one more example, to go along with the others that have already been mentioned, showing why one needs to look beyond the titles themselves to the content of the research in order to have some understanding of what its importance is.

Mr. Chairman, I urge all of the Members to follow the example of the author of this amendment and scrutinize these research projects very carefully. I think they will be highly enlightened if they do so, and will strongly oppose amendments such as the one before us.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

(Mr. FOLEY asked and was given permission to revise and extend his remarks.)

Mr. FOLEY. Mr. Chairman, let me just for a moment correct the record about the impression being left about the amendment of the gentleman from South Carolina (Mr. SANFORD). It was just described as a 10 percent cut.

It always amazes me in this city of Washington, freezing expenditures at

the current year's level is described as a cut. It was just mentioned we would see a 10 percent reduction in the amount of money spent on research. Correct the report. If the amendment of the gentleman from South Carolina (Mr. SANFORD) is adopted, the committee and the National Science Foundation will be able to spend exactly what they spend this year.

Most families in America have not been able to allocate a 10 percent additional expenditure for next year's vacation or for the next year's food supply or for school uniforms, simply because they cannot project those types of dollars forward because they have to live in reality, they have to live with today's dollars.

I agree with the gentleman from Michigan (Mr. EHLERS) that there are a number of important research projects that are done by the National Science Foundation, and I agree with him. I think we have developed some wonderful technology in this government through their efforts, and I generally support most of them.

What I am concerned about is its refusal to heed Congress' call to use better judgment in awarding grants even though we are proposing to increase its budget this year by \$200 million.

One of my constituents, Bill Donnelly, recently contacted my office to complain that the National Science Foundation awarded a \$107,000 grant to study dirty jokes. Although skeptical, I contacted the National Science Foundation for an explanation. To my dismay, not only did the National Science Foundation spend more than \$100,000 to fund such a study but it attempted to justify the grant by saying that there is no accurate study as to why people laugh at certain offensive jokes.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, let me make clear that I did not say that the gentleman's amendment was a 10 percent cut in the NSF Budget. I said that his amendment was a 10% cut in the amount of money that would otherwise go to this fine agency. His amendment is \$270 million below what the committee recommends, or \$305 million below what the administration requested. It is actually a reduction in the amount of growth that has been projected, as we both understand.

Mr. FOLEY. I thank the gentleman for the clarification.

Mr. Chairman, obviously, the National Science Foundation does not get it. The U.S. taxpayer should not be funding research that has dubious scientific merit, at best. This is why we should support the Sanford amendment. We need to send a strong message not only to the National Science Foundation, folks, this is not just about one agency. This is about every agency that determines how to use its Federal dollars.

Now, I got a very nice letter back from the Office of the Assistant Director for Social, Behavioral and Economic Sciences trying to justify that this was a very important study. I still would ask my colleagues to ask every American taxpayer at home, do they think we should spend \$107,000 to find out why people laugh at dirty jokes? I would say no.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, both the gentleman from Ohio (Mr. STOKES) and I have prepared a very extensive response to this amendment but, frankly, because of the pressures of time and otherwise, let me suggest simply that the National Science Foundation is among the committee's and the Congress' very high priorities. We believe that the American government has played a very significant role in productive research efforts.

It is rather standard for critics of NSF often to pick a handful of examples of that which they would call excess, and usually those examples, while they have a title that can be used conveniently, do not reflect at all the specific project in terms of its detail.

These items funded by NSF come under very serious review. NSF relies on the judgment of over 60,000 independent reviewers, each of whom has expertise in his or her field. Depending on whether by mail or by panel reviews being used, each proposal is reviewed by an average of 4 to 11 experts and ranked on its scientific merit. As of this moment, approximately 1 in 3 proposals are eventually funded even though well over half are considered to have enough merit to deserve funding.

It is important for the Members to know that we support strongly this bill in its present form. It is very important that the Members oppose this amendment.

□ 1345

Mr. NEUMANN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of this amendment. I came here 4 years ago. We were \$5½ trillion in debt, \$20,000 for every man, woman and child in the United States of America. When we got here, the deficit was over \$200 billion a year.

We have come a long ways in this 3 years. We have gotten to a point where we are actually running surpluses for the first time since 1969. We saw a tax cut package passed last year for the first time in 16 years.

Then we get into the discussion about have we really done our job or do we have a long ways yet to go, and we start looking at lists of projects like some of these that are mentioned here and talking about 10 percent increases, and one almost gets this feeling, this tugging out here that, since now we are in surplus, we can start spending more of the taxpayers' money, and we had 10 percent increases in some areas.

The gentleman from South Carolina (Mr. SANFORD), my good friend, has proposed an amendment that does not decrease funding for this very important area but rather freezes it at last year's level. It simply brings it back into line.

Let us talk about some of the things that we have been funding and why it is that we would not want to see this kind of dramatic increase, much more of an increase than most of the households in my district are getting: Studying things like video on demand for popular videos; I am not sure that the people of Wisconsin would want to spend money on that study. Or why women smile more than men; I am not sure they would want to see money spent on that.

I am a former math teacher, and I taught everywhere from 7th grade on up through college courses. I find the study on the geometric applications to billiards to be of particular interest to me personally, because I was very interested in those sorts of things. And back in my math courses we did things like look at money growth and how it related to Social Security and how the interest rates impacted that. We did a lot of practical applications in our math courses, and this seems to be an area that a math professor from some place in the United States of America, or maybe a fine high school math teacher, or even a junior high math teacher might want to go out and start doing some of the studies that are involved with this.

But do I think I want to go into the households in Wisconsin's first district in Janesville, Wisconsin, or Kenosha or Racine and say to those families that we are going to take your tax dollars and use those tax dollars for purposes of doing a study on billiards? I do not so. I do not think that they would think that is a good use of tax dollars out here.

I think when we go through some of the rest of these we can see additional areas: Study cheap talk, \$12,000 to study cheap talk. Long-term profitability of automobile leasing. This brings us to another area, long-term profitability of automobile leasing.

We are talking about corporations here, fine corporations that provide many jobs in the United States of America. The question that needs to be asked is, do we need the taxpayers' money to fund studies that are going to benefit these corporations?

I guess I keep coming back to the all-important question, and that question is, if I go to a family of five in my district that gets up every morning and goes to work and works hard and I ask them, do you want me to spend money on behalf of these automobile leasing organizations to find better ways and more efficient ways to lease cars, or do you think that that is a study that they should themselves initiate? Is it all right to take money out of your paycheck to pay for these sorts of things?

I keep coming back to the answer is no. The answer is just plain, flat-out no. We should not be spending money on some of these sorts of programs. And as important as research is in this country, we need to direct our research dollars to those areas that are going to benefit the Nation as a whole.

For that reason, I strongly support the Sanford amendment; and I would hope that my colleagues see the wisdom of going along with this sort of an amendment to this bill.

I would just like to commend the chairman on his hard work and the staff on their hard work on this bill because I think they have done a very, very fine job. There are some areas that perhaps some of our colleagues would disagree with, and this just happens to be one of them.

So I rise in strong support of the Sanford amendment.

Ms. STABENOW. Mr. Chairman, I move to strike the requisite number of words.

(Ms. STABENOW asked and was given permission to revise and extend her remarks.)

Ms. STABENOW. Mr. Chairman, I would like to thank the chairman and the ranking member of the subcommittee for their strong commitment to science, research and development in this country.

I rise today as someone representing middle Michigan where those middle-class families that have been discussed today are rising every day to go to work in jobs that have more and more technology involved in their employment. They rise to go to work in areas where they are dependent upon new research and developing technologies so that the jobs that they are working in are the best-paying jobs possible.

They care about the air and the water, and they want to make sure that we are doing everything we can to research ways to be able to clean up the air and the water and protect the environment through research areas that do not involve job loss but new technologies. They care very much about health research and the future for their children. They want us to be at the front end of the technology revolution that is happening all across the world.

In my opinion, there are two efforts critically important that we are engaged in nationally on behalf of Americans, and that is education and a focus on research and technology development for future jobs and future quality-of-life opportunities for our citizens.

The National Science Foundation is a small investment in a major effort to increase the quality of life for our citizens, and I would strongly urge a "no" vote on this amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, Representative SANFORD has offered an amendment to freeze NSF's appropriations for research awards, giving as the reason NSF's support for questionable grant awards. He has referred to several grants which he claims supports his action.

Examination of the grants listed by Mr. SANFORD indicate his assessment of the contents is based on title alone:

ATM Research—This is not research on automated teller machines. Actually, it is research on Asynchronous Transfer Mode, a promising new network transmission protocol to enable the creation of very high speed computer networks.

Social Poker—This refers not to a poker game but to the development of a theory of how individuals determine which of their resources they are willing to put at risk in order to gain the benefits of joining a group. This is basic research that may help explain what it would take to get a country to sign on to a treaty, or when it is a rational decision for companies to merge.

Routing Trucks—This is an extension of what is known to mathematicians as the "traveling salesman problem." This problem asks how to find the shortest possible route to a given number of cities without visiting one twice. The study in question develops and tests powerful new mathematical optimization algorithms.

This subject has considerable practical value. Transportation costs account for 15% of the U.S. Gross Domestic Product, and a major element of transportation involves the routing and scheduling of fleets of trucks.

Cheap Talk—Cheap talk refers to the cost of information in an economic model. Generally speaking, we must pay for information—in terms of procuring expert advice, the cost of publications or the time to gather data. The research explores the implications for economic and decision models when information is relatively inexpensive, such as that made available on the Internet.

Video on Demand—The underlying research issues are related to using network protocols to transmit real time video, which has enormous data transmission requirements. These fundamental questions require high-risk research that HBO or Blockbuster are not likely to support. But if the basic research is successful, service providers and consumers (including those who may use real-time video for distance learning or telemedicine) stand to reap huge returns from the investment.

Billiards—This research applies, not to pool playing, but to a complex mathematical theory of interest in geometry and physics. The scientific use of the term "billiards" originated over 100 years ago as a way of conceptualizing how atomic particles carom off each other. Mathematicians later on began to develop complex math theory, known as Ergodic Theory, that attempts to predict the trajectory of idealized particles in confined spaces. This research is important for understanding many different types of non-linear or chaotic systems, such as airflow around an airplane, leading to an improved understanding of turbulence in fluids.

Study of Jokes—This research at its core is not about humor. Rather, it is involved with the reasons for the perpetuation of inaccurate stereotypes and the promulgation of racism, sexism, and prejudice against people with disabilities and other distinguishing characteristics. Humor is used in the study as a research tool to investigate the cognitive processes that accompany and determine the interpretation of information conveyed in a social context.

The proponent of the amendment has picked a handful of grants from the 10,000 or

so that are funded each year by NSF and, on the basis of a title which is obscure or seems frivolous, proposes that the House freeze the research activities of the Foundation at last year's level.

This proposed amendment represents an effective cut of \$270 million to the nation's basic research enterprise, which is largely carried out at colleges and universities throughout the country. It will result in 760 fewer research awards. It will mean NSF supports 5,000 fewer scientists and students.

The proposals funded by NSF have been subjected to a rigorous evaluation. They are chosen on the basis of merit through a competitive process: In a given year, NSF relies on the judgment of over 60,000 reviewers, each an expert in the field of a particular proposal. Each proposal is reviewed by between 4 and 11 experts, depending on whether a mail or panel review is used. The proposals are ranked on the basis of scientific merit, as well as on the broader impacts of the proposed activity. Only one in three proposals is funded, although more than half are rated as sufficiently meritorious to deserve to be funded.

The proposal selection process is rigorous, but not perfect. Efforts are made continually to improve the range of representation of reviewers and to sharpen the review criteria. But the system is widely respected by the scientific community, and constitutes the most effective method yet discovered to identify meritorious research proposals and to prioritize among worthy proposals.

The merit selection and prioritization process used by NSF has produced an academic research enterprise that is the envy of the world. The proposed amendment to freeze funding for NSF's research activities will result in harm to the nation's technological strength.

Investment in R&D is the single most important determinant of long-term economic growth. According to economists, about one half to two thirds of economic growth can be attributed to technological advances. Although difficult to measure, there is consensus that the economic payoff from basic research investments is substantial. The importance of basic research can be appreciated by considering the technological advancements that have grown out of past NSF-sponsored work:

Internet—Over the past decade, NSF has transformed the Internet from a tool used by a handful of researchers at DOD to the backbone of this Nation's university research infrastructure. Today the Internet is on the verge of becoming the Nation's commercial marketplace.

Nanotechnology and "Thin Film"—50 years ago scientists developed the transistor and ushered in the information revolution. Today 3 million transistors can fit on a chip no larger than the fingernail-sized individual transistor. NSF's investment in nanotechnology & "thin films" are expected to generate a further 1,000 fold reduction in size for semiconductor devices with eventual cost-savings of a similar magnitude.

Genetics—What is often overlooked is the critical role played by NSF in supporting the basic research that leads to the breakthroughs of mapping the human genome for which NIH justly receives credit. Research supported by NSF was key to the development of the polymerase chain reaction and a great deal of the technology used for sequencing.

**Magnetic Resonance Imaging**—The development of this technology was made possible by combining information gained through the study of the spin characteristics of basic matter, research in mathematics, and high flux magnets. The Next Generation Nuclear Magnetic Resonance Imager, currently under construction, will allow for the identification of the 3-dimensional structures of the 100,000 proteins whose genes are being sequenced by the Human Genome Project.

**Buckyballs**—The discovery of buckyballs, a new form of carbon won for the researchers a Nobel prize. Its discovery was the result of work by astronomers. This in turn led to the discovery of the carbon nanotube, which has been found to be 100 times stronger than steel and a fraction of the weight. Nanotubes may produce cars weighing no more than 100 pounds.

**Plant Genome**—Research into the genome of a flower plant with no previous commercial value (*Arabidopsis thaliana*) led to the discovery of ways to increase crop yields, production of plants with seeds having lower polyunsaturated fats and to the development of crops that produce a biodegradable plastic.

**Artificial Retina**—Researchers at NC State have designed a computer chip that may pave the way for creation of an artificial retina. Problems with bio-compatibility have been solved by researchers at Stanford who developed a synthetic cell membrane that adheres to both living cells and silicon chips.

**CD Players**—CD players rely on data compression algorithms that were developed using a NSF grant. These algorithms were first used in the transmission of satellite data and now provide the foundation for new developments in data storage.

**Jet Printers**—The mathematical equations that describe the behavior of fluid under pressure provided the foundation for developing the ink jet printer.

**Camcorders**—Virtually all camcorders and electronic devices using electronic imaging sensors are based on charge-coupled devices. These devices, sensitive to a single photon of light, were developed and transformed by astronomers interested in maximizing their capacity for light gathering.

Ms. JACKSON-LEE of Texas. Mr. Chairman. I rise to speak against the Sanford amendment to reduce the National Science Foundation by \$269 million.

The National Science Foundation (NSF) provides this Nation with the tools to remain a superpower in a world where technology remains supreme. It helps develop new technologies, not only on its own, but also through its partnerships with other government agencies, like NASA, and with private institutions.

The NSF is largely responsible for many of the scientific breakthroughs that we currently enjoy in this country. In fact, many of our more important scientific achievements started either with an experiment in a NSF lab, or with a NSF grant to a university or private corporation.

We cannot expect our children to be prepared for the next millennium if they do not have the right equipment to learn on. Ladies and gentlemen, trying to teach children computer science without the benefit of a computer is like trying to teach English to children without books—utterly impossible.

We must do our part to ensure that our children have the opportunity to learn, especially

in the areas of math in science. This year in the House Science Committee, we have heard a myriad of testimony during hearings regarding the under-education of our youth in the hard sciences. It has gotten to the point that the media fails to report scientific breakthroughs, not because of lack of public interest, but often because they do not feel that the general public will understand the scientific achievement and what it means to them. That is shameful. If this Nation intends to remain a world leader, we must do our part to educate our children in the ways of the future.

Here in Congress, we have worked long and hard to rectify this problem. We have sought to increase funding for education. We have tried to provide targeted discounts to schools and libraries so that they can get on the Internet. Those initiatives are controversial, but this provision is not. Its costs are low, and its benefits high.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROYCE).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to this portion of the bill? The Clerk will read.

The Clerk read as follows:

#### MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, \$90,000,000, to remain available until expended.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so for the purposes of having a brief colloquy with the chairman of the subcommittee with regard to an item of funding in the National Science Foundation. I understand that the chairman is aware of the important work done by the RAND Corporation's Radius program, which was established at the direction of the White House Office of Science and Technology Policy. This program provides a unique asset for tracking all Federal spending on R&D and should prove a very useful tool to those of us in Congress who are looking for ways to do more with the limited dollars we have.

In past years, the Federal share of funding for Radius has come from the National Science Foundation. It is my understanding that the Chair would support NSF's providing \$1.5 million in funding for Radius services during fiscal year 1999. Is that correct?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS of California. Yes, Mr. Chairman, my colleague is correct. I am familiar with the Radius program, and I am very impressed by this unique tool. I believe it is in the best interest of the Federal Government to continue to support the further development of Radius and would look favorably upon NSF providing \$1.5 million in fiscal year 1999 towards that end. I will work in the conference to include the language that makes this clear.

Mr. BROWN of California. Mr. Chairman, as usual, I want to thank my

friend for his kind words and his support for this program.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

#### EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, \$642,500,000, to remain available until September 30, 2000: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

#### SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed \$9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; \$144,000,000: *Provided*, That contracts may be entered into under "Salaries and expenses" in fiscal year 1999 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, \$5,200,000, to remain available until September 30, 2000.

#### NEIGHBORHOOD REINVESTMENT CORPORATION PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), \$90,000,000, of which \$25,000,000 shall be for a pilot homeownership initiative, including an evaluation by an independent third party to determine its effectiveness.

#### SELECTIVE SERVICE SYSTEM SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101-4118 for civilian employees; and not to exceed \$1,000 for official reception and representation expenses; \$24,176,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

#### TITLE IV—GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations:

*Provided*, That this provision does not apply to accounts that do not contain an object classification for travel: *Provided further*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between their domicile and their place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the

grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 410. Except as otherwise provided under existing law, or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than \$300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 415. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the

head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A-21.

SEC. 417. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 419. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1999 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 420. Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 1999 and prior fiscal years may be used for implementing comprehensive conservation and management plans.

SEC. 421. Notwithstanding any other provision of law, the term "qualified student loan" with respect to national service education awards shall mean any loan made directly to a student by the Alaska Commission on Postsecondary Education, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

SEC. 422. Notwithstanding any other law, funds made available by this or any other Act to the Environmental Protection Agency, the National Science Foundation, or the National Aeronautics and Space Administration for the United States/Mexico Foundation for Science may be used for the endowment of such Foundation.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that title IV, sections 401 through 422 on page 88, line 15, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. COBURN. Yes, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that title IV, sections 401 through 422 on page 88, line 15, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to that portion of the bill?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 423. (a) Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall propose for comment and, not later than 270 days after the date of the enactment of this Act, issue a final rule amending its Flammable Fabrics Act standards to revoke the amendments to the standards for the flammability of children's sleepwear sizes 0 through 6X (contained in regulations published at 16 CFR part 1615) and 7 through 14 (contained in regulations published at 16 CFR part 1616) issued by the Commission on September 9, 1996 (61 FR 47634).

(b) None of the following shall apply with respect to the promulgation of the amendment prescribed by subsection (a):

(1) The Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(2) The Flammable Fabrics Act (15 U.S.C. 1191 et seq.).

(3) Chapter 6 of title 5, United States Code.

(4) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) The Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121).

(6) Any other statute or Executive order.

(c) Sleepwear manufactured or imported before the effective date (as established by the Commission) of the Consumer Product Safety Commission's revocation required by subsection (a) shall not be considered in violation of the Flammable Fabrics Act if it complied with the Commission rules in effect at the time it was manufactured or imported.

#### POINT OF ORDER

Mr. BONILLA. Mr. Chairman, I make the point of order that the provisions of section 423 constitute legislation in an appropriation bill in violation of clause 2 of rule XXI. Clause 2 of rule XXI provides that no amendment to a general appropriations bill shall be in order if changing existing law. The provision contained in section 423 is clearly a change in existing law and is, therefore, in violation of clause 2 of rule XXI.

The CHAIRMAN. Are there Members wishing to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that section 423 of the bill imparts direction to the Consumer Product Safety Commission and expressly supersedes the applicability of a range of existing laws.

The Chair therefore holds that section 423 constitutes legislation in violation of clause 2(b) of rule XXI.

The point of order is sustained, and section 423 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 424. (a) Subparagraph (A) of section 203(b)(2) of the National Housing Act (12

U.S.C. 1709(b)(2)(A)) is amended by striking clause (ii) and all that follows through the end of the subparagraph and inserting the following:

"(ii) 87 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the dollar amount limitation in effect for any area under this subparagraph may not be less than 48 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; and"

and, in addition to the amounts appropriated in other parts of this Act, \$10,000,000 is appropriated to the Department of Veterans Affairs, "Medical and prosthetic research", and \$70,000,000 is appropriated to the National Science Foundation, "Research and related activities".

(b) The first sentence in the matter following section 203(b)(2)(B)(iii) of the National Housing Act (12 U.S.C. 1709(b)(2)(B)(iii)) is amended to read as follows: "For purposes of the preceding sentence, the term 'area' means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price."

SEC. 425. (a) The Consumer Product Safety Commission shall contract with the National Institute on Environmental Health Sciences (NIEHS) to conduct a thorough study of the toxicity of all the flame retardant chemicals identified by the Commission as likely candidates for addition to residential upholstered furniture for the purpose of meeting regulations proposed by the Commission for flame-resistance of residential upholstered furniture. Where NIEHS has existing adequate information regarding the chemicals identified by the Commission, such information can be transmitted to the Commission in lieu of an additional study on those chemicals.

(b) The Commission shall establish a Chronic Hazard Advisory Panel, according to the provisions of section 28 of the Consumer Product Safety Act (15 U.S.C. 2077), convened for the purpose of advising the Commission on the potential health effects and hazards, including carcinogenicity, neurotoxicity, mutagenicity, and other chronic and acute effects on consumers exposed to fabrics intended to be used in residential upholstered furniture which would be chemically treated to meet the Commission's proposed flame-resistant standards. In lieu of the requirements of section 31(b)(2)(B) of such Act (15 U.S.C. 2080(b)(2)(B)), the Panel may meet for up to one year.

(c) The Chronic Hazard Panel convened by the Commission under subsection (b) for purposes of advising the Commission concerning the chronic hazards of flame-retardant chemicals in residential upholstered furniture shall complete its work and furnish its report to the Commission not later than one year after the date of the establishment of the Panel, except that if the Panel finds that it is unable to complete its work adequately within the one year after this establishment, it shall—

(1) advise the Commission that it will be unable to complete its work within one year;

(2) furnish the Commission with an interim report at the expiration of such year discussing its findings to date; and

(3) provide the Commission with an estimated date on which it will complete its work and submit a final report to the Commission.

(d) The Commission shall furnish the interim report, and the estimated date on which the Panel will complete its final report, to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations. The Commission shall furnish the final report to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations.

(e) No additional funds shall be expended by the Commission on developing flammability standards for residential upholstered furniture until 3 months after the Commission has furnished either the interim report or the final report of the Panel to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations.

(f) The Commission, before promulgating any final rule setting flammability standards for residential upholstered furniture shall report to the House Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the House Committee on Appropriations and Senate Committee on Appropriations on the report of the Panel, and the anticipated costs of the flammability standards regulation, including costs resulting from—

(1) public exposure to flame-retardant chemicals in residential upholstered furniture;

(2) exposure of workers to flame-retardant chemicals in the manufacture, distribution and sale of textiles and residential upholstered furniture;

(3) the generating, tracking, and disposing of flame-retardant chemicals and hazardous wastes generated from the handling of flame-retardant chemicals used on textiles and residential upholstered furniture; and

(4) limited availability in particular geographic regions of competing flame-resistant chemicals approved for use for residential upholstered furniture.

(g) In addition to amounts appropriated elsewhere in this Act, there is appropriated to the Consumer Product Safety Commission \$5,000,000 to carry out this section.

#### AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

At the end of the bill, insert the following new section:

SEC. . The amount otherwise provided by this Act for the Department of Veterans Affairs—Veterans Health Administration, Medical care, equipment and land and structures object classifications, is hereby reduced by \$69,000,000.

Mr. OBEY. Mr. Chairman, I would like to explain this amendment, because it is not apparent on its face what it does.

Without reading the rest of the bill, although it appears to be reducing funds for veterans' medical care, it, in reality, does just the opposite. Reducing the amount available for equipment and land and structures by \$69 million in budget authority provides, in reality, \$53 million more for actual spending in outlays for veterans' health care, and I would like to explain to the House why.

For the past few years, the administration and the Congress have been engaged in a budgetary slight of hand to

try to make dwindling resources stretch further. The device is called the delayed equipment obligation. The gimmick is to provide several hundred million dollars for the equipment needs of the VA health care system and then to prohibit the VA from actually using those funds until very late in the fiscal year, thus temporarily saving outlays.

Last year, \$570 million was provided for equipment with the obligations delayed until August. This year's budget level requires even grander thinking. The administration proposed to delay the obligation of \$635 million for equipment, land and structures; and faced with an extremely tight budget allocation, the Committee on Appropriations recommended that \$846 million for equipment be delayed for obligation until next August.

□ 1400

The impact of increasing the amount of delayed equipment obligation by more than \$200 million above the request is to actually reduce the basic medical care amount to a level \$276 million below the 1998 program.

This is simply unacceptable, in the view of many veterans' organizations. To the extent possible, while remaining within budget totals, my amendment seeks to adjust that imbalance. It reduces the delayed equipment obligation by \$69 million in Budget Authority and increases the basic medical care activity by a similar amount.

The effect is to make funds available at the start of the fiscal year for hands-on health care delivered to veterans. To do this results in \$53 million more in that spending during the year, according to the CBO. That is the amount of outlays that currently are available and unused, left on the table, as it were, in this bill.

For those concerned about the size of the VA's medical equipment backlog, Mr. Chairman, let me say that my amendment still provides \$775 million for such requirements. That is \$205 million above the 1998 level, \$140 million above the Administration's 1999 request, and \$88 million above the Senate's recommendation.

Because it results in more hands-on veterans medical care, earlier this year veterans groups supported my amendment. Here I have a letter from the Paralyzed Veterans Association, another from the Blinded Veterans Association, and another from the Disabled American Veterans, all indicating support for this amendment, and other letters will be forthcoming.

To summarize, this is a simple amendment. It does not hurt any program. It takes the outlays that are left on the table. There is no offset required to accelerate spending for veterans' health. Reduced equipment obligations by \$69 million actually increases hands-on medical care by the same amount. That is what the veterans want. That is what the veterans organization groups feel they need. That is what this House ought to do.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LEWIS of California. We have had a chance to review the the gentleman's amendment. We appreciate the the gentleman's assistance to the committee, and we accept the amendment, Mr. Chairman.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, we accept the amendment.

Mr. OBEY. Mr. Chairman, I thank the chairman and ranking member.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The amendment was agreed to.

Ms. STABENOW. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the distinguished gentleman from California (Mr. LEWIS), chairman of the Subcommittee for the VA, HUD and Independent Agencies of the Committee on Appropriations.

I want to thank the chairman for providing an increase in funding for NASA's academic programs. Inspiring our youth, our youth's teachers, and the general public is absolutely essential to sustaining our Nation's edge in research and development in space exploration.

I applaud the subcommittee's funding equipment. However, I am concerned about the House mark that does not provide an increase in funding for an academic program that literally has touched millions of people's lives. As Members know, one of the most effective academic programs launched by NASA is the National Space Grant College and Fellowship program, with over 586 member universities and institutions in every State.

I would ask that the Chair adopt the Senate budget mark of \$23.5 million for the National Space Grant College and Fellowship Program when the VA, HUD and Independent Agencies appropriations go to conference.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Ms. STABENOW. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentlewoman from Michigan for bringing this issue to our attention. As a distinguished member of the Committee on Science, I appreciate the gentlewoman's commitment to research and development, as well as to education.

I agree with the gentlewoman that the National Space Grant College and Fellowship Program is a worthwhile program that deserves additional funding, and I want to assure the gentlewoman that I will take the advice of the gentlewoman and give serious consideration to it during the conference negotiations.

Ms. STABENOW. Mr. Chairman, I would like to thank the gentleman

from California for all of his hard work on this appropriations bill. I am encouraged by his words to look closely at the Senate mark of \$23.5 million for the National Space Grant College and Fellowship Program.

Let me also say that I appreciate the gentleman's willingness to work with me and all of the other Members of Congress who feel strongly about this program, and I look forward to a positive outcome.

Mr. LEWIS of California. Mr. Chairman, let me thank the gentlewoman from Michigan (Ms. STABENOW) for her kinds words. I look forward to resolving the issue as we go forward to the conference.

AMENDMENT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

Mr. LEWIS of California. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order has been reserved.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Ms. DELAURO:

At the end of the bill add the following new section:

None of the funds made available under this Act may be used to develop and enforce the standard for the flammability of children's sleepwear sizes 0 through 6X (contained in regulations published at 16 CFR part 1615) and sizes 7 through 14 (contained in regulations published at 16 CFR part 1616) as the standard was amended effective January 1, 1997.

Ms. DELAURO. Mr. Chairman, this is an amendment which will protect America's children from burn injuries and from death. I feel confident that every Member of this body will support it.

This amendment would prohibit the Consumer Product Safety Commission from using any of its resources to promulgate or implement weakened fire and safety standards for children's sleepwear.

For more than two decades children's sleepwear was held to a more stringent standard of fire safety than any other type of clothing. Kids' pajamas needed to self-extinguish after exposure to a small open flame. Manufacturers were required to test every part of the garment's fabrics, seams, and the trim, to ensure that it met this high standard of safety. Why this strict standard of safety? Because Americans understood the importance of protecting their children from the horrific burns that can come from a fire accident.

I saw a demonstration of in my home State of Connecticut of just how fast a pair of pajamas that are not treated to reduce flammability can go up in flames. It was horrifying and it was frightening. The strict standard of fire safety worked. Fire burns and deaths relating to children's sleepwear went down to nearly zero. In fact, the National Fire Protection Agency estimates that without this safety standard, there would have been ten times as

many deaths associated with children's sleepwear. The standard also brought about a substantial decrease in the number of burn injuries.

That is why I was shocked to learn that the Consumer Product Safety Commission, an agency for which I have the utmost respect, had voted to turn its back on that successful record and to weaken the fire safety standards for children's sleepwear.

The current standards allow all sleepwear for infants nine months or younger and tightfitting sleepwear in children's sizes up to 14 to be exempt from flammability standards so that they can be made from untreated cotton and cotton blends. These types of clothes can easily ignite from a stove or other types of flames.

Tight-fitting clothes made with flame resistant material are the safest choice for children. Nonflame-resistant materials like untreated cotton and cotton blends ignite at a lower temperature than fabrics such as polyester. The flames spread rapidly, and they tend to spread up towards the child's face.

The reasoning behind the new rules is that if a garment is tight, it is more difficult for flames to spread. Parents do not buy clothes that are tight. We have all bought clothes for new babies. We buy them for our kids and we buy them for our friend's kids, and they look beautiful. They are very, very pretty. We think how cute it is, and we buy clothes that are big so a child grows into them.

But the combination of nonflame resistance and large sizes is lethal to our kids. It is important to note that the chair of the Consumer Product Safety Commission voted against changing the standards, and she said, "Available injury and death data demonstrates to me that the sleepwear standards are working. I am unable to agree to an exemption that could leave these infants more vulnerable to injury or to death."

I have been working with the gentleman from New Jersey (Mr. ROB ANDREWS) and the gentleman from Pennsylvania (Mr. CURT WELDON), two of this body's most eminent experts on fire safety, to reinstate the original fair safety standards to protect our children from burns and from death. We are backed by a large coalition of fire safety organizations, medical organizations, public health groups, who are dedicated to protecting our children and reinstating this standard.

Let me just quote from one member of that coalition, Andrew McGuire, executive director of the Trauma Foundation at San Francisco General Hospital, who was burned when his pajamas caught fire in 1952, on his 7th birthday. He was instrumental in lobbying for the passage of the original standard.

This is what he says, that the children's sleepwear fire safety standard has been "a truly successful 'vaccine' that has protected thousands of children from serious burns over the past

25 years. No one in America would consider reducing the use of the vaccine for polio. Why would the CPSC relax such a life-saving vaccine for burns?"

Andrew McGuire is right, we do not want to wait for the number of fire burns and deaths to rise before we take action to protect our children. One death is too many. One child living with a disfigurement left from a burn is too many. This is a life or death issue for our children.

This is a bipartisan effort. We have the responsibility to protect our children's health and safety. It does not belong to one party or another. We all hold that responsibility. I urge my colleagues to stand behind our Nation's children and support this amendment.

The CHAIRMAN. Does the gentleman from California (Mr. LEWIS) continue to reserve the point of order?

Mr. LEWIS of California. Mr. Chairman, Yes, I do.

Mrs. LOWEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I just came down to talk on another amendment, which I believe will follow this amendment.

I just want to say to my colleagues that I rise in strong support of the amendment of the gentlewoman from Connecticut. As a mother, as a grandmother, it is shocking to me that these laws that were put in place to protect our youth, our infants, would be weakened.

I just appeal to the House to support my colleague from Connecticut, because when we have a chance to save lives, it seems to me we should do everything we can to do so. So I strongly support the gentlewoman from Connecticut's amendment. I thank her for introducing it.

Mr. ANDREWS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment. The amendment proposed by my friend, the gentlewoman from Connecticut (Ms. DELAURO), and the coauthor of legislation, along with the gentleman from Pennsylvania (Mr. WELDON) and myself, would have restored the sleepwear safety standard that worked so very well for 24 years.

I want to take a moment and talk about why this is important, and how we got to this point. It is important, Mr. Chairman, for a very simple reason. When people go into the store and they look to buy sleepwear for their children, there are basically two kinds of sleepwear. There is sleepwear that will catch on fire and burn in an instant, that is not treated for flammability, and then there is sleepwear that will not catch on fire and it will burn much more slowly, because it is treated for flammability.

For 24 years, the law of this country recognized that distinction. If we went in and bought sleepwear for our children that was treated for flammability, we knew it, because there was a label there. If it were not treated for flammability, we knew that, because there

was no label. Parents and others buying for their children could be intelligent consumers and safeguard their children.

If we listened to the testimony of emergency room nurses, emergency room doctors, firefighters, burn center personnel, lots of nonpolitical people who deal with burned children, they would have told us that this law made sense. If it is not broke, do not fix it.

In 1996, for reasons that are inexplicable, the Consumer Product Safety Commission decided to change this law and take the warning labels off flammable sleepwear. The gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Pennsylvania (Mr. WELDON) and I introduced a bill to say let us go back to a standard that worked for 24 years, and let us get it done through this legislation.

Through the cooperation and far-sightedness of the chairman of the subcommittee of this bill today, we were given that opportunity. We appreciate it very much, and thank him for his cooperation.

When this bill was brought to the floor, the rule was written in such a way that any one Member, one Member, could stand up and have this provision stripped from the bill without a vote. That just happened a few minutes ago.

The gentlewoman from Connecticut (Ms. DELAURO) has now done the next best thing. She has said, if we cannot get the old standard back, let us enjoin the use of the new one, which emergency room doctors, emergency room nurses, and other personnel in the fire service around this country say do not work.

What we really should be doing here, Mr. Chairman, is having a fair debate and an up-or-down vote on the real, underlying bill, which says let us put the standard that worked for 24 years back in. We were not getting that. But this is the next best thing.

On behalf of children across this country, consumers across this country, emergency room nurses, burn center personnel, and on behalf of Republicans and Democrats in this institution, I would implore and urge my colleagues to vote yes on the DeLauro amendment.

Mr. LEWIS of California. Mr. Chairman, while we are not the authorizing committee, I no longer reserve a point of order on the amendment.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to make it clear that, to those of who have raised questions about such an effort through this amendment, and I have a 9-year-old boy and a 13-year-old girl, and I know my colleague, the gentleman from Texas (Mr. THORBERRY), has young children as well, this is not a question of being concerned about children. It is about doing the right thing and using the right vehicle to accomplish it.

□ 1415

There is not a person in here who is going to stand up and ever object to us doing everything we possibly can to protect our children from any kind of injury or any kind of accident. But the initial effort to try to write law in this bill was deemed inappropriate earlier through a parliamentary ruling because we really had not had a chance to talk about this and figure out what the facts are.

I have a letter in my possession dated July 8 of this year from the U.S. Consumer Product Safety Commission that clearly States an opposition by commissioner Ann Brown who clearly states that the current rules, as they have been changed, should remain and we should not do anything to go back to the way they were before.

There have been no burn injuries associated with any snug-fitting garments that we are aware of. Certainly, accidents occur out there and we are not sure of what the causes are in each particular case. But I think that in light of the fact that we have not had hearings on this. I might support this if we had the appropriate hearings and used the appropriate vehicle.

But it is like trying to use one of those new Volkswagen beetles to haul a giant cabinet down the highway. It is just the wrong vehicle to use to accomplish a goal.

So I would strongly urge my colleagues to let us go through the process and not rush an amendment that Members have not even had a chance to look at. It was presented within the last 15 to 20 minutes and we have just barely gotten around to figuring out what it says exactly. It is the wrong way to write Federal law.

We always know that when the Federal Government tries to legislate quickly without really thinking things through, we wind up messing the problem up worse than it was when we started out. That is my concern.

Mr. Chairman, I emphasize that none of us in this body with young children, as I have and the gentleman from Texas (Mr. THORNBERRY) has, would do anything to risk the safety of a child in this country. Our only concern is that we want to do the right thing for the kids and for everyone involved in this issue.

Mr. THORNBERRY. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Texas.

Mr. THORNBERRY. Mr. Chairman, I want to support what my colleague is saying with two additional concerns. Number one is the effect of this provision overrides the judgment of the Consumer Product Safety Commission, not something necessarily that we should do lightly. And I do not think anyone should accuse them of wanting to lower safety standards for children.

Secondly, it is a far more complicated question than a simple speech on the floor can indicate. For example, those of us with small children know

that when it comes to bedtime, normally what a lot of children sleep in are big, bulky cotton T-shirts. They like the feel of cotton, but that big bulk presents some dangers to them.

That was one of the concerns that has motivated the Consumer Product Safety Commission to take another look at these standards. If people are going to want to put cotton on their children to have a tighter fitting garment, which is part of where this arises.

So I want to share the concern of the gentleman from Texas (Mr. BONILLA). This is not as simple as some would have us believe. And I hope as this thing moves forward through the legislative process, we can take a more careful look at it to truly make children safer because that has got to be the goal for all of us.

Mr. BONILLA. Mr. Chairman, reclaiming my time, I appreciate the comments of the gentleman from Texas (Mr. THORNBERRY). I would also concur; my kids sleep in those baggy T-shirts as well.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise in favor of this amendment.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Connecticut.

Ms. DELAURO. Mr. Chairman, I thank the gentleman from New York (Mr. HINCHEY) for yielding me this time.

Mr. Chairman, I think it is interesting to note that we just passed a major health reform bill in this body, managed care reform. The single biggest issue on the minds of the American people in this country and we did it without a hearing. Without one single hearing. The majority party would not allow any hearings on a major health care reform bill in this body.

This is an issue that has nothing to do with the issue of whether or not we have hearings. I will tell my colleagues what it has to do with, and I will quote, not my comments, but I will quote from Molly Ivins on June 27. This is a quote about the gentleman from Texas (Mr. BONILLA):

"Bonilla will move to strike DeLauro's amendment today. He told The Washington Post last week, 'I don't have a huge cotton constituency in my district, but my State does,' and added that the Texas drought has already taken a toll on cotton farmers. 'They came to me and explained this would place severe restrictions on what they could produce.'

"Excuse me—did I just hear someone say that we could bail out the cotton farmers by letting more little kids get burned to death every year?"

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I want to set the record straight on the

position of Ann Brown, who was the chairperson of the Consumer Product Safety Commission at the time the rule change was done.

I have in my possession, and I will submit it at the appropriate time for the RECORD a letter from Ann Brown to my the gentlewoman from Connecticut, April 10, 1998, in which she says the following. It is addressed to the gentlewoman from Connecticut (Ms. DELAURO):

"As you know, I share your views." The letter goes on to say, "in these circumstances, it appears the only remedy is legislative action to restore the previous rule." The previous rule, referring to the one that was in effect for 24 years. So, Ms. Brown's position is in support of our effort.

The second thing I would like to say is it is extraordinary, this commitment to regular order and procedure. This is the same bill that is rewriting the entire public housing policy of the United States of America through legislating on an appropriations bill. I would invite my colleagues who are so enraged by this departure from regular order to join those of us who are concerned about that.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, let me make another point about the issue of hearings. The fact of the matter is when we hold hearings, we bring in new information, new ideas, in a process that goes before the committee to listen to.

This is a set of regulations that has been on the books for the last 25 years. It has worked. These standards have worked. Not according to Democrats or Republicans or the political people, but in fact according to the medical community, to fire marshals, to fire chiefs, people who work in burn units all over this country have banned together to say it is wrong to eliminate these standards. Why are we not listening?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would speak to the gentlewoman from Connecticut (Ms. DELAURO) by way of the gentleman from New York (Mr. HINCHEY). If we could, to kind of help work with the time of the day which is running, and as I think the points have been made very effectively, I think the gentleman from Ohio (Mr. STOKES) and I would be willing to accept the amendment.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, on this side, we would accept the amendment.

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Ms. DELAURO).

The amendment was agreed to.

AMENDMENT NO. 33 OFFERED BY MR. COBURN

Mr. COBURN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 33 offered by Mr. COBURN: At the end of the bill, insert after the last section preceding the short title) the following new sections:

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the Mutual Mortgage Insurance guarantee and direct loan program, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by \$199,999,999.

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the guaranteed and direct loan programs, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by \$103,999,999.

Mr. COBURN. Mr. Chairman, this is an amendment about fulfilling our obligations. This is an amendment about the government being truthful with our veterans. This is an amendment about supplying health care to veterans that is equal to what one can get in the private sector.

We are going to hear a whole lot of things as we discuss this amendment about where we are getting the money, how it is going to be affected. This past Saturday night, I had the pleasure and also the terrible, gut-wrenching remorse to see a very new movie called "Saving Private Ryan," and I want to tell my colleagues that for the first time in my life, I truly now am understanding what some of the veterans have been telling me for the last 4 years.

When we see the price paid by our veterans, the price that they have paid with loss of limb, with loss of health, with loss of life, we can do nothing less than to fulfill our obligation to those men and women of the commitment that we made for them.

This is a very simple amendment. It is not complicated. It takes money that was used for a mandatory program last year, and the last 7 years, and moves that money, which has now been moved from a mandatory spending account, to veterans health care. It still will not get us to the point that the Committee on Veterans' Affairs authorizes and states we should be spending on veterans health care.

When our veterans are not given what they have been promised in terms of health care, we will never in the future be able to recruit the men and women that we need to defend our country because we will not have a track record of fulfilling our commitments.

There is going to be 9.3 million veterans in the year 2000. That veteran population is aging severely. We will see a large number of the World War II veterans require hospitalization, both now and in increasing amounts over the next few years. There is going to be almost 3.5 million World War II veterans at that time. The Veterans Advisory Committee recommends that we increase spending minimally \$250 million just to catch up to the point where we can meet minimum needs.

I want to tell my colleagues, the people that are on Federal Health Care Employment Benefit policies in this body do not have near the worry that our veterans have. We have written for ourselves, and all the rest of the Federal employees, a health care plan that is comparable to none. It is better than. But we have not given that same thing to our veterans.

To not supply the minimal needs as required and recognized by the authorizing committee is inappropriate and it is also unpatriotic and it fails to recognize the tremendous sacrifices that have been paid.

Under law, veterans centers are mandated, prosthetic spinal cord clinics, chronic care clinics, blind rehabilitation, which we are not funding adequately that which has been mandated. We are cutting services at every hospital. We are decreasing the quality of care by increasing the quantity of patients seen, and giving tertiary providers and secondary providers their care. Not that it is substandard in the regular community, but it is less than what they were promised.

Just to keep up with fiscal year 1998 level services, spending needs to be increased by \$681 million over last year just to account for health care cost inflation and increases.

What this bill does is move \$304 million. It moves it from the administration, a nonoverhead administrative account, into veterans health care.

As Members are asked to vote for this amendment, the real question that they are going to have to ask themselves is do they think we ought to be absorbing the administrative overhead of HUD programs in the mandatory accounts or can we and dare we continue to do and manage HUD the way we have in the past, and in fact do what we are obligated to do for our veterans?

Mr. Chairman, with that, I yield back, noting that I would like to hear from the gentleman from California (Chairman LEWIS) on this amendment.

Mr. LEWIS of California. Mr. Chairman, I rise very reluctantly in opposition to the amendment.

Mr. Chairman, I think it is very, very important for the House to know and

to revisit the reality that veterans programs, especially veterans' medical care programs, have very broadly-based, bipartisan, almost nonpartisan support within the House. Of all the accounts in this very complex bill where we have consistently appropriated dollars above and beyond the President's request, it is the veterans' accounts. Of all the accounts, we have not reduced veterans programs. This account has received that support.

We worked, and I would appreciate the gentleman listening to this, we worked very closely with the veterans service organizations regarding the medical care accounts. But let me say to my colleague, I personally have a very strong disagreement with many of those organizations.

□ 1430

While I usually join hands with them in supporting additional funding for veterans programs, all too often I cannot get them to join me to go out to the hospitals where veterans are treated and make certain those monies are being spent in a fashion that assures that our veterans are treated as human beings, not as people with a number on their forehead.

So the VA has a lot of work to do there. I hope that my colleague would assist me with communicating that to our VSOs and make sure the dollars we are spending are being used in a maximum way for the positive benefit of all veterans being served.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I could not agree with the gentleman. As a matter of fact, in my district we have gone through a transition in a veterans hospital, Muskogee Veterans Hospital, in which we have seen a redirection in the change. But that does not negate the fact that there is not enough dollars to meet the obligations. Yes, we have increased it, but we have not increased it to what we need to meet the obligations for our veterans. I would love to give the gentleman some examples.

Mr. LEWIS of California. Reclaiming my time, Mr. Chairman, let me go back to my point. The gentleman, I know, has many points that he will make. But indeed, within this bill there is a great variety and mix of accounts that we have tried to balance.

I think most of our colleagues understand that one of the issues that has floated around here all year long and has raised a lot of controversy involves FHA loan limitations. It happens that the gentleman has decided to take funding that HUD uses to administer those programs.

Literally the progress we made earlier in the year on that FHA issue would be undermined, dramatically undermined by the gentleman's amendment. Whether we like it or not, those funds have to be administered in the

fashion that is outlined in this bill or the programs will not be administered. Indeed, it has been suggested that this funding is not included on the Senate side and thereby is not needed. The reality that funds are not on the Senate side is exactly why they are needed at this point within this bill.

So while I understand and appreciate the gentleman's circumstance, there is many an account in this bill that I would love to zero to put more money in veterans programs. In the past, I have had some difficulty zeroing programs where I have proposed that we do exactly what the gentleman is talking about.

This is a fairly balanced bill. So reluctantly, as I have suggested, I would resist the gentleman's amendment.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Coburn amendment. It would cut administrative funds available to the FHA by more than one-third, thereby crippling its operations.

I am in favor of providing additional funds for veterans health care, if a way can be found to do this. However, I cannot support increasing funds for the Department of Veterans Affairs at the price of virtually shutting down the Federal Housing Administration. The FHA and its programs are well known to most of the Members. The largest FHA program is single family mortgage insurance, what most of us simply know as FHA mortgages.

This program has made homeownership affordable for literally millions of American families, especially first-time home buyers, families with modest incomes, minorities, women and residents of inner cities. Other major FHA programs provide major insurance or other forms of credit for multifamily apartment construction, home repair, hospitals, nursing homes and many other purposes.

While there might be disagreements about the details of some of the FHA's programs, few of us, if any, advocate shutting down or crippling the FHA. Yet that is exactly what the Coburn amendment threatens to do.

In our bill we provide four line item appropriations for the administrative costs of the FHA. The Coburn amendment essentially eliminates the appropriations for two of these line items, leaving just one dollar in each of the accounts. That is a cut of \$306 million, a reduction of 36 percent in the FHA administrative funds provided by the bill.

The two particular line items that the Coburn amendment virtually eliminates provide funds for contracting. This includes the contracts to operate and maintain all of the FHA's basic computer and data processing systems, including systems for accounting, processing claims, collecting premiums, managing assets and the like. Other contracts funded through these appropriations cover things like auditing,

property appraisals, loan management. These are not just incidentals of some kind of bureaucratic overhead. Rather, they are all core functions for a credit program like the FHA.

Even if funds could be shifted from the FHA's two other line items to cover these costs, then things covered by other appropriations would be left unfunded.

However we slice it, I do not see how the FHA can function with a 36 percent cut in its budget for operations and administration.

I would hope that we would defeat the Coburn amendment.

Mr. SCARBOROUGH. Mr. Chairman, I move to strike the requisite number of words.

Let me say, first of all, I want to state that I do appreciate what the chairman of this committee has done over the years. I want to also thank the gentleman from Arizona (Mr. STUMP) for what he has done for the Committee on Veterans' Affairs and for all the men and women on the Committee on Veterans' Affairs and also on the Subcommittee on VA, HUD and Independent Agencies, because we can trace over the past 3 or 4 years the budgets that have come out of this House and also the budgets that have come out of the administration and see that their efforts have been truly heroic.

Regrettably, in my opinion, this administration has continued to slash veterans funding too much. All we have to look at for evidence of that is the balanced budget deal that was passed back in 1997. The only two areas where real spending cuts took place, I am talking real cuts, not freezes, not increases that people in Washington called spending cuts, the only two areas where there were real cuts were in defense dollars that affected military retirees' medical accounts and also in the veterans area where there was a \$3 billion cut. Talk about shameful, that is shameful. And certainly I do not stand here in the well of this House and say that has any reflection on either the gentleman from California (Mr. LEWIS) or the gentleman from Arizona (Mr. STUMP) or the members on those respective committees. In fact, I want to thank them on behalf of all of the veterans in my district for the great fight that they have put forward.

However, I do support this amendment, the Coburn amendment. I do that because I have more military retirees, which this does not affect, and veterans in my area, and I have seen from the past 3 or 4 years the declining medical state of those people in my district. I have no other choice but to be here.

I have a brief question to ask the gentleman from Oklahoma regarding a statement that was said over here. We heard from the ranking member that somehow the FHA would be crippled if the gentleman's amendment passed. That is something I do not want to do. I would like some clarification. It is

my understanding that this bill actually increases FHA funding by 50 percent. Could the gentleman enlighten me on that matter?

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, this bill, under current FHA operation, increases FHA administration by 50 percent over what it was last year in terms of the dollars.

Number two, this is into an account called nonoverhead administrative expenses. It is a new provision. It was not in there last year. Neither the committee report nor the actual text of the bill provides any explanation as to what this money will be used for or why FHA needs more than a 50 percent increase in funds for administrative and overhead expenses. While the President requested this money, there is no explanation other than to say that the result of FHA correcting the allocation of administrative expenses among its budgetary accounts.

Finally the Committee on Banking and Financial Services, which has jurisdiction over FHA, made no mention of these nonadministrative overhead expenses in their review and their view on the fiscal year 1999 budget request. HUD claims they need this money to keep the Federal Credit Reform Act. For the past 7 years, FHA has used mandatory spending to meet these costs. Now OMB tells them they need discretionary funds to meet these costs or they need statutory language so that they can continue to use mandatory money.

This amendment will allow the conference to add the language, as the Senate seems to intend on doing, by not appropriating money for this account.

Mr. SCARBOROUGH. Reclaiming my time, I thank the gentleman and will be supporting his amendment. Again, I want to say I understand the extremely difficult balancing act the chairman of this committee undertakes and I certainly, despite supporting this amendment, I want to thank the gentleman from California (Mr. LEWIS), and I also want to thank the gentleman from Arizona (Mr. Stump) for all the work they have done on behalf of the veterans in my district.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask the gentleman from California a number of questions, if he would not mind responding.

I wonder if the gentleman would be willing to answer a number of questions about how the FHA fund works. It has just been alleged that the FHA funding level for administrative purposes is 50 percent above last year's level. Is it not true that in the past, FHA funded these operations simply by taking their own funds and using them without a congressional appropriation? And is it not true that OMB said that they could no longer do that, that they

could only perform those functions if they actually got an appropriation from Congress? And is it not, therefore, a fact that there is no real increase whatsoever in the dollar level that is available to FHA for these purposes?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the gentleman is correct. Indeed, this is the first year that we will have had this kind of account within our bill to my knowledge.

Mr. OBEY. So there is no increase in the amount of money available to the FHA for these administrative purposes?

Mr. LEWIS of California. Mr. Chairman, I was going to ask the question, where these numbers came from. Frankly, I did not want to embarrass anybody.

Mr. OBEY. Let me also then ask the gentleman, is it not true that the effect of this amendment goes to the services which are contracted for by FHA?

Mr. LEWIS of California. Mr. Chairman, that is correct.

Mr. OBEY. And is it not true that those services are, for instance, appraisals that FHA is required to obtain and computer services, without which FHA could not function and could not cut checks that they are supposed to cut?

Mr. LEWIS of California. Mr. Chairman, the gentleman is correct. As I said in my opening remarks regarding this amendment, it concerns me that this cut could undermine all the work we have been doing all year long on FHA accounts.

Mr. OBEY. So that is why the gentleman from California said, in essence, that if this amendment is passed, it would shut down the ability of the FHA to function without these services to American homeowners.

Mr. LEWIS of California. The gentleman is correct.

Mr. OBEY. Mr. Chairman, I thank the gentleman.

Mr. RYUN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I want to thank the gentleman from Oklahoma for offering this amendment. I want to stand and speak in strong support of it.

I think it is very important at this point that we restore confidence in this country's commitment to our veterans. Currently our military is in its 14th year of declining budgets. That means benefits are being cut for our current active duty men and women who serve this country. This discourages our young men and women who are involved in the service.

I think it is very important that we send a very positive message to them, to our current active military as well as our veterans, that we will make good on our commitment to them. And this is an opportunity to ensure that those benefits will be there and that we

will continue to work to fulfill those commitments.

I recognize that this is difficult and the gentleman from California (Mr. LEWIS) and the gentleman from Arizona (Mr. STUMP) have worked very hard, but I want to thank the gentleman from Oklahoma for offering this amendment.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. RYUN. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, I would just like to make a couple of points.

Number one, I do appreciate the chairman's work for veterans. This amendment is not intended to imply in any way that his concern and care for veterans and that his responsibility for increasing veteran spending in the last 4 years is anything less than stellar.

I think the assumption made by the gentleman from Wisconsin that if this money is not in there that everything is going to shut down is not an accurate assumption.

□ 1445

As a matter of fact, that assumption would mean to say that the Senate intends to shut down HUD and FHA loans because they have put no money in for this amendment.

The other thing that I would want to make sure that the Members are aware of, that the American Legion, the Order of Purple Heart and the Veterans of Foreign Wars adamantly and fully support this amendment. It will in fact move us in a direction of meeting the obligations that we are obligated and morally bound to fulfill.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. RYUN. I yield to the gentleman from California.

Mr. LEWIS of California. I know the gentleman did not mean to even suggest that the Senate would know more about the process than we might, but this is the first time this year that we have had this kind of responsibility in our bill. I must say that the other body seemed to be unaware of this need. Indeed, it would have a significant impact upon this administration. It is a new ball game, so I can understand misunderstanding, even on the part of the Senate. And possibly there is some misunderstanding here within the House as well.

Mr. SHADEGG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too would like to join the others in this Chamber complimenting both the majority and the minority in drafting this bill, but I rise in very strong support of the gentleman's amendment.

Let me try to clarify the issue with regard to HUD funding. It is true that these HUD funds have in the past come from a different account. Indeed, for the past 7 years, FHA has used mandatory spending to meet these costs. But the OMB put out a report saying that

in the future, one of two things would have to happen: Either, the OMB said, you must find discretionary funds to meet these costs, or you need a statutory change in language to continue to use the mandatory funding. The point being that while the gentleman argues there is no funding increase, in point of fact there has been no funding cut anywhere else; and if we appropriate this 50 percent increase in discretionary funding, we will in fact be spending more money. It does not have to happen. We can in fact fix the statutory language, avoid a 50 percent increase in HUD funding simply by changing the statute, and fund a cause that is extremely important.

So having talked about the fact that we do not need to increase spending by 50 percent, we do not need to spend an additional \$304 million on non-overhead expenditures, administrative expenditures at FHA, we can continue the practice in the past with a mere statutory change in the language, I want to talk about why using this fund for VA health care is important.

I recently visited the VA hospital in Phoenix, Arizona. I was embarrassed to walk through that facility. In the southwestern United States, we face a difficult problem. Many of our Nation's veterans are retiring to the Sunbelt, to the South and the Southwest where it is warmer and they want to spend their final years. That has put an incredible burden on our veterans hospitals. As my colleague has pointed out, we are underfunding our commitment to our veterans. This bill is a painless way to add \$304 million critically needed to those VA health services. It is important that we step up to the plate.

All my life I have been kind of a fan and an aficionado of D-Day and the sacrifices that were made there. We all know that in this Capitol just a few days ago, a sacrifice was made to protect the people in this building. Our veterans have all made a sacrifice in their lives. With all due respect to the chairman of the committee and the ranking member, the gentleman's amendment will enable us to honor our commitment to provide health care to our veterans without increasing the spending at FHA simply by fixing the problem at FHA that OMB identified in a very simple administrative way. It does appear to be the same method that the Senate plans to use. If I can, I urge my colleagues, in the strongest possible terms, to join me and to join the gentleman in supporting this amendment and in honoring our commitment to America's veterans and to the health care needs that they have.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to follow up on that. Our VA hospitals are important. In spite of a few of them maybe being bad, I believe that they are doing better, doing a better job and being more responsible. I can cite the Dallas VA as an example of that. So I

do not think that we need to wait to increase funding for our veterans. Our veterans are probably our most important product here in this country, and it is time we supported them fully.

I think it is important that not only all the veterans organizations support this amendment but our Conservative Action Team also on this side supports it. I think \$304 million that we have been discussing back and forth here is kind of one of those nebulous things that nobody has really put their finger on to say it is really needed. If it was not there last year, why do we need it this year, and they can waive the rules so that it can operate under mandatory funding. Apparently that is what our Senate did.

I would encourage us to help our veterans. It is an aging population, as has been stated before. Our age is going to peak in the year 2000. We need to have more money in that system. The Committee on Veterans' Affairs recommended about \$452 million above the House level. This \$300 million will start to make our veterans well. I encourage all Members to vote for the Coburn amendment.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. I thank the gentleman for yielding to me.

I would ask the maker of the amendment, the gentleman from Oklahoma (Mr. COBURN), the gentleman sent out a Dear Colleague letter. In his letter, he makes reference to the fact that they need statutory language so that they can continue to use mandatory money.

Does the gentleman agree with me that under his language, that is, if we use mandatory language, that that in effect is also spending for which the committee would be charged and that if we are charged with it, we will go over the 302(b) allocation?

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Oklahoma.

Mr. COBURN. That is right. What we are saying is if we write that statutory language, we will continue to take administrative expenses from the mandatory side rather than from the discretionary side. That is how you have been doing it the last 7 years.

Mr. STOKES. If I can bring this to the attention of the gentleman, "Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee's section 302(b) allocations in the House and the Senate."

Is the gentleman aware of that provision of the law?

Mr. COBURN. Yes, I am, and I still would tell him that I will vote for a priority for our veterans over the administrative overhead of HUD every day.

Mr. STOKES. Then the gentleman does agree that we would exceed our 302(b) allocation by using the mandatory language.

Mr. COBURN. Mandatory spending does not count on 302(b) allocations.

Mr. STOKES. I just read the gentleman the law.

Mr. COBURN. I understand. But mandatory spending is not appointed against 302(b) allocations.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. I would like to simply point out that there is no statutory authority for the agency to continue to do this through mandatory spending. If there were, then they would simply be spending the same amount of dollars in mandatory spending as they are spending through appropriated accounts.

Mr. COBURN. Absolutely.

Mr. OBEY. And so you would not be saving one dime. You would simply be adding in the real world as opposed to the green eyeshade accounting world, you would simply be adding more money to the budget. What you are suggesting is that there is a way that we can sneak around the budget limits without getting caught, and I thought that the CATs were opposed to stuff like that.

Mr. COBURN. First of all, I am not stating that a legislative waiver is necessarily the best answer. I know that may be the temptation of us as a body, and in fact we may need to do that. What I am saying is that there is a lack of available discretionary funds made between the two bodies. What the explanation for that is, I do not know. But the question that I would have is why does the CBO score a legislative waiver as a cost? CBO scores it as a cost because it is an actual change in the law. It is not, however, a change in practice.

Mr. OBEY. The fact is I cannot get into the head of OMB or anybody else around here. All I know is that we have a choice. The choice is whether or not we are going to tell Members that things are so that are not so. The fact is, Members are being told by your side that this will not shut down FHA. The fact is absent new statutory authority, it most certainly will. And your amendment will in fact cripple the ability of FHA to deliver housing to people in this country. Now, that is a fact, whether you admit it or not.

Mr. COBURN. If the gentleman will yield further, I would not have that interpretation of the facts, especially not in that absolute manner. I would also say, and I would reemphasize again, if this causes heartburn: "So be it". Our veterans are underfunded.

Mr. OBEY. I would suggest what you are saying is if this causes heartburn to all of the people who we supposedly helped in the Neumann amendment last week on FHA housing, you are saying: "So be it." I do not think you ought to treat homeowners that way,

either; certainly not struggling working people who need FHA to get access to the housing market.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. I appreciate the gentlewoman yielding.

Mr. Chairman, I think it is important for the body to know that while there may be some confusion about the impact of this amendment, and it is understandable because it is a new responsibility in terms of language that we have in this bill, it nonetheless would have a huge impact upon the administration of FHA programs and would thereby undermine that work that we are all involved in. I think there are some 250 Members who coauthored that effort we made a couple of weeks ago, and this would undermine much of what we did there. So it is important that we not, because we have a wish list, to take money from so-called easy housing programs and move it somewhere else. This is a very delicately balanced bill. I would urge the Members not to undo that FHA program they worked so hard for with this amendment but find some other way to do this.

Mrs. CHENOWETH. Mr. Chairman, reclaiming my time, I yield to the gentleman from Wisconsin (Mr. NEUMANN).

Mr. NEUMANN. I would just like to clarify the funding and what exactly happens with this funding, to the best of my understanding. This is currently an appropriated amount of money, which means it is under the 302(b) allocation. If we were to move it back into mandatory and we were to authorize the spending under the mandatory portion of the budget, we would have a pay-go problem. Because pay-go says if you are going to start a new mandatory spending program, you either have to raise taxes or decrease a mandatory spending program elsewhere.

My only intent here is to make sure that we understand what the funding implications are. Certainly if they had been spending this money in the mandatory portion of this program, the program should have been authorized and they had no business spending it before.

Mr. COBURN. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from Oklahoma.

Mr. COBURN. First of all, they are already spending this money, so it is offset. It is already being spent.

Mr. NEUMANN. In the 302(b).

Mr. COBURN. Yes. Under mandatory spending. It is already being spent. The money is being spent. Otherwise, we would not have had the administration in the last year.

I would just ask to make one additional point. Given all that technically, we have not met our commitments to our veterans. There is no need for a 50 percent increase in the funding

on this bill, and we need to move it to the veterans. If there is a problem with that, then we need to prioritize somewhere else so that we meet what we need to do for our veterans.

Mrs. CHENOWETH. Reclaiming my time, I thank the gentleman for his explanation.

My concern is, is just keeping promises. The fact is, we have over \$4 billion in new spending on HUD and EPA and CEQ, but we are not expending one new, thin dime in veterans' health care. The fact is that there will be about 3,413,000 new veteran claimants this year. The fact is that World War II veterans are now old, they are aged, they are infirm, they are frightened, they feel alone, and now we are not keeping our promise because we have only set aside about \$5,000 per year for each one of those veterans. That is not enough. They were willing to give their last full measure on the battlefield for us, and they won for us. We made a deal with them, and I think we better keep it.

Theodore Roosevelt, our President, said that a man who is good enough to shed his blood for his country is good enough to expect a square deal will be given to him when he gets home.

□ 1500

Mr. Chairman, I feel very strongly about that, and I believe that every veteran in this great Nation recognizes the need that he must fulfill in fighting for his country, and now we need to recognize the need of our veterans.

My parents, I lost both of them recently, and even with old age people do feel alone and frightened, and can we do that to our veterans now, those men who fought with able, fit, young bodies and went overseas and fought the good fight for us so that we would be able to stand here and be able to speak freely?

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to commend the gentleman from Oklahoma (Mr. COBURN) for his efforts to encourage others to vote with him. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) are probably right when they say the way he goes about it is flawed. Guess what? We do lots of flawed things around here. We start off every day by waiving the rules that govern this body, every single day, Mr. Chairman, and say we got these rules, but they do not count; let us throw them out. The question is if we are going to do that for everything else, how about just once doing it for the folks who deserve it the most?

There is really only one group of Americans who were promised health care, and that is our veterans. Medicare and Medicaid did not come along until the glory years of America in the 1960s when we had more money than sense. We now spend about \$260 billion a year on Medicare and Medicaid. We spend about 40 on veterans. Those folks

got it just because they exist. Now, veterans earned it.

So even if what the gentleman is doing is flawed, that is why we have a conference committee to make it fit within the rules.

As my colleagues know, we are talking, some people here in this body, not me, are talking about giving back a hundred billion dollars in tax breaks. But doggone, if we can find the money to give their wealthy contributors a tax break, how about us finding the money to help those people who are now too old to help themselves, who go to the veterans hospital because they are short on cash, who go there because it gives them the chance to relive the greatest days of their lives, the most horrible and the greatest days of their lives all at once?

And if my colleagues ever want a reason to do this, I would encourage them to read a one-page article in Newsweek 2 weeks ago, written by Stephen Ambrose, called "The Kids Who Saved the World." They did not question; they did it for 50 bucks a month. It was not for the benefits, it was not for free health care. They did it because it was the right thing to do.

We have a chance to do the right thing. We can find a million technical reasons why we should not help our veterans. But, my colleagues, know what? People in this country were not promised cheap home loans. People in this country were not promised free medical care if they served their country. Let us keep the promise that we made and then worry about those other things that are nice if we can afford them.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to speak on this until I heard the debate, and I have the greatest respect for the ranking minority member, the gentleman from Ohio (Mr. STOKES), and my colleague from California (Mr. LEWIS). But I tell my colleagues this is about priorities and it is about promises.

The priority: If I was going to vote for health care for veterans or housing, I have no question where my priority lies. It is health care for our veterans.

Our Capitol Police, in the news right now; if I was going to support either their health care or the housing, I would choose their health care for themselves and their families.

I was the original offeror of subvention, not myself, but the veterans in San Diego, California, and it is a Band-Aid. TriCare is a Band-Aid for the promises that we made. The original bill of the gentleman from Oklahoma (Mr. WATTS) and myself gave full funding to FEHBP. One can take a trash collector at a military base for the Pentagon, or a secretary, and they get the benefits of FEHBP. But someone who has gone over and fought our wars or their families, they do not get it. And that is the real answer that we

need to do and take a look for our veterans, and take a look at it, and this is a very divisive issue, and it should not be.

But I read the article by Mr. Ambrose, "Kids Who Saved the World." I would recommend it. It is one of the best articles that one could read. And I would say to my friends that our active duty forces today, we are only retaining 24 percent of them because our operation tempo is 300 percent above what it was during the Cold War or Vietnam.

We are killing our military. It is in the worst shape I have ever seen it. These people are going to become veterans, and we are going to deny them health care? I do not think so.

I rise in strong support of the gentleman's amendment, and I ask for its passage.

Mr. BENTSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. With all due respect to my colleagues, this is not necessarily about the choice between housing for the American people and veterans, and if we were going to use that as a yardstick, we could go back to when we passed the highway bill, and I did not hear a lot of my colleagues or did not see a lot of my colleagues voting against the highway bill.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, the author of this amendment was in vocal opposition to the highway bill.

Mr. BENTSEN. Mr. Chairman, I appreciate that, but nonetheless we have heard a number of colleagues say we have to deal with priorities here. Well, we seem to lose those priorities when it came down to concrete and cement and all that we were going to do.

Now there are issues related to the highway bill, budget and things like that. But here is the problem as I see it with this particular amendment: I appreciate what the gentleman from Oklahoma is trying to achieve with respect to veterans health care. However I am afraid that his amendment unintentionally, I believe, would tamper with what is otherwise a very successful Federal housing program and put the government at greater risk and, thus, the taxpayers at greater risk of default.

Now it is my understanding that the reason why the discretionary appropriation is in here is part of FHA's responsibility to meet the Fair Credit Reform Act of, I think, 1990 which requires all government credit-type agencies, including FHA where we guarantee mortgage loans that are outstanding, that we have adequate reserves and adequate servicing and management of those portfolios. To not allow the FHA by taking away their funds to adequately manage the single

family mortgage portfolio that they have would ultimately put at risk the triple-A-triple-A credit standard of that portfolio. So in the long run, it would affect the borrowing cost of the American people who are eligible for the FHA loans, and I am not sure that any Member wants to be involved with raising the borrowing cost in that regard.

Second of all, it very well could affect the portfolio quality if we do not give the FHA the ability to move, foreclose, and liquidate real estate owned. We do not want to have the government owning a lot of property that is not bringing an income and putting at risk the credit portfolio, and that also would affect the credit quality but ultimately could affect the taxpayers where we might have to put out more money to address shortfalls in the portfolio.

So while I applaud the gentleman for trying to reach out to the veterans and give them more funding, this amendment is the wrong way to go because we are going to potentially mess up what is otherwise a well-run program that meets its obligations and thus has achieved the credit rating that lowers the interest cost to the people who can benefit in it.

So I would urge my colleagues, as one who came to this House from working in the mortgage industry, and I have looked at a lot of FHA credits over time, I do not think we want to tamper with a good thing, and this amendment tampers with a good thing, and I would urge my colleagues to oppose the amendment.

Mr. LEWIS of California. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I will not take the 5 minutes. I have had discussions with my colleagues, the gentleman from Ohio (Mr. STOKES) and others on the other side, and with a voice vote it is our intention to accept that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. COBURN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BERMAN

Mr. BERMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BERMAN:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 425. None of the funds made available in this Act (including amounts made available for salaries and expenses) may be used by the Director of the Federal Emergency Management Agency to take any action—

(1) to permit Kaiser Permanente to transfer any of the funds made available to the Kaiser Permanente hospital in Panorama City, California, under the Seismic Hazard Mitigation Program for Hospitals (including funds made available before October 1, 1998) to any other facility; or

(2) to permit Kaiser Permanente to use any of the funds described in paragraph (1) to relocate the hospital to a site that is located more than 3 miles from the current site of the hospital.

If, before October 1, 1998, the Director takes an action described in paragraph (1) or (2), the Director shall rescind the action.

Mr. BERMAN (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Chairman, my amendment, which I am showing both to the chair and ranking members of this subcommittee, would simply ensure that certain FEMA disaster funds related to the 1994 Northridge earthquake are used in a fair and appropriate manner. After the quake and at the behest of a great deal of effort by the gentleman from California, the chairman of the subcommittee, FEMA created the Seismic Hazard Mitigation Program for hospitals, a program which was intended to rebuild and improve seismic performance of damaged hospitals. FEMA allocated 68 million under this program to the Kaiser Permanente Hospital in Panorama City which provides emergency room services and inpatient care for thousands of families.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. LEWIS of California. My colleagues and I discussed this in some depth, and I think the House, when they read it, will understand it.

I am ready to accept the amendment if my colleague from Cleveland is so inclined.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Ohio.

Mr. STOKES. We also are agreeable to accepting the amendment.

Mr. BERMAN. Mr. Chairman, I thank the gentlemen, and, reclaiming my time, I am ready to accept their acceptance and to stop my talking.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BERMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEUMANN:

At the end of Title IV, insert the following:

SEC. . None of the funds made in this Act may be used for researching methods to reduce methane emissions from cows, sheep or any other ruminant livestock.

Mr. NEUMANN. Mr. Chairman, about a month, month-and-a-half ago, I brought some information to this body regarding an audit of the Federal Government, and we started going through some of the things that were in that

audit, and it got to the point where people were laughing about the things, and they would have been funny had they not been true; when we found things like the Navy could not find 21 out of 79 ships they went looking for.

The amendment I bring here today falls into that category.

I would like to see some of our colleagues explain to their constituents back home exactly why it is that we are spending hundreds of thousands of dollars of the taxpayers' money every year to study cow belching and cow gas and those other words for this that would make it even more humorous.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I am having a bit of difficulty swallowing all of this, and, as a result of that, I read the amendment carefully and I believe my colleague and I are ready to accept the gentleman's amendment.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, I am having difficulty swallowing it, too, but I also agree to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. NEUMANN).

The amendment was agreed to.

□ 1515

AMENDMENT NO. 22 OFFERED BY MR. HINCHEY.

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. HINCHEY: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 425. None of the funds made available in this Act may be used by the Department of Veterans Affairs to implement or administer the Veterans Equitable Resource Allocation system.

Mr. HINCHEY. Mr. Chairman, the Veterans' Equitable Resource Allocation system, known as VERA, may have started out with good intentions. The purpose was to shift funds in accord with shifts in veterans' populations, and more specifically, with veterans' needs.

If there are more veterans needing health care services in Florida today than there were 20 years ago, and we know that that is true, then Florida should be getting a larger share of the VA health budget than it received previously. That is common sense, and I have no argument with that principle.

But I do have an argument with the actual plan for reallocation, the VERA plan, and with its consequences. Many of us were very disturbed in January of 1997 when the VA first gave us figures about how much would be cut from its health care spending in our regions to fit the VERA plan.

We had been hearing from our veterans that the quality of care was not what it ought to be in many places, and we were concerned that these new cuts would hurt our veterans even more.

The VA assured us that quality of care would not decline. Most of the reductions had already taken place, we were told. Any further reduction would be covered by improvements and efficiency.

Every time we raised a question about the VERA model, for example, did it take into account higher costs in our region, did it take into account the fact that our facilities are old and in need of repair or replacement, each time we were assured that it did and the model was perfect. It was not.

The decline in patient care at one of the hospitals that serves veterans in my area was swift and dramatic. Myself and my colleagues in the area asked for a review by the Inspector General at the Veterans Administration, and the report was horrifying. It documented sharp increases in deficient care, understaffing, and important professional categories, poor maintenance of facilities.

It found, in fact, that there was a 50 percent increase in the rate of patients who died, who had received poor or marginal care in the 6 months after VERA formally took effect, a 50 percent increase in mortality rates. Some veterans told me they wept when they read the report.

It was undeniable that these problems were attributable to the VERA cuts. To mention just one example, professional staff were offered buyouts to get the budget into line with the VERA requirements. But no one had planned how to replace them or to reassign those who stayed.

In February, we were given more bad news. What we were told about the VERA cuts had not been accurate. We were going to have to absorb another \$120 million in cuts over the next 2 years. How are we going to do that, we asked, when we have just documented the problems in our region? We have not received an answer to how that is going to be done.

I have just learned that the Veterans Administration is planning another round of cuts under VERA that will affect 11 regions. The regions facing cuts are these, Boston headquarters serving Maine, New Hampshire, Vermont, Rhode Island, and Massachusetts. They will receive \$38.8 million in cuts. The Albany area, serving upstate New York cut \$12 million. The New York City metropolitan area, serving lower New York and Newark, New Jersey cut \$48 million. Pittsburgh, serving Pennsylvania, Delaware, part of West Virginia cut \$3 million. Durham, serving North Carolina, part of West Virginia and Virginia cut \$1 million. Nashville, serving Tennessee, part of West Virginia and Kentucky cut \$12 million. Chicago, serving part of Illinois, Michigan, and Wisconsin cut \$28 million. Kansas City,

serving Kansas, Missouri, part of Illinois cut \$20 million. Dallas, serving Texas, except for Houston, cut \$10.5 million. Denver, serving Colorado, Wyoming, Utah, and Montana cut \$13 million. And Long Beach, serving California and Nevada cut \$23 million.

The message of my amendment is simple. VERA is not equitable. It has failed. It may not have failed veterans all over the country yet, but it has clearly failed veterans in many regions and will be failing more instantly.

My amendment would cut off funding for implementation of VERA. It would force the VA to go back to the drawing boards and develop a system that really would treat all veterans equitably.

The CHAIRMAN. The time of the gentleman from New York (Mr. HINCHEY) has expired.

(By unanimous consent, Mr. HINCHEY was allowed to proceed for 1 additional minute.)

Mr. HINCHEY. Mr. Chairman, right now our veterans are being damaged by a faulty computer model. We would like to free them from the computer model and see a system based on the realities.

There will be some people who may come to the floor opposing this amendment. They may say that the system is working. They may say that it is helping veterans in some parts of the country. That may be true, but, increasingly, it is hurting more and more veterans, not just in metropolitan areas but all across the country. From coast to coast, veterans are being affected negatively by these cuts.

I ask my colleagues to join me in adopting this amendment so that we can get a sensible approach to the need to finance the health care needs for veterans all across the country.

Mr. BILIRAKIS. Mr. Chairman, I rise to speak in opposition of the amendment.

Mr. Chairman, as I said, I do rise in strong opposition to the amendment which would prohibit the use of VA funds to further implement the Veterans' Equitable, and I emphasize that word equitable, Resource Allocation system.

VERA, as it is called, corrects historic geographic imbalances in funding for VA health care services and ensures equitable access to care for all veterans. Long ago, our Nation made a commitment to care for the brave men and women who fought the battles to keep America free. These are our Nation's veterans. Please take note when I say "our Nation's veterans." They are not Florida's veterans or Arizona's veterans or New York's veterans. They are our veterans, and we, as a Nation, have a collective responsibility to honor the commitment that we made to them.

When they volunteered to fight for America's freedom, no one asked these veterans what part of the country they came from. It simply did not matter. Unfortunately, when they came home, veterans found out that where they live matters a great deal. Until the

passage of VERA, a veteran's ability to access the VA health care system literally depended upon where he or she happened to live.

Since coming to Congress, I have heard from many, many veterans who were denied care at Florida VA medical facilities. In many instances, these veterans have been receiving care at their local VA medical center. However, once they moved to Florida, the VA was forced to turn them away because the facilities in our State simply did not have the resources to meet the high demand for care.

This lack of adequate resources, Mr. Chairman, is further compounded in the winter months when Florida veterans are literally crowded out of the system by individuals who travel south to enjoy our warm water.

It is hard for my veterans to understand how they can lose their VA health care simply by moving to another part of the country or because a veteran from a different state is using our VA facilities.

Congress enacted VERA for a very simple reason: equity. No matter where they live or what circumstances they face, all veterans deserve to have equal access to quality health care.

Since VERA's implementation, the Florida Veterans' Integrated Services Network, VISN, which includes Puerto Rico, I might add, has treated approximately 35,000 more Category A veterans. These are service-connected and low-income veterans who would not have had access to VA medical care without VERA.

The Florida and Puerto Rico network estimates it will treat a total of 280,000 veterans by the end fiscal year of 1998. The Florida network has also opened nine new community based outpatient clinics in the past 2 years. It plans to open three more clinics by the end of the fiscal year. None of this could have happened without VERA.

The failure to move forward with an improved and fair funding allocation system would mean that the VA would miss a unique opportunity to revitalize its way of doing business. The negative impact would be felt most by veterans who would not be treated in areas that are currently underfunded.

Failing to implement VERA will waste taxpayers' dollars because a return to the funding practices of the past will mean that some VA facilities will receive more money per veteran than others to provide essentially the same care.

The author of this amendment argues that veterans of New York are not being treated equitably. The VERA system already takes regional differences into account by making adjustments for labor costs, differences in patient mix, and differing levels of support for research and education.

Under VERA, the VA facilities in the metropolitan New York area are receiving an average of \$5,659 per veteran patient. This means that these facilities receive an average payment for

each patient that is 27 percent higher than the national average.

I ask, how is this inequitable? If the Hinchey amendment passes, continued funding imbalances will result in unequal access to VA health care for veterans in different parts of the country.

VERA ensures that veterans across the country have equal access to VA health care and that tax dollars are wisely spent. I urge my colleagues to vote against the Hinchey amendment.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Hinchey amendment to prohibit funding for the Department of Veterans Affairs misguided VERA plan.

The VERA plan will take scarce resources away from the veterans in my district and other areas of the northeast based on flawed data about veteran populations around the country. The veterans who use the VA health care system in New York deserve better than the VERA plan gives them.

Each year, about 150,000 veterans use the eight VA facilities in the New York metropolitan region. These veterans have come to rely on the excellent services provided by these facilities but the cuts in these services called for in the VERA plan will be disastrous.

Since the implementation of VERA began, I have received reports from many veterans in my district of diminished quality of care at the VA medical centers. In fact, the VA's Office of the Medical Inspector investigated the Hudson Valley VA hospitals and found more than 150 violations of health and safety rules at those hospitals alone. It is not a coincidence that these violations came at a time when these hospitals were trying to cut costs to comply with VERA, and the situation is about to get worse.

When I joined some of my colleagues in a meeting with VA officials about VERA implementation several months ago, the reports from the VA were alarming. Under Secretary for Health Kenneth Kizer told us that under the current budget the VA will hit a brick wall in its ability to provide services to the veterans community in my region, and James Farsetta, the director of Network 3, which serves my constituents, said his network would, quote, be in trouble soon under the current VERA plan.

Mr. Chairman, I understand the need to provide services to growing veterans populations in other regions of the country but that must not be done on the backs of New York's veterans.

A recent assessment of the VERA plan by Price Waterhouse highlighted a major flaw in the fundamental assumptions of the plan. The report stated that, quote, basing resource allocation on patient volume is only an interim solution because patient volume indicates which veterans the VHA, Veterans Health Administration, is serving; not which veterans have the highest health care needs. This is especially

relevant to the New York region, which has the highest proportion of specialty care veterans in the country.

Mr. Chairman, we cannot turn our backs on New York's proud veterans, but that is exactly what will happen if we allow the VERA plan to go forward. I urge my colleagues to protect our veterans by supporting the Hinchey amendment.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite of number words.

Mr. Chairman, I rise very strongly in opposition to this amendment, and I think that my colleagues need to understand really what it does and what this amendment seeks to do as it relates to veterans health care.

The VERA system was mandated by legislation passed into law in the 104th Congress. It is strongly supported by the Veterans Administration. In the second half of fiscal year 1997, the VA began implementing the VERA system, the Veteran Equitable Resource Allocation system.

This allocates health care resources according to the numbers of veterans served in each veteran's integrated service network, VISN, in the country. Historically, funding for the VA flowed into hospitals in the east where veterans were originally concentrated. Each year, this funding was increased, even as veterans began to migrate away from these regions. Over time, a serious mismatch developed between numbers of veterans needing care and the number that the system was capable of serving.

□ 1530

VERA corrects this divergence of linking funding within each visit to the actual population served.

What is happening now, Mr. Chairman, is that veterans are moving south and they are moving west, but yet those who support this amendment want to keep the money that supports those veterans in the areas from which veterans are leaving and not give the resources to the areas to which the veteran population is going.

The gentleman from New York (Mr. HINCHEY), in support of his argument, has argued that the current allocation is not equitable for the Northeast; but, simply stated, this VERA formula is straightforward. It does not allow the inequities that existed in the old system. It is an equitable system. The system matches workloads with annual allocations. It takes into account numbers of basic and special care veterans, national price and wage differences in education and equipment differences.

Now, it may well be that VISN number 3 is having difficulty adopting to the VERA system, but that is because the most inefficient network is VISN 3, it is most inefficient in the country. So the VERA system does not reward inefficiency, it forces networks to develop a resource plan that makes the most of limited funds.

If we look at the historic resource consumption per patient, a standard

industry measure of efficiency, it reveals that while my VISN in Portland, Oregon, which serves the West, was more than 20 percent more efficient than the system as a whole, Chicago and the Bronx were 20 percent more inefficient than the system as a whole.

The VA has, I would tell my friend, \$50 million in reserve that it sets aside to address the quality of care issues associated with VERA implementation. If, in fact, the Secretary feels that the quality is being impacted, he can use this \$50 million reserve to assist VISN 3 without eliminating the entire VERA system.

The VA does not know what would happen to veterans' funding if the Hinchey amendment was adopted. There is no fall-back option if the VERA system is eliminated, and that should be very much of concern to all of us who have veterans in our district, and especially those districts that are increasing in their veteran population.

The most likely option we would have would be to revert to the formula that created this massive funding shortfall in VISNs across most of the country and return then more money to the Northeast. That is not equitable to veterans. It is not equitable to veterans of the West and the South, where all the veterans seem to be moving.

If we reverted to fiscal year 1996 allocations, my VISN in Portland, Oregon, would lose \$80 million. Dallas, Texas, would lose the same amount. Jackson, Georgia, would lose \$120 million. Bay Pines, Florida, would lose \$110 million. San Francisco, California, would lose about \$50 million. And Long Beach, California, would lose some \$40 million.

How about those veterans? They have needs and priorities as well, and they would be then underserved.

On the local level, what would these massive cuts mean for rural VA hospitals in the West and the South? It would mean that the uniform benefits that the VA is striving to provide would be unavailable. My local hospital in Spokane, Washington, has told me that they would have to eliminate all of the subspecialty care that they have recently subcontracted for with the new VERA dollars. So they would lose specialists in the fields of cardiology, enterology, neurology and ophthalmology.

The bottom line is VERA is equitable. Until last year, small VA hospitals across most of the country did not have the funds available to provide this care on site. The Hinchey amendment would end this specialty care. I urge that we vote against the Hinchey amendment.

Mr. FRELINGHUYSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the gentleman of New York's amendment to suspend the Department of Veterans Affairs Equitable Resources Allocation program, or VERA. As the gentleman may know, the gentleman from New York (Mrs. KELLY)

and I tried to do the same thing last year. Unfortunately, our efforts were thwarted by the Senate. We settled instead for a General Accounting Office study on the effects of VERA implementation on VISN 3, which covers parts of New York and New Jersey. This report is still not completed.

Simply put, it is my feeling that VERA is bad public policy. The program shifts money away from areas with existing elderly veteran populations and into areas with developing veteran populations. In the end, this program has done nothing more than pit veterans in one region of the country against veterans in other regions.

Let me tell my colleagues what VERA has meant for the veterans in my district in New Jersey. VERA has meant that security stations in the psychiatric ward at Lyons VA Medical Center are often empty or unmanned. VERA has meant less doctors and less nurses working more overtime to care for patients at Lyons and East Orange Medical Centers. Furthermore, I understand that the FBI and the VA's Inspector General are currently investigating alleged rapes and other alleged mistreatments or abuses of patients.

And the worst example of VERA's impact on my district happened last month. A Korean War veteran at Lyons VA Medical Center left his room, unobserved by staff because they are understaffed, and his body was found not until 2 days later, just yards away from the very building where he lived. Why did it take so long? From what I have been told, there was no money to pay the Medical Center's police overtime to search for him. Local authorities evidently were not contacted.

Unfortunately, my district is not alone. The gentlewoman from New York (Mrs. KELLY), who also represents VA medical centers, and others in this room as well have had similar experiences. At Castle Point Medical Center, a pressure ulcer patient in the long-term care unit had maggots living in his wound. A VA Inspector General's report found a large number of flies in his care unit.

The VERA program was implemented by the VA with minimal guidance by Congress. The proposal of the gentleman from New York (Mr. HINCHEY) to suspend the implementation is on target, because it will give Congress time to evaluate the program's consequences on the quality of health care for all within the system. It is our duty and our responsibility to fully explore the impact of VERA on veterans medical care.

Congress needs to exercise more oversight over the VA and VERA to prevent other egregious actions. For example, the leadership in VISN 3 in our area which covers my district returned \$20 million to Washington, to the VA last year. Yet patient needs continue to be unmet and patient care suffers.

VERA is not the answer to the VA's funding problems. All VERA has done

since it was implemented was to create regional battles for diminishing funds. When our Nation was at war, our veterans answered the call and placed their lives on the line to defend ours. They deserve better than a managed care system which often elevates cost savings over quality care.

Mr. Chairman, I support the Hinchey amendment and urge my colleagues to do the same.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand to strongly oppose the Hinchey amendment. First of all, it would bar the VA from funding a system which they already have to distribute medical care equitably. The word equity is important in VERA. It is not so much where one lives demographically but this equitable distribution.

So then I want to ask the gentleman from New York (Mr. HINCHEY) and some of the people from the other areas, this has happened for the past two sessions that I have been here. The gentleman is saying that there is no equity in VERA, but what he does not tell us is that VA facilities in the metropolitan New York area, that is VISN 3, they receive an average payment for each VA patient which is 27 percent higher, 27 percent higher, than the national average. Other New York facilities and VISN 2 receive an average payment for each VA patient which is 7 percent higher than the national average.

Mr. Chairman, 90 percent of Mr. HINCHEY's district is in VISN 2, so we can see that there is some discrepancy there in terms of the equitable treatment of veterans in these areas.

The VERA system, Mr. Chairman, does make regional differences. It takes them into account by making adjustments for labor calls, differences in patient mix, and different levels of support for research and education. And VISN 3 that is in the Bronx, VA medical facilities receives an average of \$5,659 per veteran patient. The national average is just \$4,465 per patient. VISN 8 that is in Florida, VA facilities receive \$4,076.

Now, let us face it, Congress. The veterans want to move south, the veterans want to move out west, and they bring their illnesses and their disabilities to these areas. Does that mean that we go out and recruit them like we recruit football players? No, we do not do that. They come to these areas.

And we keep saying that the medical inspector of the VA conducted a 6-month study. Well, he did, or they did, but it refuted much of the information we hear here today. Much of the Hinchey amendment's rationale is flawed when we look at the statistics that are here.

If members of the VA believe that VA medical funding in their hospitals is inadequate, the solution is to increase the funding into the medical account, not to throw out the system for the

distribution of these funds. No matter what we say, there is always going to be some disagreement when there is a formula. There is always going to be one side saying that the formula is skewed one way and the other one says the other. But this has been studied, and we have some empirical data which shows that the veterans, the money, I repeat, the money should follow the veterans, not the veterans follow the money.

Now, the people in the Northeast area used to get all of the money; and in the South, we were left out. But now we see that this mix has changed. So now they want us to come back and change the system, and we just changed it I think in 1997. So why go back again?

Since VERA was implemented, VISN 8 has treated 35,000 more category A veterans. Do we know what the category A veterans are? Service-connected, low-income veterans. The Florida network has opened nine new community-based outpatient clinics in the past 2 years. Do my colleagues know why? The people are moving from the North into Florida, and we must deal with it.

VERA has supported increased expenses through the VISN, \$3.5 million for prosthetic expenses. Total veterans treated in VISN 8 should reach 28,000 by the end of fiscal year 1998. Florida's veterans population is approximately 1.7 million.

Mr. Chairman, we all realize the VERA issue is a very difficult one. Our veterans population is on the move. They are moving to the southern and western States and away from the States in the Northeast and the Midwest.

This is not something that is new. These demographic changes have been going on for over a decade.

In Florida it has meant overcrowded VA facilities, lots of inadequate equipment, and long waits, because we did not have the personnel we needed to serve the large number of veterans moving to our States. In other parts of the country, it has meant empty beds, unused beds, unneeded beds. So they have had too much bedding in some of these other areas.

To hear proponents of the Hinchey amendment speak, one would think VERA is stealing health care dollars from veterans in other States. That is not right, Congress. The fact of the matter, vets are moving away, as I said. The large budgets in the VA health care facilities are no longer justified. Vote against the Hinchey amendment for fairness.

The VERA issue is a difficult one. Our veterans population is on the move; they are moving to the Southern and Western states and away from the States in the Northeast and the Midwest.

This is not something that is new; these demographic changes have been going on for over a decade. In Florida, it has meant overcrowded VA facilities; lack of adequate equipment; and long waits because we didn't have

the personnel we needed to serve the large number of veterans moving to our state. In other parts of the country, it has means empty beds, unused and unneeded capacity in VA facilities, and more personnel than warranted by the number of vets or their specific treatment needs.

To hear proponents of this amendment speak, you'd think VERA is stealing health care dollars from vets in their states; the fact of the matter is, vets are moving away from their states; the large budgets of their VA health care facilities are no longer justified; and they are complaining because cutbacks are always painful.

While I sympathize with their concerns, we must make sure that VA health care dollars follow the veterans—not the bureaucrats. The fact of the matter is that VERA provides an equitable distribution of VA health care funds, and we should all support it because it is fair—not painless, especially for those who are closing facilities, but fair.

Veterans health care is particularly important to the millions of vets in Florida—not just because we have so many veterans, but because we have so many veterans who are elderly and/or disabled.

From 1980 to 1990 Census Data, 47% of all vets to relocated to another state during the decade moved to Florida

The net gain of vets to Florida in the last decade alone (349,000) was greater than the overall veteran populations of 22 states

Florida also is home to the nation's second largest population of veterans—second only to my Chairman's state, California

Florida is home to the second largest population of veterans with a service-connected disability

Florida has the largest population of veterans with 100% service-connected disabilities, as well as veterans who have 60–90% service-connected disabilities.

I know that the VA has implemented the VERA system (veterans equitable resource allocation) to insure that VA health care resources are directed to where there are the most veterans who need these services.

I urge the members to support VERA by rejecting this most unwise amendment.

Mrs. KELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support for the Hinchey amendment. Under the Veterans' Equitable Resource Allocation plan, I have witnessed the effects of a \$226 million cut to the lower New York area veterans network.

After a careful study of VERA, I have come to the conclusion that it is flawed. These flaws permeate VERA's methodology, its implementation, and especially the VA's oversight of this new spending plan. It is unfortunate that the VERA plan imposed upon our VA facilities, it is not one to provide proper funding to the VA facilities but one to steal from Peter to pay Paul or to take from some VA facilities to give to others.

A little over 6 months ago the VA released a report of its own Office of the Medical Inspector investigating reports into the reduced quality of care at Castle Point and Montrose Veterans Hos-

pitals in my district in the New York Hudson Valley. The findings of the Office of Medical Inspector are startling and uncover a problem that we were only partly aware of.

The Medical Inspector found 158 violations of health and safety and VA codes. The most startling finding was that there was a 25 percent increase in poor to marginal care that was given at the VA hospitals in 1997 in my district.

□ 1545

Let me point out that the report made continuing references to findings such as, and I quote, "pieces of antiquated medical equipment, including those used by or on patients who were identified in the ICU."

The report also stated that its "Team members had observed dust, fecal stains, and urine stains on patient care unit floors. Team members noted floors, walls, and ceilings with cobwebs, windowsills covered with dirt and dust, peeling paint, broken floor tiles, crumbling cement," et cetera.

This prompted one of the most important conclusions of the report, again, which I quote: "There is a great need for overall upgrading of both facilities."

The VA inspectors also stated that they, and I again quote, "believe that (the network) and Castle Point and Montrose leadership and management may have accelerated the pace of the integration to become more efficient in anticipation of VERA." In short, we were feeling the negative effects of VERA long before it was ever implemented.

When VERA is supposed to promote more efficient and effective delivery of care, I am seeing the exact opposite occur at veterans' hospitals in my area. The staff there is caring and wonderfully committed, but the VA is not supporting them.

I beseech my colleagues on both sides of the aisle to support the Hinchey amendment and to make the necessary investment into veterans' hospitals for all necessary upgrading needed in order to keep their promise of care for our veterans. The veterans of this Nation gave their best for us, and now we must do our best for them.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I simply rise and suggest to the gentlewoman that I very much appreciate her position. Positions not entirely the same as hers are going to be expressed across the floor, I can tell, in proportionate numbers to the Members who serve in various areas of the country.

May I suggest recognizing the value of revising and extending.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a Member of the Committee on Veterans' Affairs, I

know that VERA was developed as a way for the VA to be more efficient in providing health care for our veterans. VERA is not simply taking money from one region to another, it is a well-thought-out system, supported by our own General Accounting Office and the VA Under Secretary for Health. It recognizes that health care costs vary from region to region, and it also accounts for veterans who move to warmer climates and therefore are using Sunbelt facilities more.

In my State of Florida, the demand for veterans' health care continues to rise. Many constituents in the States of my colleagues who oppose this system have moved to Florida and very much want this system to stay in place. I support VERA, veterans' service organizations support VERA, the GAO supports VERA, the VA supports VERA. I urge my colleagues to support VERA. If there is a problem with one hospital, if there is a problem with the system, it is better to address them, than to eliminate a program that will affect veterans across the entire country.

I urge my colleagues to support our veterans and not vote for any amendment to strike VERA.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I am pleased to rise in strong support of the amendment being offered by my colleague, the gentleman from New York (Mr. HINCHEY), to the VA, HUD appropriation act for fiscal year 1999. I join him in expressing strong concern for the future of VA health care, and I agree that VERA is not the proper model to use in determining future funding allocations.

While VERA was a noble effort, it has been unfairly biased against older veterans in major metropolitan areas. These older veterans are those most in need of inpatient comprehensive health care, and they have been the ones most adversely affected and impacted by VERA.

In fact, Mr. Chairman, widespread evidence of deteriorating quality of care in New York veterans' hospitals last year is proof enough that VERA has hurt too many of our veterans. The primary reasons for this is that VERA advocates a zero sum game. For veterans in the South and West who gain health care funds, veterans in another region have to lose some funding. This is being done in an environment where veterans' funding is theoretically frozen for the next 5 years.

Even with the modest increases suggested by the Committee on Veterans' Affairs, those VISNs in the Northeast will still lose a great deal of money to both VERA and annual medical inflation costs. Thus, health care for our veterans in the Northeast are going to take a double hit every year.

In VISN Network 3, the reported plans for the new VERA cuts in fiscal year 2000 will result in a \$48 million cut in lower New York State. The problems with VERA are twofold.

First, since the VA means test is a national figure, there will be more category A veterans in the South and West, which have lower costs of living, than in the Northeast. This results in an inaccurate measure of demand for services between VISNs.

Secondly, VERA fails to differentiate between the types of care delivered at VA facilities. VA hospitals in the Northeast have more specialized care patients, including spinal cord injuries, mental health, AIDS, and geriatric care cases. These cases cost more than their outpatient counterparts, which are more plentiful in the South and West.

Furthermore, despite the well-publicized concerns of my colleagues, there exists no crisis for VA health care in the Sunbelt. In response to an inquiry we made on this subject last year, the GAO informed us that there was no empirical evidence that any veteran in the South or West has been denied care due to inadequate funding.

While it is true that many veterans have in the past migrated to the Sunbelt, let us note that these are predominantly well-off individuals who use private facilities or Medicare over VA facilities.

The GAO will also soon be releasing a final report on the impact of VERA on the quality of care being delivered in those VISNs of the Northeast. From the preliminary evidence I and my Northeast colleagues were made privy to during the course of my investigations, the results will not be encouraging for VERA.

Accordingly, Mr. Chairman, I urge all of our colleagues to vote for this amendment to show their commitment to our veterans, regardless of their geographic residence. The solution for VA health care is to make the pie larger, not to alter the size of the pieces after they have been cut.

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hinchey amendment, but I must say that in many ways, this is an embarrassing and unfortunate debate. We should all be a little bit ashamed of ourselves. Veterans are not Vermonters, they are not Floridians, they are not New Yorkers, they are not Californians, they are Americans.

The fact of the matter is that over recent years, this Congress has cut and cut veterans' programs. I do not have to remind the Members here that only a few months ago we took \$10 billion from veterans' programs in order to increase funding for the highway program. I think the highway program is important, and a good idea. I supported it. But they did not need another \$10 billion on top of \$200 billion. Yet, we lost by 5 votes the effort to retrieve that \$10 billion.

Last year in the so-called balanced budget agreement we gave huge tax breaks to some of the wealthiest people in this country, and then we cut back, not only on Medicare, but on veterans' programs again. So I happen to agree with those people who say that when men and women put their lives on the line and sign the contract with the United States government, we have a moral obligation to fulfill that contract, and we have not done that. That is the most important issue.

The Northeast should not be fighting with the South. Every veteran in this country deserves quality health care, but that is what has happened, because we have cut back when we should not have cut back. This is a wealthy Nation. This is a Nation that has given huge tax breaks to those people who do not need it, and then we say, gee, we do not have enough money for veterans' programs.

In respect to the Hinchey amendment, I strongly support it, having said that. I think that the formulation in VERA is not fair to various regions of this country, and that we should support the Hinchey amendment and make what exists a little bit better. But the bottom line is we should support all of our veterans. We should increase funding for veterans' programs, and we have the resources to do that, if we get our priorities straight.

Mr. EVERETT. Mr. Chairman, I move to strike the requisite number of words.

(Mr. EVERETT asked and was given permission to revise and extend his remarks.)

Mr. EVERETT. Mr. Chairman, as a supporter of fairness for our Nation's veterans, I rise in strong opposition to the Hinchey amendment. It is ironic that this legislation, which the sponsors say will help veterans, will end up destroying many veterans. If the Hinchey amendment is adopted, veterans across the Nation will lose newly-won equitable assets to vital medical care funds afforded to them by law.

In April of 1997, the VA implemented VERA to address medical care funding inequities in VA facilities nationwide. Since its implementation, the findings are, contrary to what we have heard on this floor, for which they say they have documentation, and I would like to see it, as chairman of the Subcommittee on Oversight and Investigations, because nobody has given it to me, but contrary to that report, the well-known accounting firm of Price Waterhouse reviewed VERA and has given it positive marks in its March report. It says that VERA was a well-designed, conceptually sound system marked by simplicity, equity, and fairness.

This positive review was conducted on the heels of another favorable assessment by the General Accounting Office in 1997 which noted that VERA is making resource allocations more equitable than previous funding systems.

Despite the evidence that VERA is working just as it was intended, the sponsor of this amendment, the gentleman from New York (Mr. HINCHEY) claims that his veterans in New York are being shortchanged. Nothing could be further from the truth. VERA is designed to factor in regional costs, such as labor, differences in patient mix, and varying levels of support for research and education.

For example, in New York, the gentleman's district, the average veteran patient receives \$5,659. In my district in Alabama, which is part of VISN 7, the average patient just gets \$4,300. In reality, New York's VA facilities receive an average payment per patient which is 27 percent higher than the national average.

What disturbs me even more are the charges by some in the New York delegation that somehow VERA's funding allocations have resulted in a deterioration of health care and untimely deaths in several New York VA medical facilities. These are serious charges. I would frankly like to see their proof.

It is my understanding that my colleagues from New York base their facts on a report by the VA's Inspector General as to the deaths at Montrose and Castle Point New York VA hospitals. This very report vindicated VERA in those cases. The VA's IG report even went on to specifically state there was no impact of VERA at Castle Point and Montrose concerning mortality rates. VERA was in fact not tied to any health care quality concerns at these facilities reported by the VA IG.

Further, I understand that the VA's IG report did list over 150 areas of improvement to address the problems of two New York hospitals, but none included VERA, despite what you have heard on the floor today.

As chairman of the VA Subcommittee on Oversight and Investigations, I rely on facts. I must tell the Members, there are no facts to back up the claims that VERA has adversely affected any veteran, any of my veterans or any in New York. Rushing to judgment armed with half facts serves no one's interests, especially our veterans. America's veterans deserve the very best medical care, and VERA is helping deliver it. We need to work that out.

Let me also say, I would suggest that my fellow Members of Congress visit their VA hospitals and pay particular attention to the way their money is spent. I have seen \$200,000 spent for gold-plated faucets by a director, of health care money, by a director renovating his house; \$26,000 for a fish tank; \$100,000 for another fish tank, and by the way, in the area that they say is going to be affected, \$20,000 just to keep this fish tank up every year.

Mr. Chairman, I would suggest we all take a close look at how VA spends its money. I am very satisfied with the current help I am getting from the VA on cracking down on this kind of stuff.

□ 1600

Another hospital, 63 percent occupancy. The overtime runs over a million dollars a year consistently. It is absolutely unacceptable. I urge a "no" vote on this amendment.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Hinchey amendment.

Let me start out by voicing my agreement with the comments of the gentleman from Vermont (Mr. SANDERS). To a large extent, this debate is taking place in a context that it should not be taking place in, the context of large cuts in veterans services.

This is the richest country in the history of the planet, but we are wasting too much of those resources, too much of government's resources which could be spent on helping veterans and on other worthy purposes, on tax breaks for the richest people in our society.

But within the amount of money we make available for veterans, the intent of VERA was to distribute the VA's resources equitably to take into account population shifts and needs in growing States. We know that and do not object to that. But the actual plan has not worked out that way.

What do we see? We see professional staff shortages due to staff buyouts, buyouts apparently pushed in order to meet VERA quotas. We see a 20 percent cut in the per patient budget. We see an increase from 17 to 25 percent in the number of deceased patients, deceased patients judged to have received marginal or poor care. Inspectors noted that this represented a sharp rise, unquote, in poor care in the period after VERA took effect.

We see decline in maintenance. We see no janitorial services on nights and weekends and other indices of poor services.

The VA has consistently maintained that allocation should be based on its computer model that says that some regions have too high a per patient cost, rather than determining why those costs are higher than average.

Mr. Chairman, if my colleagues believe in equitable treatment for veterans and quality care for all veterans, they will join us in questioning why some regions have suffered so severely since VERA took effect and in supporting the Hinchey amendment and also in increasing the overall budget.

Mr. HINCHEY. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I thank the gentleman from New York (Mr. NADLER) for yielding me this time.

Mr. Chairman, I would like to point out that some of the remarks that were made a moment ago by the gentleman from Alabama (Mr. EVERETT) are just incorrect. It sounded to me as though they could have been written by the Veterans Administration itself.

The VA and its apologists for VERA would have us believe that VERA is an

equitable allocation of resources. The fact of the matter is it is not anything of the kind. And the impact of VERA is not confined to the Northeast. The impact of VERA is spreading all across the country. We have been the guinea pig for this program. The New York metropolitan area, and the Northeast generally, has been the laboratory from whence this Frankenstein monster has originated.

But, Mr. Chairman, it is now sweeping across the country and it is going to impinge upon every single veterans hospital, with the exception of a few in a few States. Florida might not be affected, that is correct. It may not be that Arizona will be affected. There will be two or three States, perhaps, that are not affected.

But as I indicated in the my opening remarks, whether veterans are served out of the Boston headquarters or the Pittsburgh headquarters or the Durham, North Carolina, headquarters or Nashville or Chicago or Kansas City or Dallas or Denver or Long Beach or others, they are being impacted and they will be impacted more severely as time goes on.

There is nothing equitable about this distribution. It is grossly inequitable. It is horribly unfair. Contrary to what was said a few moments ago from that podium right there, we have in New York seen a 50 percent increase in mortality rates as a result of VERA.

Do my colleagues want to visit that upon their veterans in their part of the country? Do they want to see the veterans that are served out of their VA headquarters suffer the same kind of iniquities and inequities that we have seen in the Northeast? I do not think so. I do not think so at all.

Mr. Chairman, this amendment is essential. If we do not pass this amendment today, if it does not become part of this bill this year, I promise we will be back here again shortly and the number of people speaking in favor of reforming VERA and against what VERA has done will have increased by multitudes on the floor of this House.

Please, let us not have any deaths in my colleagues' regions before that happens. Let us not have veterans in their part of the country suffering the way my veterans have before that happens.

I ask my colleagues to take a precautionary move here. Mr. Chairman, I urge my colleagues to do what is right for the veterans in their areas before this suffering is visited upon them. Support this amendment.

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to say a few things to my colleagues.

The gentleman from Arizona (Mr. STUMP), chairman of the Committee on Veterans' Affairs, is opposed to the Hinchey amendment, as well as myself, I am chairman of the Subcommittee on Health, and the gentleman from Alabama (Mr. EVERETT), who is chairman of the Subcommittee on Oversight and Investigations.

The basic reason is this would actually destroy the allocation system. The gentleman from New York (Mr. HINCHEY) knows that we beat this same amendment handily before. And to bring it up again and to try to pit the Northeast against the Southeast is not the way to solve the problem. Throwing more money at any problem is not going to solve it. I think the supporters of this amendment would be better suited and wiser to establish reforms and change and innovations instead of asking to throw more money at problems.

Every time they want to come back, they should also realize that the President's budget fell short of the recommendations made by both the House Committee on Veterans' Affairs and the Senate Committee on Veterans' Affairs. The figures that the gentleman from New York is using here in this debate are based upon the President's fiscal year 1999 budget, and those numbers are preliminary. And so the numbers that the gentleman is using are really not the accurate numbers, and I submit that to the gentleman in all deference.

Unfortunately, not all the veterans live in the Northeast. I respect the gentleman's position and the fact that he wants more money. But I also submit that the States in the Southeast have long been without money and so now they are asking for their fair share, because the veterans are moving in. In fact, there is a crisis in the Sunbelt. I think one of my colleagues on that side said there is not a crisis. We need more money, too.

In the end, all of us are going to have to come up with innovative ways to serve veterans and we will have to continue to fund them adequately. I think this bill does, out of admiration and deference to the gentleman from California (Chairman LEWIS). The gentleman has made a hard effort here. I urge all Members to support the gentleman from California (Chairman LEWIS) and support the gentleman from Arizona (Chairman STUMP) and vote against the Hinchey amendment.

Mr. Chairman, I rise to oppose the Hinchey amendment. He is absolutely correct that VERA was designed to ensure that the dollars follow the veterans.

Perhaps Rep. HINCHEY should consider that the President's budget falls far short of the recommendations made by both the House and Senate appropriators. The figures used by Mr. HINCHEY are based upon the President's FY 99 budget for VA and those numbers are preliminary. They are not our numbers—we intend to increase funding for VA and that, in turn, will ensure that the dollars will be disbursed as VERA intended—to our nation's veterans.

Last Congress, we passed the Veterans Equitable Resource Allocation or VERA system to fix a gross funding inequity.

Prior to the passage of VERA, Veterans health funds were allocated based solely on the historical usage of VA facilities, and then were simply adjusted upward each year for inflation. As a result of this system, Veterans

funding was concentrated in the densely populated Northeast.

Unfortunately, not all of our country's Veterans live in the Northeast. In fact, most now live in the previously grossly underfunded South and West.

VERA goes a long way toward fixing this inequity. Under the VERA system, workloads are matched directly with annual allocations. Furthermore, the number of special care veterans, national price and wage differences, and education and equipment differences are taken into account for funding considerations.

In other words, VERA eliminates the arcane political mechanism that forced funding into the urban Northeast, replacing it with a funding mechanism that takes reason and common sense into account to determine adequate funding amounts.

I urge my colleagues to look at the language of this amendment. It would prohibit the use of VA funding to implement VERA.

My point is, this amendment would change current law. And in doing so, would undue what VERA guarantees—that all American veterans have equal access to care regardless of the region of the country in which they live.

The bottom line is this: VERA became law during the last Congress, not by mistake, but because the funding mechanism was grossly unfair and terribly inadequate.

Put simply, attempts to dismantle the VERA funding system could potentially have an unfair impact on states such as my home state of Florida. As such, Mr. Chairman, in the quest for equality and for fairness for our nation's veterans, I urge my colleagues to oppose the Hinchey amendment.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will try to be brief today, but this is an important amendment. I rise in support of the amendment offered by the gentleman from New York (Mr. HINCHEY) to prohibit the VA from using the VERA system for the distribution of funds in the fiscal year 1999.

Veterans in Maine receive their health care from one primary hospital and that is the Togas VA hospital in Augusta. I have heard statements on the floor that the VERA system is working. Maybe in some places it is working, but it is not working in Maine for the veterans of Maine.

In recent years, Togas has experienced an increasing patient load, not a declining load. And at the same time, it suffered from declining budgets and reduced staffing. The result has put a severe strain on the quality and the timeliness of care provided to veterans in Maine.

VISN 1 is the region that includes Togas. VISN 1 has seen its budget cut by over 5 percent, despite the level funding in VA. That must be distributed among the hospitals in that region, and the result is Togas in Maine has an increasing workload but a 3 percent cut in funding from over last year.

Increasing workloads with reduced budgets means longer wait times for health care, increased numbers of veterans sent out of the region to receive care, and a general reduction in staffing and health care quality.

Let me just say a word about what we hear. The gentleman from Maine (Mr. BALDACCI) and I and the two Senators from Maine spend more time on Togas than on any other single issue that we deal with. And it is not because the care is so great that no one is complaining.

Mr. Chairman, we have 100 percent disabled veterans who wait a year and a half for any attention to their dental work. We have veterans who are having a variety of different problems that take too long to provide attention. The staff is upset because they cannot provide the quality of care that they used to provide in the past.

This is having a significant serious adverse impact on veterans in Maine. We need to take a closer look at VERA. The GAO is already reviewing the VA's implementation of VERA and its impact on VA hospitals and veterans. And while we await the GAO report and examine the impact of VERA in more detail, we should delay its implementation.

One final word. Those on the other side who voted for the Republican budget resolution should think about that resolution. It includes flat funding for veterans' health care. If that is the policy of this Congress, we will be back here year after year after year arguing about this allocation among States. It is a mistake. Not only was that a mistake to cut Head Start and to cut Title I, it was a mistake to flat fund veteran's health care. We cannot keep going this way. We have a surplus. We ought to make things right for the veterans in this country.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will keep my remarks brief, but I rise in strong support of the Hinchey amendment. The purpose of the VERA methodology, as I have understood it, is to transform VHA into a fully integrated system of health care delivery that ensures that funding follows veterans. I agree with that overarching goal.

Mr. Chairman, I believe that the VA must take into account population shifts and an increase in the veterans population in certain States. But from my perspective in VISN 4 in Pennsylvania, we cannot force these changes so quickly. We need to take into account the fact that the care that veterans receive at their VA hospital cannot be jeopardized in this process.

The shifting of funds has already caused many veterans hospitals to re-evaluate every dollar spent, and this has resulted in staff buyouts and budgetary shortfalls.

With regard to the comments of the gentleman from Alabama (Mr. EVERETT), whom I regard highly, I visit my two veterans hospitals on a regular basis and I have put a human face on this issue. As we debate this issue, I think it is important to remember that these veterans rely on the veterans health care system and they deserve the best quality of care possible.

Mr. Chairman, I can tell my colleagues that in Pennsylvania the reform that the gentleman from Florida (Mr. STEARNS) advocates are being implemented in our hospitals. But we have a rural veterans population. We need to give the hospitals time to bring the veterans into the system so they can justify their dollars. We need to improve utilization, and we need time to allow the veterans hospitals to do that.

To give them that time, I urge my colleagues to vote in favor of this amendment to prohibit the use of VA funds to implement VERA at this time. The fact is, it is not working, and veterans' health care is at risk.

Mr. BALDACCI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Hinchey amendment. This is an issue that is vital to the health and welfare of veterans in my district and throughout Maine and the Nation.

My concerns, of course, lie with the VERA program, as it is known, the Veterans' Equitable Resource Allocation System, and its effect on the availability, accessibility, and quality of health care offered to veterans.

These concerns should come as no surprise to any Member of this Chamber. Last year's report from the House Subcommittee on VA, HUD, and Independent Agencies appropriations expressed concern about the way the VERA system distributes resources. In particular, the committee recognized that VERA failed to adequately account for the disproportionate number of special needs veterans in the northeastern States.

For that reason, the House voted last year to request a General Accounting Office report on the effects of VERA and its implementation. The committee questioned especially the impact of quality of care for VISNs 1, 2, 3, 12, and 14. This study was expected to be completed in 4 months, but to date no report has been produced, and we are now told not to expect a report until September of this year.

Mr. Chairman, significant questions remain. One in particular was the first year the cut was 2.5 percent. This year's cut is proposed to be 5 percent, a much more significant cut, given the fact that it is all flat funded.

What the VA Togas Hospital in Maine is looking at with a \$40 million budget is an \$8 million cut. What that means, more importantly, to the veterans in the district I represent, which is the largest physical district northeast of the Mississippi where we are talking about 22 million acres of land, is having those people go from Augusta, Maine, to travel down to Boston, Massachusetts, in order to get an MRI examination, routine X-ray examination, having a van deliver them on a weekly basis so that they get the proper radiation treatment for their cancer.

□ 1615

We are told constantly by hospitals everywhere in major hubs that our

rural people do not need to be there, that they have the protocols for cancer treatment, chemotherapy protocols in any hospital in America and you do not have to leave your family, your home or your community in order to get that, but we require the veterans of Maine on a weekly basis to go to Boston, drive to Boston in a van to get that treatment which should be routine and should be provided.

But because of the fact of the cuts and the flat funding, they are forced to make these routine examinations and treatments to go to Boston. We do not want to see any veterans anywhere in this country be sacrificed for services that they served their country and they are owed from their country anywhere.

It has been pointed out a veteran in Maine and a veteran in California and a veteran in Florida and Texas and anywhere else should be treated with respect and care that really that we as a country owe them for what they have done for all of us.

Nobody wants to see anyone hurt. I am sure my friends that oppose this amendment would not want to see veterans and their families have to go through some of the things that they have to go through. But there is a problem here. We are asking for not only an increase in maintenance of a program that has been reducing allocations but they propose to increase those cuts over last year.

It is just unacceptable to see what veterans and their families are going through now as the system is set up to ask them to go through further hardships and pressures. I think it is just totally unacceptable. I support this amendment. I ask my colleagues to endorse this amendment.

I ask my colleagues to work together to see if we cannot make the pie larger for all of our veterans.

Mr. COOKSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in this debate over VERA funding, we can disagree and discuss what are the most meaningful statistics and whether VA's funding formula has achieved true equity. I expect the gentleman to fight for funding for his area just as all of us fight for funding in our districts.

But we ought to stick to the facts and avoid the kind of reckless scare tactics which some proponents of the Hinchey amendment have used. Some of my colleagues from New York are actually claiming that cuts in VERA funding have resulted in the, quote, deterioration of veterans health and even the loss of life in many instances.

For example, in debate last week the proponents of this amendment claimed that, quote, many veterans lost their lives at two hospitals in New York as a result of VERA funding reductions.

That is a very serious charge. The gentleman went on to say that this assertion is substantiated by the report which was done by the Inspector General of the VA itself.

I have served on the ethics board of the Louisiana Medical Society. Allegations of patients dying are the most serious that can be made and should never be made lightly, particularly in light of what the VA report already says. In fact, the report which the gentleman from New York cited is a 6-volume, 6-month study by the VA Office of Medical Inspector. That report did document serious problems at Castle Point and Montrose, New York VA Medical Centers, including greater than expected mortality rates during the first half of fiscal year 1997.

My colleague from New York will do well to read the medical inspector's report. However, because it says clearly that VERA was not the problem, specifically the medical inspector's report states, there was no impact of VERA at Castle Point and Montrose concerning mortality rates. And the medical inspector found that VERA was not linked to any of the quality care problems at the facilities.

The medical inspector made 158 recommendations to fix the problems he found at Castle Point and Montrose VA Medical Centers. Not a single one of those recommendations called for funding adjustments for New York, let alone the dismantling of the VERA funding system.

None of us wants to minimize quality of care problems when they surface. But it is one thing to advocate for increased funding for medical care. It is quite another to make baseless inflammatory charges. And I am disappointed to see the debate move to this level.

Mr. HINCHEY. Mr. Chairman, will the gentleman yield?

Mr. COOKSEY. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I would draw the gentleman's attention to the fact that the Inspector General's report from the Veterans Administration, although it did not specifically in that report say that VERA was responsible for the decline in the quality of care, for the decline in the quality of maintenance at those Veterans Administration hospitals, for the decline in personnel, for the misallocation of personnel, for the incompetent personnel who were there at those facilities and for the increase in mortality at those facilities, it is quite clear that all those things occurred immediately upon the implementation of VERA and continued to get worse as VERA was continually implemented.

So while I did not expect the Veterans Administration to say specifically that VERA was responsible, it does not take an awful lot of reasoning to conclude from that report that these adverse circumstances occurred shortly after VERA was put into place, and as VERA was implemented they continued to get worse.

Mr. COOKSEY. Mr. Chairman, that said, I think that we really need to look at the management. There is reason to believe there may be some management problems there. I am a physi-

cian. I know about quality of care. Too often too many decisions made by some industry, some industries that we deal with, politicians, and unfortunately we are all politicians, are not always made on what is real quality of care. I think there is good reason to look at what is going on in the management of these hospitals.

Let me bring up something that has been brought to my attention by the gentlewoman from New York. There is one administrator for all these hospitals. This system that was set up actually pays bonuses to administrators in terms of added salary for giving money back. I agree, I have a problem with that. I do not feel that an administrator should receive a bonus for depriving a veteran of health benefits. I am a veteran. We all have veterans. Veterans across the country should get good care. We should look at quality of care and some equity in the system.

Mrs. THURMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when I came to Congress in 1992, from the State Senate, and watched in Florida the population gain of veterans in our State, it was probably one of the most compelling issues that would bring any of us here in making sure there was equitable health care for all veterans, not only in the State of Florida but across the country.

We have watched in Florida the number of veterans rising and then, on top of that, you have to add in to that the amount of veterans that come to the State of Florida during the winter months, which also pushes up our health care needs.

But I would like to say a couple of things here. I am going to take a colleague, the gentleman from Washington (Mr. NETHERCUTT) who wrote a letter to his colleagues that said, when veterans migrated to the west and the south, funding continued to be concentrated in the northeast. The VERA system was directly to match work loads with annual allocations, taking into account numbers of basic and special care veterans, national price and wage differences and identification and equipment differences. We know that there are going to be some losers under that.

He also goes on to say, and I think this is true, that all VA network administrators agreed that this reform was crucial.

I also want to take an opportunity here to just talk a little bit about what our Florida Department of Veterans Affairs put out. It says, The really important outcome is that the VA system seems to be making a genuine effort to at least begin to concentrate on what is important, that similarly situated veterans receive similar treatment. VERA is the step in that direction. That is and should remain our focus.

I think that is what this Congress needs to do, is remain the focus on why these changes were made. We all know

the migration in this country. I have to tell my colleagues, I could go through one allocation of resources in every budget in this Federal Government, whether it be Medicaid, education, whatever, that we do not get equitable treatment. For the first time in a long time this was the first chance and has been the only chance that we have actually seen these changes made.

Let me give you a fact. In Florida, we now are servicing 36,000 more veterans because of this allocation. These are not new veterans. These were not veterans that just all of a sudden showed up. These are veterans who have been standing in lines, have been waiting for the service, who have not had the opportunity to be served in the State that they live in. And these are folks that live in there.

Then on top of that in the wintertime asking them if they can get any services. It is simple service, it is not extra service. It is not the special need person. It is the simple, everyday veteran out there that wants the same opportunity as the one in New York or any place else.

I have to tell my colleagues, there is just a very fair issue here.

I would hope, and this is very difficult because to me all veterans are equal, they served this country. Many of them died for this country. They have asked for us to keep our promise. We are having to fight an issue here that none of us want to have to fight. But on the other side of it, we have to take into account the migration into the southern parts of this country, and we have to start looking at how we are allocating our dollars and making sure that those dollars go to those veterans because of where they are today.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

As a veteran myself and a Floridian, I rise in very, very strong opposition to this gentleman's amendment. I want to share something with all of my colleagues, whether they are from east of the Mississippi or west of the Mississippi or north of the Mason-Dixon line or south of the Mason-Dixon line, that veterans that come into my district, let me say this, the veterans in my district, the vast majority of them are not born and raised in my district.

I will tell my colleagues where they are from. They are from Maine. They are from New York. They are from New Jersey. And they come to my district, and they want to know why they cannot get seen, why they cannot get the care that they used to get up north or up in the midwest in Florida.

Now, this amendment is a very, very simple amendment. It is a very, very common sense amendment. It says, now that we have had 30, 40 years of millions of veterans moving from the northeast and the midwest into the sunbelt, that we will finally, for the first time, put the money where the veterans are and not where the bricks and mortar is.

I would encourage all of my colleagues to remember not their provincial square on the map but the veterans themselves who fought, many of them sacrificed lost limbs in defense of liberty, in defense of freedom, in defense of our country, and put the money, put the dollars where the veterans are and not where the bricks and mortar are.

I encourage all of my colleagues to vote no on the Hinchey amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

I rise because this is a very painful discussion. It is painful because I believe that all of us who rise on the floor of the House and discuss our veterans truly believe that they are equal, as we would like all of us to be in this Nation. They have fought. They have bled. They have sacrificed. But it seems that the proponents of this particular amendment would like to say that our pain is greater than your pain.

And frankly, I was a supporter of the Coburn amendment. We do need more money in medical care for veterans. Just the other day I talked to a World War II veteran of mine who actually participated in the Japanese death march. He went to a hospital and was turned away, did not have the proper papers, the proper documentation, could not get necessary life-saving prescriptions.

□ 1630

So we have a crisis around this country as it relates to veterans. I believe we tried to do something credible about it. We instituted VERA, not because we wanted to take away from someone else's veterans. In fact, I think we should be discussing taking the surplus moneys that we seem to have found in this balanced budget and put it in veterans health and not talk about a tax cut. But VERA is the best we have got right now. If we need the facts, in 1997, the GAO reported that VERA is making resource allocation more equitable than previous systems. The VERA system takes regional differences into account by making adjustments for labor costs, differences in patient mix and differing levels of support for research and education.

What does that mean? It means that the overcrowded hospitals in our areas, people who move from the Rust Belt in the north, not that we are castigating the losses of population in our sister States, but they are coming south. What does that mean? Long, long, long lines. This has helped to bring about an equitable system, Mr. Chairman. Yes, there have been modest cuts in certain areas of the country. These cuts have been made in funding for hospitals whose patient populations have declined 20, 30 percent. This is not a reckless, random system where we do A-B-C and we pick you without any analysis. If your populations have fallen, then the moneys are distributed where there is a need.

I spoke to the administrator at my hospital in Houston, Texas, Mr. Whatley, new to the area. He says we cannot survive without VERA. Texas has got an increase in funds because of the increase in numbers of veterans. If I have got a 77-year-old World War II veteran being turned away from a hospital, we have got a real problem.

I would say to my friends who are supporting this amendment, let us work together to put more money in hospital care and medical care for veterans, period, but VERA is the best way we can to handle what we have got. Just over the last fiscal year, our hospital got 13 million more dollars to serve those in line at our front doors. In fact, VERA has helped us open community outreach centers in our rural areas. Again, this is not to claim that my pain is greater than your pain. But do not take away from us when we are suffering as well. Why do we not work together to get more dollars into veterans health care, more than even the Coburn amendment, deal with some of these surplus moneys and be fair to everyone. But right now, Mr. Chairman, it is unfair to distinguish it and eliminate it as something being wrong in the VERA reallocation process. I ask my colleagues in good faith to defeat this amendment and recognize the fairness of what we have tried to do.

Mr. STUMP. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in strong opposition to this amendment. The Hinchey amendment turns back the clock to the days when the VA distributed its health care resources on the basis of where we built the hospitals after World War II. The current needs of veterans should determine how the VA allocates medical resources.

The proponents of this amendment say they do not want to start a regional fight over this, but of course that is exactly what they are doing. Congress mandated in Public Law 104-204 that VA medical resources be equitably distributed throughout the country. This was to ensure that veterans have equal access to care regardless of the region where they live. In response, the VA has implemented the Veterans Equitable Resource Allocation system, or VERA. Independent reviews by the General Accounting Office and by Price Waterhouse have validated this new system as meeting the intent of Congress. Both studies found that VERA is equitable to all veterans in the country and is a significant improvement over past allocation methods.

Mr. Chairman, I have letters from both the American Legion and the Veterans of Foreign Wars supporting this concept. I will include these for the RECORD. I urge my colleagues to vote "no" on the Hinchey amendment.

The letters referred to are as follows:

DEPARTMENT OF VETERANS AFFAIRS,  
Washington, DC, July 17, 1998.

Hon. JERRY LEWIS,  
Chairman, Subcommittee on VA, HUD, and  
Independent Agencies, Committee on Appro-  
priations, House of Representatives, Wash-  
ington, DC.

DEAR CONGRESSMAN LEWIS: I am writing this letter to express the Department's strong opposition to the amendment to H.R. 4194 that would prevent fiscal year 1999 appropriations from being used by the Department of Veterans Affairs for implementing the Veterans Equitable Resource Allocation (VERA) system.

The VERA system was developed in response to a Congressional mandate in Public Law 104-204. Independent reviews by the General Accounting Office and Price Waterhouse, LLP have validated the model as meeting the intent of Congress. Both studies have found that VERA is equitable and is a significant improvement over past allocation models. If VERA is stopped, then we will not be able to more equitably distribute our \$17 billion appropriation for veterans' medical care. In FY 1999 alone, facilities in the central, southern, southwestern and western states will lose approximately \$164 million in funding.

Enclosed is a fact sheet that in more detail describes why VERA was implemented, how VERA rectifies problems perpetuated by previous funding systems, the results of VERA to date, and external feedback about VERA which has reflected positively on its progress to date.

Thank you for your continued support of our Nation's veterans on this important issue.

Sincerely,  
KENNETH W. KIZER, M.D., M.P.H.,  
Under Secretary for Health.

Enclosure.

FACT SHEET ADDRESSING THE NEED TO CONTINUE USING THE VETERANS EQUITABLE RESOURCE ALLOCATION (VERA) TO DISTRIBUTE THE FY 1999 MEDICAL CARE APPROPRIATION

**Issue:** Amendment to H.R. 4194, which would mandate that none of the funds made available in the FY 1999 VA/HUD Appropriations Act may be used by the Department of Veterans Affairs to implement or administer the Veterans Equitable Resource Allocations system.

**Discussion:** The Veterans Health Administration (VHA) strongly opposes this Amendment. It would have an adverse effect on the VA's ability to equitably distribute its medical care resources and will perpetuate current residual inefficient use of taxpayers' dollars.

VERA was implemented beginning in April 1997 because: VA's FY 1997 Appropriation Act (Public law 104-204) required VHA to develop and submit to Congress a plan to allocate funds in an equitable manner. In February 1996, the General Accounting Office called for changes in VHA's allocation system. The effect of those previous systems was that dollars were spent inefficiently at some facilities, resulting in limited access and services at other facilities and an inefficient use of taxpayers' dollars.

VERA rectifies problems perpetuated by previous funding systems by:

Providing networks with two national workload prices for two types of patients—those with routine (Basic Care) and those with complex/chronic healthcare needs (Complex Care). In FY 1998, Networks receive \$2,604 for each Basic Care patient and \$36,960 for each Complex Care patient. This ensures that VA's special patients are funded appropriately. For example, the New York City Network (VISN 3) receives more Complex Care funds than any other VISN because

they have the greatest number of special patients.

No longer basing funding on historical funding patterns but on validated patient workload and adjustments for variances in labor costs, research, education, equipment and NRM.

Adjusting network budgets to account for those veterans who receive care in more than one network.

Providing each network an allocation that recognizes its individual characteristics.

The results of VERA to-date are as follows: For FY 1998 (the first full year of VERA), 13 networks received increases over funding levels for FY 1997. Nine networks received less funding. Network reductions were limited to 5%. Six networks saw increases of more than 10%, with the greatest at 12.3%.

Since July 1997 all collections from third party reimbursements, co-payments, per diems and certain torts are retained by the collecting network. A total of \$688 million in receipts is projected to be collected in FY 1998. When estimated collections are added to VERA totals, the smallest percentage change from FY 1997 in funds available is +0.10% in network 3, while network 16 experiences the greatest percentage change in total funding with +10.38%.

With the 5% cap on losses in place, it is expected all funding inequities will be corrected by FY 2000, and VERA will have shifted \$500 million across VHA's healthcare system over four years. (Most will be corrected by FY 1999.)

The graph<sup>1</sup> reflects that VERA is not simply moving all networks to an average cost per patient, rather it adjusts network allocations for variances in patient mix, labor costs, research and education support, equipment and NRM activities. Variances from the national average will exist because VERA allocates funds in a manner that adjusts for differences in patient mix, labor costs, and research and education support costs. Thus, even the networks that have less funding in FY 1998 compared to FY 1997 may still be provided a higher than average price than networks that receive more funding. For example, Network 3 which would receive 12.2 percent less funding under full VERA, has an average price of \$5,659, which is 26.7 percent above the system average of \$4,465. Conversely, Network 18 which would receive 11.4 percent more funding under full VERA, has an average price of \$3,886 per patient, which is 13 percent below the system average.

External feedback about VERA has reflected positively on our progress to date:

In the Spring of 1997 Senator "Kit" Bond, Chairman of the VA-HUD Senate Appropriations Subcommittee said: "... VA has overhauled its allocation methodology, vastly improving fairness and appropriateness with which resources are allocated to facilities ... the new system is a tremendous step forward.

In late 1997 the GAO reported that VERA is making resource allocation more equitable than previous allocation systems.

In March 1998 Price Waterhouse LLP issued a report on its evaluation of VERA. The report concluded that VERA was a well designed system, is ahead of other global budgeting systems, and met VHA's goals of simplicity, equity and fairness. It also found that the conceptual and methodological underpinnings of VERA were sound.

**Conclusion:** The Amendment to H.R. 4194 is inappropriate given the accomplishments of VERA to-date. Additionally, we are maintaining a \$100 million national funding reserve in the VA headquarters to assist net-

works in the unlikely event that the current level of patient care is threatened. The reserves will be used, if needed, to maintain the quality and level of services.

VETERANS OF FOREIGN WARS  
OF THE UNITED STATES,  
Washington, DC, July 28, 1998.

Hon. BOB STUMP,  
Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is written to express the strong opposition of the Veterans of Foreign Wars to an amendment offered by Congressman Maurice Hinchey to H.R. 4194, which would prevent VA from further implementing the Veterans Equitable Resource Allocation system known as VERA.

VERA was developed in accordance with a congressional mandate and an overwhelmingly clear need to distribute resources in a more equitable manner within the VA medical system. While still in its relative infancy, VERA has been shown to be both equitable and a significant improvement over past allocation models. If VERA is halted at this juncture, there will be no better means of distributing scarce health care resources and veterans will suffer as a consequence.

The VFW has been and will continue to carefully scrutinize the operation of the VERA system, including the establishment on September 1, 1997, of a 1-800 hotline in operation 24 hours a day for the purpose of oversight. Thus far we have recorded no undue problems associated with VERA's operation. We are convinced that this will be the absolutely wrong time to halt its operation. We urge you to oppose Mr. Hinchey's Amendment to H.R. 4194 targeting VERA.

Sincerely,  
DENNIS M. CULLINAN,  
National Legislative Service.

THE AMERICAN LEGION,  
Washington, DC, July 28, 1998.

Hon. BOB STUMP,  
Chairman, House Veterans Affairs Committee,  
Washington, DC.

Dear Chairman Stump: The American Legion continues to support positive changes to the VA health-care system which are intended to improve its overall operating efficiency and, thereby, be more responsive to the needs of veterans. Today, more than three million veterans across the country rely on VA as their primary source of health care, based on the current eligibility criteria. We believe millions more would like to use VA, but limited resources still forces VA to limit services and access systemwide.

Funding levels in the FY 1999 budget for VA/HUD and independent agencies, now under consideration, will be constrained by the limits imposed on VA discretionary spending under the Balanced Budget Act of 1997. This is requiring the 22 Veterans Integrated Service Networks (VISNs), rather than 172 individual medical centers, to seek greater operating efficiencies, cost containment, and increased medical care cost recoveries, while trying to provide improved service to more veterans. Even though The American Legion has a number of concerns regarding problems with funding to the VISNs under the Veterans Equitable Resource Allocation (VERA) system, we continue to support VA's efforts to modify and improve this methodology based on experience.

It is recognized that the implementation of VERA involves many difficult financial decisions for VISN officials. Some of these decisions have resulted in stress and hardship for veterans and their families, particularly in those VISNs that incurred real dollar funding reductions. Nonetheless, VERA is an important management tool which will over

<sup>1</sup>Graph not reproduced.

time help VA meet the needs of veterans in a more efficient, effective, and responsible manner. However, these changes do not address VA's need for long-term, guaranteed financial stability which can only be achieved by combining realistic federal appropriations, broadened third party reimbursement authority to include Medicare subvention, and the development of other new funding sources.

The American Legion believes Congress has a responsibility to safeguard the fiscal integrity of the VA health care program. It must also exercise continued oversight of the changes currently ongoing within the VA medical care program and the impact of reduced funding to ensure that veterans are not shortchanged or arbitrarily denied needed care and treatment.

The American Legion appreciates your continued support of our nation's veterans and their families.

Sincerely,

STEVE A. ROBERTSON,  
*Director, National  
Legislative Commission.*

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I really raced over here from a markup because I could not bear the thought that yet again we have to discuss a regional problem and be turning our backs on the elderly, sickest veterans in our country. I wanted to be here to strongly, for yet again the third time, I believe, during a series of debates, support our American veterans through the Hinchey amendment. We have heard about robbing Peter to pay Paul. Here this committee is proposing to rob GI Joe to pay who? I am not quite sure. In the transportation bill, we were paying for roads and taking it out of the veterans. But this VERA formula is the most egregious portion of this appropriations. Changing this formula is robbing GI Joe in States like New Jersey, and throughout the Northeast, where there are the oldest and the sickest, the people that are most dependent and most in need of this kind of care. Do not be deceived by any loose rhetoric that we have heard around here. There is no inference at all that they are overstaffed or that they have empty rooms and that we do not need it. That is a distortion of the real facts. For certain, a number of studies verify, including one by the Inspector General. There is no question but that these veterans in terms of the needs of their age group as well as the intensity of the quality of care that they need are the most needy and deserving of our veterans, those who were ready to give their lives for our freedom. Certainly gave their all, for their country in times of greatest need. I want to strongly endorse this Hinchey amendment. I cannot believe, that the committee is not open to rectifying this distortion and this abuse of our veterans and that we cannot in good faith find the money and correct this egregious abuse through the VERA formula.

To additionally make the point, Mr. Chairman, the current VERA formula is unacceptable. New Jersey and the Northeast stand to lose up to \$130 million over the next three years. VERA favor veterans centers in the South and West over the Northeast. Although there are fewer veterans in the Northeast, their health problems are more expensive than the "healthy" veterans who retired and live in the South and West.

New Jersey has one of the oldest and neediest veteran population in the nation. Most of the veterans in the South and West do not have extensive health problems associated with age like in the Northeast. In addition, when many veterans that retired to the South and West become infirmed they find the health centers caring for veterans inadequate and return to their former homes in the northeast to receive proper medical attention. This places another burden on veteran health centers in the Northeast that was not anticipated by VERA and selfishly pits veterans against veterans in a regional fight for federal dollars. Veterans are veterans . . . no matter where they live.

The strain created by the reduction in funding is taking a tragic toll on the veterans of New Jersey and the northeast. To save money, the VA has cut back on numerous services for veterans and instituted various managed care procedures that have the impact of destroying the quality of care the veterans receive. For instance, the VA has reduced the amount of treatment offered to those who suffer from Post Traumatic Stress Disorder (PTSD) and reduced the number of medical personnel at various health centers. As a result of these cuts, there has been an erosion of confidence between veterans and the VA. This erosion threatens to destroy the solemn commitment that this nation made to its veterans when they were called to duty.

Mr. HINCHEY. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from New York, the author of the amendment.

Mr. HINCHEY. I very much thank the gentlewoman for yielding. I would like to take this opportunity to draw the attention of the Members of the House to the Inspector General report which was discussed here a few moments ago. At that time, I made the point that it was quite clear that although the report itself did not stipulate a causal relationship between VERA and the decline in quality and the increase in mortality, that it was clear to reason that one followed upon the other.

I want now to say this to my friends and colleagues here. Although the report did not stipulate that VERA was the causal effect, the author of the report, the Inspector General, said to me personally that he believed that VERA was the causal effect of the decline in quality in our veterans hospitals and that VERA was the causal effect of the increase in mortality in our veterans hospitals. That is undeniable. We have that from the mouth of the author of the report himself.

I would just like to say this, also. This amendment is about fairness. This amendment is not about taking money

from one part of the country and giving it to another. This is not an amendment to hurt Florida. Yes, I listened carefully to what was said a few minutes ago by a number of our friends and colleagues from Florida who talked about the increase in the number of veterans in that State. Undeniably that is true. I addressed that, in fact, in my opening remarks. We are not denying that Florida veterans need more help and more funding because of the increase in population of veterans in that State and some other States in the South as well. What I am saying is that VERA is not doing it fairly. VERA is turning its back on the veterans in other parts of the country, not just the Northeast. I read the list to Members a couple of times. Veterans headquarters in every part of the country, from the East through the Midwest, including the South, Durham, North Carolina for example, out to Long Beach are being adversely affected. Veterans funds are being cut in every one of those regions. This amendment is about fairness. It simply says, yes, we have to recognize that we have to do more for veterans in Florida and more for veterans in Arizona and other places but let us not do it at the expense of veterans in other parts of the country.

Mrs. ROUKEMA. Exactly.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. ROUKEMA) has expired.

Mr. HINCHEY. Mr. Chairman, I ask unanimous consent that the gentlewoman be given 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. SCARBOROUGH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, sometimes it is almost laughable. I am a veteran. I live here in the Northeast right now. I want fairness for veterans. There is no one that I take a back seat to on support for veterans issues or active duty military issues. But I rise in opposition to the gentleman's amendment.

Let us look at cause and effect. I am going to speak to my Republican colleagues, not even the opposition over here. Many of those that live in the Northeast are the first to support the great social programs. Look at the National Endowment for the Arts. Why do you not cut it? How about Davis-Bacon, that we can save 35 percent on all construction, but will you stop that? We could put every penny of that in veterans. And the great social programs that you support and the war on the West. So do not come to me crying that your veterans are not being taken care of.

Those that support defense, we want live veterans. Three hundred percent operation deployments above what it was during the Cold War. We are only maintaining 24 percent of our military.

That means all of them are going to be come veterans. Defense cuts.

And then my colleagues on the other side from the Northeast saying, well, there were tax breaks for the rich. Now, I want to tell the gentleman, veterans benefit from tax breaks, just like anybody else. Veterans benefit from a balanced budget that most of them voted against for low interest rates, whether it is for scholarships, for homes or buying a home or just getting a double-egg double-cheese double-fryburger down at the store. And yet they cry, "Oh, there is no money."

So look at the cause of why we are. We pay nearly \$1 billion a day on the national debt, \$360 billion we could use for veterans care. But a liberal Congress over 40 years spent with big government, high taxes. And where are we now under a balanced budget? We could survive under a balanced budget, but if the President refuses to pay for 300 percent Operation Tempo, where does that money come from out of defense? It goes against our veterans. We could use the \$25 billion that it is costing us in Bosnia, and we could fund every veterans program there is.

So do not come to me crying, we need to fund our veterans, or that we are cutting veterans. I want more money for veterans, but I look at the cause of why we cannot give it.

I rise in opposition to the amendment.

Mrs. MCCARTHY of New York. Mr. Chairman, I rise today in support of Representative HINCHEY's amendment to prohibit funding for the implementation of the Veteran's Equitable Resource Allocation program.

Making sure our veterans receive high quality care is one of my top priorities. This is an issue of basic fairness—when our country called on men and women to serve, they answered without hesitation. In return, we promised to take care of them when they got sick or old. Our country must honor their part of this agreement.

I often visit the Northport VA facility on Long Island and I am always impressed by the quality of health care that is available. More importantly, I am impressed by the praise the facility received from the patients themselves. As a nurse, I know that the best critic of a health care facility is its patients.

I am pleased to say that the veterans treated at the Northport facility are extremely satisfied with their quality of care. Unfortunately, I am also aware that this high quality health care is in jeopardy. In the Northeast, the implementation of VERA would result in decreased funding for our VA facilities. At this point, most of our VA hospitals in the Northeast have already cut back on spending and trimmed down. Further cutbacks in funding to our VA hospitals will come at the expense of patient care. Our VA hospitals will be forced to cut back on the bare necessities, like nursing and support staff, which we all know are the backbone of quality care. We must not allow this to happen.

That is why I rise in support of Representative HINCHEY's amendment to prohibit the implementation of the Veteran's Resource Allocation Program. This amendment will ensure that valuable resource dollars for veterans health care remain in the Northeast.

Mr. BEREUTER. Mr. Chairman, this Member rises today in strong support of the Hinchey amendment and in opposition to the Veterans Equitable Resource Allocation (VERA) system. As you know, VERA provides the Department of Veterans Affairs medical care funding to regions across the country, and uses an allocation formula that ties funding for each of the 22 geographic regions to the number of veterans that they actually serve, based on per capita veterans usage of facilities. While this sounds like fair allocation system in theory, it has detrimental effects on VA medical care in many areas of the country, especially sparsely populated areas like Nebraska.

From the time the Administration announced this new system, this Member has opposed VERA and have supported funding levels of the VA Health Administration above the amount the President recommended. This new formula has produced a 5 percent decrease in funding for this fiscal year for my state, which resulted in a \$13.5 million decrease in funding distributed to my state of Nebraska. Already, we have been threatened by the closure of a major VA medical facility in my district. VERA has seriously impacted health care for veterans in the less populated states and generally ignored existing facilities such as the Lincoln VA Hospital. In fact, last February the Administration recommended that inpatient care at the Lincoln VA Hospital be terminated in the near future. While it is true that the number of veterans served at the Lincoln VA Hospital and other VA facilities in the state have decreased over the past years, as they have in most areas of the nation because we now deny most veterans in-patient care in our VA hospitals. Nevertheless, we still have an obligation to provide care to these people who served our country during our greatest times of need. There must be at least a basic level of acceptable national infrastructure of facilities, and medical personnel is needed to serve our veterans wherever they live. This Member finds the decrease in quality and accessibility of medical care for veterans who live in sparsely populated areas to be completely unacceptable.

Everyone will agree that the VA must provide adequate facilities for veterans all across the country regardless of whether they live in sparsely populated areas with resultant low usage numbers for VA hospitals. This Member strongly supports the Hinchey amendment to prevent further implementation of the Veterans Equitable Resource Allocation system. American veterans living in all areas of the country deserve nothing less. This Member asks his colleagues to support the Hinchey Amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HINCHEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 501, further proceedings on the amendment offered by the gentleman from New York (Mr. HINCHEY) will be postponed.

AMENDMENT NO. 32 OFFERED BY MR. HILLEARY

Mr. HILLEARY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 32 offered by Mr. HILLEARY:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . The amounts otherwise provided by this Act are revised by reducing the amount made available for "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—COMMUNITY PLANNING AND DEVELOPMENT—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—DEPARTMENTAL ADMINISTRATION—GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES," by \$21,000,000.

Mr. HILLEARY. Mr. Chairman, I rise today and offer an amendment to H.R. 4194 that will adjust HUD housing opportunities for persons with AIDS back to fiscal year 1998 levels and invest more money in the Department of Veterans Affairs grants for construction of State extended-care facilities.

Mr. Chairman, I must first acknowledge the hard work of the gentleman from California (Mr. LEWIS) and his counterpart on the other side of the aisle and the members of the committee and their staff for all the hard work on this bill. I know they did everything they could to come up with a balanced budget. I think it is pretty balanced.

But I just have one small amendment I want to make, and it is very simple. As has been said many times on the floor this afternoon, we have a severe shortage of veterans care facilities, both health care and these type of housing facilities. This program is used to provide matching grants to States to construct State home facilities, to provide a home or nursing home care to veterans. These grants may also be used to expand, remodel or alter existing facilities that provide those needs to veterans or that provide hospital care to veterans in State homes.

□ 1645

The need for veterans care facilities continues to increase at a rapid pace as the veterans population continues to age. The number of veterans 65 and over is expected to peak in the year 2000 at 9.3 million. H.R. 4194 in its present form appropriates \$80 million for this program, the same as last year, while the number of veterans who need this program has dramatically risen. To fully fund the extended-care needs of our veterans in this country for fiscal year 1999 we would need \$152 million.

My amendment does not even meet that level of assistance, but it does transfer \$21 million toward that goal. This additional money would provide grants to assist States in constructing State home facilities. My amendment transfers \$21 million from the base bill's increase in housing for persons with AIDS. My amendment does not cut dollars from housing opportunities for Persons With AIDS program. It simply freezes that program at fiscal year 1998 levels. While the number of

aging veterans who require this program continues to increase at a rapid pace, the most recent data shows that the annual number of new AIDS cases declined by 6 percent. Once again, the base bill increases funding for housing opportunities for persons with AIDS by 21 million over fiscal year 1998 levels while the base bill freezes funding for veterans housing at fiscal year 1998 levels even though the number of veterans who need this housing has increased dramatically. My amendment transfers the increase in funding to veterans housing and leaves housing for those with AIDS frozen at the fiscal year 1998 level.

I want my colleagues to know that the American Legion fully supports this effort to increase VA grants for construction of State extended-care facilities by this \$21 million.

I ask my colleagues to consider what is at hand and make the right choice, and I urge a strong vote on this amendment.

AMENDMENT OFFERED BY MR. NADLER TO THE AMENDMENT OFFERED BY MR. HILLEARY

Mr. NADLER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER to the amendment offered by Mr. HILLEARY:

In lieu of the matter proposed to be inserted insert the following:

SEC. XXX. The amounts otherwise provided by this Act are revised by reducing the amount made available for National Aeronautics and Space Administration—Human Space Flight for and increasing the amount made available for Department of Veterans Affairs—Departmental Administration—grants for construction of state extended care facilities', by \$21,000,000.

Mr. NADLER. Mr. Chairman, I recognize the intentions and the intelligence of the gentleman's intention to increase \$21 million in funding to the veterans housing and medical care facilities. I object, however, to his wanting to take this \$21 million away from the housing opportunities for people with AIDS, or HOPWA program. It is a cut in the HOPWA program compared to what the bill gives it of almost 10 percent. The HOPWA program is the only Federal housing program that specifically provides cities and States hardest hit by the AIDS epidemic with the resources to address the housing crisis facing people living with AIDS. Sixty percent of all people living with HIV and AIDS will face a housing crisis at some point during their illness because of high medical expenses and the loss of wages attendant under the disease.

Major strides, thank God, have been made in treatment options for people living with AIDS, and with these advances there is new hope. But the cost of these treatments often places people in the position to decide between essential medications and other necessities such as housing. Further, individuals who have HIV and AIDS must have stable housing, access to and benefits from complex drug treatments which often requires special dietary needs.

Medications must often be refrigerated and taken on a rigid time sched-

ule. Inadequate housing is not only a barrier to treatment, but also puts people with AIDS at risk of premature death from exposure to other diseases, poor nutrition, stress and lack of medical care. At any given time, one-third to one-half of all Americans with AIDS are either homeless or in imminent danger of losing their homes. HOPWA answers this need.

Mr. Chairman, increasing numbers of people have AIDS in this country and increasing numbers of people every year, luckily, because of our medical advances, are surviving and living longer, and we need more money for HOPWA. A cut of almost 10 percent makes no sense.

So I would suggest, instead, and what my amendment does is takes \$21 million instead away from the space station which is funded this year at 2.1 billion. So this is 1 one-thousandth, a reduction of 1 one-thousandth in the space station budget, instead of a reduction of 10 percent in the HOPWA budget.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, let me say to the gentleman I appreciate where he is coming from. It has been my intention to oppose the amendment as it is presented. If we go through with this process of amending amendments, I am not sure the chairman is going to be able to find himself in that position.

Mr. NADLER. Mr. Chairman, let me just suggest if the gentleman would accept the amendment, I would support his amendment. If he does not, I have to oppose his amendment. I think the space station, regardless of how colleagues voted on the Roemer amendment, \$20 million less, \$21 million less out of 2.1 billion, will not materially affect when the space station is completed; but a 10 percent reduction in HOPWA is a devastating cut, and I would ask if the gentleman would accept the amendment.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Tennessee.

Mr. HILLEARY. Mr. Chairman, I cannot accept that amendment simply because it is not a devastating cut to HOPWA. This is going to freeze it at its present level.

Mr. NADLER. Reclaiming my time, if the gentleman will not accept the amendment, I have to say a 10 percent cut is a very heavy cut. We have a choice, and I will press the amendment. We have a choice. If the amendment goes as it is, then it is a 10 percent cut to HOPWA. I do not see how my colleague can rationally say that it will make a material difference to the space station whether it gets 2.1 billion or 2.098, or whatever it is, billion dollars.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, the actual numbers of people with AIDS in our country declined 6 percent this past year. That is a fact produced. It is because we are doing a good job on triple drug therapy and there are more people living with HIV that the actual number of people living with AIDS is down 6 percent in our country, living with AIDS.

Mr. NADLER. Reclaiming my time, Mr. Chairman, my information, and I do not have the figures in front of me, is that the number of people who died from AIDS is down, thank God, but the number of people living with AIDS is up because more people are contracting AIDS every year and fewer people are dying from it and more people are living with it.

So we need these funds.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield on that particular?

Mr. NADLER. Mr. Chairman, no, there is no point debating that specific. The fact is we have great unmet needs for housing for people with AIDS. The committee made an intelligent decision, and now to cut the budget by \$21 million, by almost 10 percent for veterans needs which are also there, I do not understand the stubbornness in not accepting my amendment which I hope people will agree to. A 1 one-thousandth reduction in the space station is a heck of a lot more bearable than a 10 percent reduction in housing for people with AIDS. One doesn't really have an effect, the other has a very substantial effect, and I just hope people will think about it.

Mr. HILLEARY. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman if he has a question to ask me.

The CHAIRMAN. The time of the gentleman from New York (Mr. NADLER) has expired.

(By unanimous consent, Mr. NADLER was allowed to proceed for 1 additional minute.)

Mr. NADLER. Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. HILLEARY. Mr. Chairman, I was simply going to say that I think the statistic about the 6 percent decrease might not be exactly right. It is a decrease in the number of new cases, a percentage decrease in the number. It is a decrease in the increase of the number of new cases, and I just wanted to clarify that.

Mr. NADLER. Mr. Chairman, the needs in both areas are going up, and I would again implore the gentleman to accept the amendment because it will not affect the space station, 21 million, it is so tiny a percentage of it, but it will really affect HOPWA.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the last word.

Mr. Speaker, I wanted to rise in opposition to the Nadler amendment and, in addition to that, enter into a colloquy with the gentleman from Michigan.

Mr. KNOLLENBERG, I have read the various "Dear Colleague" letters that have been distributed on the committee bill and listened carefully to the floor debate on this issue. Is it the committee's intention to limit EPA programs such as a climate challenge, the program for a new generation of vehicles, green lights, energy start and other programs that Congress has funded in the past?

I raise this issue because these programs have increased energy efficiency over the range of U.S. energy in industrial sectors of our economy. It would not seem that it was the intent of the legislation to report language or limit these activities.

Mr. KNOLLENBERG. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Michigan.

Mr. KNOLLENBERG. Mr. Chairman, I appreciate the opportunity to respond to the gentleman's inquiry about this legislation because there has been a great deal of misunderstanding and mischaracterizations regarding the real-world results it might have on EPA.

We need this provision in order to assure that EPA does not undertake back-door implementation of the Kyoto Protocol. This is a strong setup of the House based on the debate that we have had. We have seen a trend where EPA is beginning to interpret existing statutes overly broadly and to even create new interpretations of current law. These examples have come out in oversight hearings in both the House and the Senate.

The main purpose of the legislative and report language is to ensure that existing regulatory authority is not misused to implement or to serve as a future basis for the implementation of the Kyoto Protocol in advance of its consideration and approval by the Senate of the United States. We are not trying to cripple or to cancel existing energy conservation programs or to curtail research development and demonstration programs for new, more efficient technologies or to undermine existing environmental law. We are only trying to keep EPA honest.

That is our job in Congress, to conduct oversight hearings and to make sure that the Federal agencies live by the letter of the law and the Constitution and to ensure taxpayer money is spent wisely.

Mr. BARTON of Texas. Mr. Chairman, I would ask the gentleman from Michigan if the Senate has taken a similar position in their VA appropriation bill.

Mr. KNOLLENBERG. I would be pleased to respond to that.

The Senate does indeed have a similar position dealing with this issue. In fact, Senator CHAFEE, the chairman of the Senate Environment Committee, stated in a colloquy with Senator BOND, that was during the debate on the VA-HUD appropriations, that he agreed. And let me stress this point: He

agreed that the EPA should not use appropriated funds for the purpose of issuing regulations to implement the Kyoto Protocol unless and until such treaty is ratified by the U.S. Senate.

Both the House and the Senate strongly concur in that position, so it is a bit of a red herring for people to say that this legislation will hamstring EPA or hinder energy conservation and greenhouse gas reduction programs that are ongoing.

Mr. BARTON of Texas. I understand that there is more concern about the report language in this bill than the legislative language. There seems to be various interpretations of the report language.

Mr. KNOLLENBERG. The report language simply tries to clarify that EPA has been pushing the envelope with various activities that have been portrayed as being educational in nature but have, in fact, become Kyoto Protocol advocacy activities. We wanted to make it clear that EPA should not be engaged in advocating for implementation of the Kyoto Protocol, or through its so-called outreach activities that would actually implement the protocol. It was not our intention to stifle discussion about potential climate change, scientific give and take, research or general educational efforts regarding global climate. This report language was never intended to muzzle EPA. It was, however, needed because we wanted to clear the EPA and the CEQ, but there is a fine line between education and advocacy, and that the EPA should not cross that line.

The gentleman from Wisconsin (Mr. OBEY) made this quite clear during the debate on this amendment.

Mr. BARTON of Texas. Mr. Chairman, to summarize, I appreciate the gentleman's clarification. I agree that EPA should not be stopped from fostering legitimate scientific research and balanced public debate on this issue because there is still much to be learned in this area. During our numerous congressional hearings on this issue, the administration has not been willing to engage in this debate.

For example, we have yet to receive an authoritative analysis of the economic impact of the Kyoto Protocol reflecting all of the constraints on possible emissions trading. As chairman of the Subcommittee on Oversight and Investigations of the Committee on Commerce, I look forward to working to assure that the administration, EPA and CEQ understands this guidance, and I thank the patience of the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield to the gentleman from New York (Mr. NADLER) by chance?

Mr. BARTON of Texas. Mr. Chairman, I yield to my good friend, the gentleman from New York.

Mr. NADLER. Mr. Chairman, I am informed that the chairman of the subcommittee would probably oppose the Hilleary amendment, in fact, I think he said that on the floor but I was not listening carefully enough, if we withdraw this amendment to the amendment.

So, Mr. Chairman, I ask unanimous consent to withdraw the secondary amendment on the understanding that we will have support in opposing the Hilleary amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from New York (Mr. NADLER) to the amendment offered by the gentleman from Tennessee (Mr. HILLEARY) is withdrawn.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Tennessee (Mr. HILLEARY). I cannot support reducing the amount provided for housing opportunities for people with AIDS, as the Hilleary amendment proposes to do.

□ 1700

Last year's appropriations bill provided a 70 percent increase for this program. This year, we simply held the program constant at the higher amount. It is also true that the committee did recommend an increase for the Housing Opportunities for People With AIDS Program.

This year's recommended increase is about 15 percent, and it follows smaller increases or freezes in the preceding years. Why did the Committee on Appropriations consider it so important to provide a modest increase for HOPWA? Quite simply because the need for this program is great and continues to grow each year.

The number of Americans living with AIDS continues to grow. One reason for this is that the number of new cases remains substantial. More than 60,000 last year. Another important reason is that advances in medicine are making it possible for people with HIV infections to live longer. That is wonderful news, but it does mean that, every year, there are more people living with AIDS who may be in need of our help.

One measure of the need for this program is the number of State and local governments that qualify for HOPWA grants. Almost all funding under the HOPWA program is distributed through a formula based on the number of AIDS cases.

When the number of cases in a State or metro area crosses a specified threshold, that State or locality becomes eligible for HOPWA grants. The number of jurisdictions qualifying has risen from 80 last year to 88 this year and is expected to rise to 96 next year.

In this context, the funding increase provided in the bill seems quite modest. Between 1977 and 1999, the number

of States and localities qualifying for HOPWA money will increase by 20 percent while the funding will increase by only 15 percent.

That increase is not enough to fully accommodate the newly qualifying States and cities, let alone the workload increases in those places already receiving grants. The Hilleary amendment would cut the 2-year funding increase to just 4 percent, plainly inadequate in the face of the rising need.

Some may ask, why do we have a special housing program for people with AIDS? The answer is that we have a special AIDS-related program because AIDS creates some very special and particularly urgent housing needs.

A number of people living with AIDS are already homeless. Many more face the imminent threat of losing their homes, either because of discrimination or simply because the combination of declining earnings and escalating medical expenses makes housing unaffordable without some help.

At the same time safe, decent, and stable housing is essential to maintaining health and to undertaking the complex medication and treatment regimes that offer the best hope of survival.

But we do not just maintain the HOPWA program out of compassion, although that would be reason enough. The program also makes sense as a matter of economics. It has been estimated that about 30 percent of the HIV patients in acute care hospitals in any given time are in the hospital only because there are no appropriate community-based residential alternatives.

It is far less costly to help someone live in a residential environment with access to supportive services than to have them in and out of emergency rooms and hospitals.

This supportive housing, as funded under the HOPWA program, helps save health care dollars while helping people live healthier, happier, and more productive lives.

In short, HOPWA is a program that makes sense. The modest increase recommended by the committee is more than fully justified by the rising need. We should not eliminate this increase. I urge defeat of the amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Speaker, I rise in opposition to the Hilleary amendment which would take much-needed funds from the Housing Opportunities for People With AIDS, the HOPWA program.

I am sympathetic to the gentleman's concerns about the funding for the veterans program that benefits from this amendment, and that is why I wish that the 602(b) allocation for this particular appropriations bill could be larger.

I sympathize with the attempt on the part of the gentleman from New York (Mr. NADLER) to say we respect the need that the gentleman from Tennessee (Mr. HILLEARY) points out, but recognize that this is also a bad place

to take the funds. As the distinguished ranking member has said, it is a good investment in health. It saves taxpayers' dollars and, indeed, it saves lives.

I feel very partial to the Housing Opportunities for People With AIDS legislation because the gentleman from Washington (Mr. MCDERMOTT), the gentleman from New York (Mr. SCHUMER), and I were the authors of this legislation on the Committee on Banking and Financial Services or the Committee on Banking, Finance, and Urban Affairs years ago. It has been a successful program that has deserved continuing support of this House under the leadership of the gentleman from Ohio (Mr. STOKES) and now under the distinguished chairman of the committee, the gentleman from California (Mr. LEWIS).

Mr. Chairman, I am pleased to yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, I very much appreciate my colleague from California yielding to me.

I have before me a "Dear Colleague" that is signed by most of those Members who have spoken today regarding this matter on the floor. There is a broad bipartisan understanding of the challenge that AIDS provides for our entire society, and I must say that this particular housing problem is a very, very difficult one. I want to associate myself with the remarks of the gentlewoman from San Francisco, California and appreciate very much her position.

Ms. PELOSI. Mr. Chairman, I thank the gentleman and his opposition to the Hilleary amendment when he is associating himself with my remarks.

Mr. LEWIS of California. I certainly agree with the gentlewoman's complimenting the concern of the gentleman from Tennessee (Mr. HILLEARY) about deference problems; but, the challenge that we have relative to funding these problems that HOPWA programs address deserves our support. Thereby, I oppose the amendment.

Ms. PELOSI. I thank the gentleman for the clarity of his statement, for his leadership on this issue, and for the hard work that he has put into this important VA-HUD bill. He sees the whole picture. He knows the value of this HOPWA program. He has followed it over the years. So I am very, very pleased with his clear statement and the remarks of the distinguished ranking member, the gentleman from Ohio (Mr. STOKES).

It is clear that, by reducing HOPWA's funding by \$21 million, this Hilleary amendment would deny housing assistance to more than 4,800 people. It would result in the withdrawal of program support for an estimated 3,800 units of housing, including funds for rental assistance and homelessness prevention.

If one has HIV, if one is HIV infected, the last thing one's immune system needs is the additional stress of homelessness or the threat of homelessness.

We will hear today, Mr. Chairman, that the HOPWA funds may not be necessary because the annual new number of AIDS cases is declining. The reality is that the need for this housing continues to grow, as does the epidemic, as the ranking member pointed out. In the 1997 reporting period, CDC reported 60,634 new cases, to be precise, in the United States.

HOPWA funding is primarily allocated on a formula basis. Almost since its inception, funding for HOPWA has not kept pace with the number of new communities eligible for HOPWA funds. I would like to name what those communities are for 1999. FY 1999, it is expected that seven communities, Birmingham, Alabama; Buffalo, New York; Honolulu; Wilmington; and the States of Arizona, New Mexico, and Utah will become eligible for HOPWA funds, and five other States: Hawaii, Delaware, Minnesota, Nevada, and Wisconsin, which would otherwise have lost funding due to their urban areas qualifying separately under the formula.

As a result of the good news of the success of powerful drugs fighting the virus, the number of people living with AIDS is increasing dramatically. But so are their needs. In 1997, the number of people living with HIV increased 13 percent. But in order for the drug therapies to work, people need the stability of having a home.

Some of the people on the AIDS drugs must take as many as 40 pills a day at regular times. People cannot comply with the rigors of these drug regimens if they are homeless, moving from shelter to shelter, or trying to cope with impending homelessness.

The number of people living with AIDS has increased by 13 percent. It is important to remember who benefits from HOPWA funding. HOPWA funding is for people with HIV/AIDS and their families. About 25 percent of recipients of HOPWA funds are family members who reside with persons with HIV/AIDS. Over 96 percent of the families and individuals who received HOPWA assistance were households with incomes of less than \$1,000 a month.

I know it is difficult for many of us to vote against something for the veterans, but I urge my colleagues to understand what this need is. Many of the people who benefit from the funds are veterans.

Vote "no" on the Hilleary amendment.

Mr. DELAHUNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as others have indicated, this amendment would strike funding for programs that are, not only compassionate, but are cost effective. In short, it is working. I am at a loss to understand why anyone would want to undercut it.

The sponsor of the amendment says he wants to redirect this money to veterans' health care programs but who

does he think these funds are benefiting now? Because it is important to remember that roughly 30 percent of the homeless in America are veterans, and many of these are numbered among the 100,000 to 150,000 veterans who are living with HIV.

These are the very people that HOPWA serves. It helps them live longer and stay healthier. It spares States and localities the far greater costs of hospital and emergency room care to which they would otherwise be forced to turn.

If this amendment succeeds, thousands would be forced to choose between paying their medical bills or paying the rent. Many would end up in acute care hospitals at a cost 10 to 20 times that of the housing and services that they would receive in a HOPWA-funded residential facility.

The rest could find themselves huddled in homeless shelters and sleeping on grates.

Mr. Chairman, I associate myself and welcome the remarks of the other speakers and am pleased to hear the distinguished gentleman from California (Mr. LEWIS), the chair of the subcommittee, will oppose this particular amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much because I quickly want to associate myself with the gentleman's remarks because I was here previously on the floor of the House discussing the question about the needs of veterans.

I do want to say that this is a difficult and very wrenching decision. The gentleman is right, 100,000 to 150,000 of our veterans are living with HIV. I know that many of our veterans are homeless.

Another point I wanted to raise, many people living with AIDS are suffering housing discrimination. People do not want them around, and the idea of HOPWA is to provide clean, secure housing that these people who have been in the past looked at as being contagious or not wanting to have people around them and being isolated or rejected from normal housing situations, to be able to have good clean housing. As you well know, the increase in minority populations also require this kind of housing.

I would simply say that we are making a wrenching decision that really would be more hurtful, hurtful to veterans living with AIDS, hurtful to new populations and other States that are being grandfathered in and other States like Utah that are being added in, and I would hope that we would defeat this amendment, recognizing how crucial it is to be able to provide for these people living with this disease and living longer.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to this amendment. I have always supported the highest possible spending levels for veterans programs, but unfortunately we should not be pitting one important program against another and that is what this amendment does by cutting the housing opportunities for people with AIDS, the HOPWA program, by \$21 million.

Mr. Chairman, the HOPWA program has strong bipartisanship support. It is the only Federal housing program that specifically provides cities and States, those that are hardest hit by the AIDS epidemic, with the resources to address the housing crisis faced by people living with AIDS.

In fact, the gentleman from New York (Mr. NADLER) and I circulated a Congressional letter to appropriators urging increased funding for HOPWA and this letter was co-signed by almost 100 Members of both parties.

It is true that the number of AIDS-related deaths has begun to decline thanks to dramatic new treatments and improvements in care. However, HIV/AIDS remains a major killer of young people. It is the leading cause of death for African and Hispanic Americans between the ages of 25 and 44.

The high cost of the new treatments has often forced people to decide between essential medications and other necessities, such as housing. Further, stable housing is critical to the success of the drug regime. The medication often must be refrigerated and taken on a rigid time schedule.

Without adequate housing, people with HIV/AIDS may not only be unable to adhere to the strict regimen required but premature death may result from poor nutrition, exposure to other diseases and the lack of medical care. At any given time, one-third to one-half of all people with AIDS are either homeless or on the verge of losing their homes.

HOPWA addresses this need by providing reasonably priced housing for thousands of individuals and yet the demand far outstrips the supply. HOPWA gives cities and States the ability to provide community-based cost effective housing and, in so doing, reduces the number of people who would otherwise end up on the streets or in acute care facilities.

□ 1715

At a daily cost of \$1,085 per day under Medicaid, acute care facilities are far more expensive than HOPWA community housing, which averages \$55 to \$110 per day. Nationwide, HOPWA saves an estimated \$47,000 per person per year in emergency medical expenses.

Contrary to the assertions that there is a reduced need for HOPWA funding, HUD has estimated that an additional seven to ten jurisdictions will qualify for HOPWA funding during fiscal year 1999, a program that already serves more than 52,000 individuals in 88 jurisdictions, 59 metropolitan areas, and 29 States.

To prevent cuts to qualifying jurisdictions, the bill's level of funding is needed. It is important to realize that the increase in HOPWA spending in the bill simply maintains current services for qualifying jurisdictions. It is important to recognize that between 100,000 and 150,000 veterans currently access some level of HIV-AIDS services, and many of these veterans are also eligible for housing assistance under HOPWA.

Mr. Chairman, I will certainly work in conference to ensure that veterans' housing is increased. However, this funding offset is unacceptable, and I must reluctantly oppose the amendment. I hope my colleagues will do likewise.

Mr. McDERMOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong opposition to the Hilleary amendment. While I recognize the urgency of housing for our Nation's veterans, robbing Peter to pay Paul is not the way to go.

The Hilleary amendment would take away \$21 million earmarked for the Housing Opportunity Act from the 1999 budget. This is a bill that, as the gentlewoman from California (Ms. PELOSI) said, we started a long time ago. And I think we ought to acknowledge the gentleman from Texas (Mr. GONZALEZ), who really was the man who was in charge of the committee when we were on it; and when we told him about this idea he said, it sounds like a good idea.

While supporters of this bill will argue that we are not cutting HOPWA per se but rather freezing it at the 1998 levels, I would argue that an increase is what is actually needed to provide adequate housing for people living with AIDS, many of whom are veterans.

As my colleagues have heard, what the gentleman fails to recognize is the dramatic increase in the number of veterans with AIDS. There are 100,000 to 150,000 people in this country who are veterans who have HIV. 17,000 of them are taken care of in the VA system, and roughly 30 percent of the homeless in the United States are veterans.

Now, with the advent of new drug therapies, new hope is offered to people with HIV. However, these therapies are not available to everyone, especially the homeless. Strict regimens and a proper diet are mandatory for these drug therapies to work, and people with inadequate housing are not good candidates for such therapy.

This was one of the suggestions of the Reagan Commission on AIDS. There were five suggestions, and one of them was HOPWA. The reason they suggested it is because when one has AIDS, one has a weakened system, and if one does not have anyplace to live, one winds up in a shelter.

Now, if one goes into a shelter and one sleeps in a big room with 200 or 300 people and one has no defense system, one picks up every disease in the world, so one then gets sick and winds up

back in the hospital. And every big city hospital in this country has had the experience of getting somebody with AIDS up and stabilized and ready to go out but knowing if they put them out of the hospital they will be back in in worse shape. That is what this program is really all about. We are not talking about people who have not served their country.

HOPWA really is a link between housing and health care. And if one looks at the numbers, one would say, well, AIDS is declining in this country; but, actually, the HIV infection rate in selected groups continues to rise. Tragically, that epidemic is increasing among the low-income communities where homelessness is a reality or it is one paycheck away.

HOPWA helps fund a variety of AIDS services throughout Washington State, not just in the district where I come from, but from the Sean Humphrey House in Bellingham in the district of the gentleman from Washington (Mr. METCALF); Three Cedars in Tacoma; the Tamarak House in Yakima, which is in the district of the gentleman from Washington (Mr. HASTINGS); and the Bailey Boushay House in my district. HOPWA is used by housing authorities in Spokane, Tacoma and Seattle. So it is distributed across our State; it is not just in the big cities.

Mr. Chairman, I have always been an advocate for the Nation's veterans, and it is critical that we ensure adequate health care and housing for them. However, cutting the one is the wrong way to get the other.

Mr. Chairman, I urge my colleagues to vote against the Hilleary amendment.

The CHAIRMAN. The question is on the amendment of the gentleman from Tennessee (Mr. HILLEARY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HILLEARY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 501, further proceedings on the amendment offered by the gentleman from Tennessee (Mr. HILLEARY) will be postponed.

Mr. DOOLEY of California. Mr. Chairman, I move to strike the last word.

I would like to engage the gentleman from California (Mr. LEWIS), chairman of the subcommittee, on a matter of importance to my district in the San Joaquin Valley of California.

The agricultural communities along Interstate 5 in the San Joaquin Valley face chronically high unemployment rates that are, in part, as a result of uncertain water supplies. A coordinated water resources management plan that makes the maximum use of available supplies must be a central feature of any environmental protection or economic development initiative in the arid Central Valley.

A partnership of public and private interests in the I-5 corridor has pro-

posed a Water Resources Assessment Plan that will centralize information on the region's surface and groundwater supplies. This information will include assessments of water quality conditions, wetlands, riparian habitat and domestic industrial water needs.

I look forward to working with the chairman and the gentleman from Ohio (Mr. STOKES), the ranking member, and the conferees in trying to identify funding for this important effort.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the comments of the gentleman from California (Mr. DOOLEY). I will be glad to work with him on this very worthy project and plan to talk with him between now and conference as well.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to engage in a colloquy with the chairman of the subcommittee and potentially with the ranking minority member.

Legislation was enacted in 1996 to amend the Safe Drinking Water Act and to inject more common sense into the process of testing and treating our Nation's drinking water. This Member is concerned, as a representative of the State that has the largest use of groundwater for its public water supplies by far in the Nation, with only 7 out of some 700 or 800 systems using any surface water. I am concerned that the Environmental Protection Agency's groundwater rule may be ignoring congressional intent. Specifically, the EPA may attempt to implement a rule which would result in enormous disinfection costs for small communities, but with no actual benefits to the citizens of those communities.

In recognition of the general good quality of our Nation's groundwater, the excellent existing State water quality protection programs, and the expense and other complications of unneeded treatment, not to mention questions about whether or not some of the treatment agents themselves are threatening the health, the Safe Drinking Water Act of 1996 provided the EPA with only the authority to promulgate regulations requiring disinfection as a treatment technique, as necessary, and I stress the words "as necessary," for all public water systems using groundwater. Therefore, this Member would request that the chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations enter into a colloquy on this matter.

Mr. Chairman, is it the committee's intention that a small community using groundwater should not be subject to EPA-directed improvements unless the community's groundwater poses a genuine health risk?

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, yes, it is.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman.

Is it also the committee's intention that EPA should work to develop a groundwater rule which gives the States adequate flexibility in developing preventive measures?

Mr. LEWIS of California. Mr. Chairman, let me say to the gentleman I appreciate his bringing this problem to my attention and the committee's attention. It is our intention to not only be responsive to that problem but to have as much flexibility as possible in dealing with those communities' problems.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman. I would say to the distinguished gentleman I appreciate his clarification, and I appreciate the fact that the subcommittee's report language also addresses this subject.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague's concern.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER:

Page 91, after line 3, insert the following:

SECTION 425. The Administrator of the Environmental Protection Agency, in consultation with the National Academy of Sciences, shall expedite a review of scientific literature concerning the health effects of copper in drinking water. The Administrator of the Environmental Protection Agency shall assemble a team of technical and policy experts from the Agency's Region 7 Office and headquarters to work with Nebraska state officials to help identify and clarify measures to meet requirements of the Copper Rule where central treatment of groundwater is not cost effective. The Administrator of the Environmental Protection Agency shall expedite clinical research studies regarding the health effects of copper in drinking water. The Environmental Protection Agency shall use the results of its review of scientific literature and clinical studies of the health effects of copper in drinking water to review the National Primary Drinking Water Standard for copper pursuant to section 1412(b)(9) of the Safe Drinking Water Act.

Mr. WAXMAN. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) reserves a point of order.

Mr. BEREUTER. Mr. Chairman, I understand that the gentleman is reserving a point of order, and this is straightforward legislating on an appropriation bill if it were to be accepted. I understand that fact.

I have two amendments filed, I would say to my colleagues on both sides of the aisle, that indeed are in order. One simply forbids the use of funds to implement the copper rule, and the other takes \$15 million out of the administrator's office. Both are in order. I would prefer not to offer them.

I gave my colleagues some indication of why this is particularly important to my State. I want to tell my colleagues that the Republican Attorney General of Nebraska is filing or has filed a lawsuit on this issue. The Democratic governor is supporting that lawsuit and requesting relief for more than 60 communities in our State that are affected by the copper rule, and the entire Nebraska delegation in both Houses are very much involved in trying to find a solution to this issue.

In fact, I believe that the amendment offered here might well be acceptable to the EPA and to the appropriators and authorizers on both sides of the aisle as report language, but what the administrator wants to avoid is any kind of statutory direction, and I think that is what it comes down to on this amendment. But I do think it is better to have that statutory language than report language which seems sometimes to have little impact upon the Environmental Protection Agency. And I think I would say to my colleagues it is better to accept this amendment than having one of the two other amendments that are in order and which are not subject to a point of order.

Unfortunately, the EPA is moving forward in implementing a regulation, despite the lack of any convincing evidence of adverse health effects which would justify its current course of action. As a result, the current regulations will result in enormous costs for water systems across the country, even though it is unlikely to result in any health benefits.

Obviously, communities do not have unlimited financial resources, and money spent on compliance with the copper rule is money that cannot be spent for other necessary community needs. The costs are significant for all communities, especially the smaller ones. As a result, it is crucial that this rule be implemented only if it is supported by solid, objective and scientific research.

The EPA's current standard relies on what seems to be almost anecdotal evidence rather than scientific studies. For instance, one of the studies cited by the EPA involved nurses who became ill after consuming cocktails which were mixed and stored in corroded copper-lined containers. It is important to emphasize that this so-called copper problem is generally the result of the corrosion of copper household plumbing, rather than by copper in the community's water sources.

In addition, copper concentrations from plumbing result from water setting in copper pipes for many hours and the level drops dramatically after the tap has run for several seconds.

□ 1730

The commonsense solution to any potential problem related to copper concentrations from plumbing in the house is to have consumers simply run the faucet for less than a minute for

the first time the water is used in the morning, and that eliminates the problem or reduces the copper level below the 1.3 or even below the 2.0, 3.0 milligrams per liter, whatever standard or copper action level you might wish to choose.

To help compensate for the dearth of scientific research on the issue of copper in drinking water, the Centers for Disease Control and Prevention were commissioned to conduct new and more comprehensive studies. One was conducted in Nebraska and the other in Delaware. The studies are expected to be published soon. They have not been peer-reviewed. That is the problem at this point.

The interim CDC report on the Nebraska study concluded that "People were not experiencing G.I.," gastrointestinal, "illness related to the level of copper in their drinking water, even though in 51 of the selected homes drinking water levels were greater than 2 times the EPA action level the year prior to the study."

A similar study in Delaware which had even higher copper concentration levels also found that the water was safe for drinking. Correspondence from the EPA concerning the Delaware study acknowledges that "Study results suggested no meaningful differences in the symptoms typically associated with copper toxicity between the control group, those not exposed to copper in drinking water, and the group with high copper levels of 5 milligrams per liter."

That 5.0 level is much more than what is being proposed here by the EPA in the way of a copper action level—1.3 milligrams per liter. That is on the "first draw sample."

The EPA rule establishes an action level for copper and drinking water of 1.3 milligrams per liter. Yet our Canadian friends and the World Health Organization says it should be at 2.0. They also provided for a risk margin at that level, as well.

Copper in drinking water is generally caused by household plumbing, as I said, rather than water source. In addition, copper concentrations result from water setting in copper pipes for many hours, and the level drops dramatically after the tap has been run for several seconds.

I could give the Members some statistics about a number of our communities.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. Mr. Chairman, in one of our communities, a community of 23,000, the estimated initial cost would be \$1 million for water treatment equipment, \$250,000 per year for treatment. Unfortunately, it would result in no health benefits. That community has wells in 14 different locations. None of them are inter-

connected. There is no central point for decontamination, disinfection, or copper treatment. That is a very typical situation in our State. We are unique in that respect. We have the largest groundwater supply in the continent.

Although this Member is obviously most familiar with the problems in our communities, it is important to keep in mind that dozens of States will be affected by this rule. If Members have not heard from communities in their districts, they should expect in the near future to hear from them as the EPA pushes for enforcement.

This Member has had repeated contacts with the EPA on the issue dating back to 1993. Unfortunately, the EPA has resisted a commonsense approach, and this Member has come to the conclusion that Congress must act to correct the situation. This amendment does not go nearly as far as I would like, but it does require them to move ahead in consultation with the National Academy of Sciences to find a proper copper action level.

I want to thank the gentleman from Florida (Mr. BILIRAKIS) for his work and the work of his staff with me in trying to find some accommodation on this issue.

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for yielding.

As the gentleman knows, the original amendment that he is planning to offer was an amendment that I was prepared to oppose very, very strongly, because we, the majority and the minority, worked awfully hard for a long time to come up with the Safe Drinking Water Act, and now, just a short time afterward, it looked like attempts were made to change that.

But we have pointed that out to the gentleman, and we had tremendous cooperation in trying to work this out. Actually, the language we did work out would not have changed, because there was never any intent on our part to change, the Safe Drinking Water Act in any way whatsoever. It was just basically to focus on the fact that there is a problem in Nebraska in expediting a review, and asking the EPA to use the results of its review pursuant to the appropriate section of the Safe Drinking Water Act.

So whereas I suppose technically it is legislating on an appropriations bill, there is really no intent to do that, or to change the Safe Drinking Water Act in any way whatsoever.

Again, I appreciate the gentleman's understanding and cooperation. I would hope that the Environmental Protection Agency would see that we are focusing on this, even though we certainly do not intend to change the Act.

Mr. BEREUTER. I am pleased to have the gentleman's comments. I appreciate his assistance.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding. I know the gentleman is trying to deal with a very real problem in the gentleman's State.

As I understand it, the language that the gentleman has worked out would be acceptable to the Administrator in the report of this legislation. But the Administrator is reluctant to have the precedent of having this language inserted in the statute itself.

The gentleman expressed his concern that perhaps the report language would not be taken seriously, and statutory language would be necessary to accomplish the goals. I would point out to the gentleman that if the Administrator is supporting this language—

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, as I understand it, the Administrator is willing to commit to follow the language that we would seek to have in the report. The gentleman has more assurance than simply report language, because the one to whom it is directed is promising to carry it out.

The subsequent point I want to make is that just last week, as we discussed this bill, we had a heated debate over whether the report language that I and others were trying to strike in the appropriations bill would be taken seriously and we had assurances from the Chairman of the Appropriations subcommittee that report language is not binding, but we were concerned that the report language would be intimidating to the EPA, and that we did not want that report language to go forward.

So my point to the gentleman is that I regret that I am going to have to make the point of order, but I would have hoped that this could have been in the report, and that the whole issue might have been avoided.

Mr. BEREUTER. Reclaiming my time, I thank the gentleman for his understanding of the concern that we have in our State. It is not our State alone, but we have a more severe problem with it, there is no doubt about it, because of our groundwater dependence and the corrosive impact of copper in the house pipes.

I would say to the gentleman, perhaps he could help this gentleman understand, since we are legislators, what the difficulty is in us legislating some advice on the kind of studies that are necessary, since we are not changing the copper standard, since we are only asking them to proceed at the same time with studies to be done in consultation with the National Academy of Sciences?

What is there about the precedent of having some statutory direction that is so offensive to the administrator?

Mr. WAXMAN. If the gentleman will continue to yield, I think the concern the Administrator has, and I think it is a legitimate one, is that if we start legislating on specific problems in appropriations bills—

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the concern is that once we have that precedent, we will have a never-ending series of small changes that people will try to make in our laws—whether it is the drinking water law or some other statutory environmental legislation.

So for that reason, there is this reluctance to accept this proposal offered as bill language.

Mr. BEREUTER. I thank the gentleman for his comments. I think we are in the business of making judgments as legislators over appropriate kinds of initiatives by Members trying to take the interest of their constituents to heart. If statutory direction is a bad idea, if it does damage in a national sense to priorities, then the gentleman has a right to object. That is his responsibility. I see no reason why that would happen in this instance.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, if we were in a position of having this item considered as part of the report language, I could tell the gentleman that I would work directly with him between now and the time we go to conference to try to find a way, with our colleagues, to accommodate the gentleman's problem.

Mr. BEREUTER. I thank the gentleman. I know that he is sincere in this, but perhaps the gentleman himself knows that the entire Nebraska delegation has met with Ms. Browner and people under her in the last several weeks.

Mr. LEWIS of California. If the gentleman will yield further, I would mention to the gentleman that I believe the Senator from the gentleman's State is a member of the committee, and will be participating in the conference as well.

Mr. BEREUTER. I wish that was the case, but my senior Senator gave up his position to go to the Senate Finance Committee.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mr. BEREUTER was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to join with the gentleman from California (Mr. LEWIS) in making my personal commitment to the gentleman as well that if we can work on this as report language, we will do everything that both of us can to make sure that the goals the gentleman wants are accomplished.

Mr. BEREUTER. Reclaiming my time, if the gentleman persists in his point of order and I proceed with what I think is necessary, I assume the gentleman's commitment is still there to work with me.

Mr. WAXMAN. I want to be as helpful as I possibly can.

Mr. BEREUTER. I thank the gentleman.

#### POINT OF ORDER

The CHAIRMAN. Does the gentleman from California (Mr. WAXMAN) insist upon his point of order?

Mr. WAXMAN. Yes, Mr. Chairman, I would insist on it.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) is recognized on his point of order.

Mr. WAXMAN. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2 of rule XXI.

The rule states, in pertinent part, "No amendment to a general appropriations bill shall be in order if changing existing law . . ." This amendment gives affirmative direction, and in effect imposes additional duties, modifies existing powers and duties, and I therefore ask that the amendment be considered out of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

If not, the Chair is prepared to rule. The Chair finds that the amendment explicitly places several new duties on the administrator of the Environmental Protection Agency. As such, the amendment proposes to legislate on an appropriation bill, in violation of clause 2 of rule XXI. Accordingly, the point of order is sustained.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my remarks here directly relate to the point of order and to other similar situations which have arisen during the course of this and other appropriation bills.

The rule with regard to legislating on an appropriation bill has been with us in the rules of the House for quite a long period of time. It was originally put there in order to distinguish between the role of the Committee on Appropriations and the rest of us peons who only serve on authorizing committees, and do not get a chance to do the heavy lifting that is involved in distributing the money, like the appropriators do.

I have frequently had reason to raise points of order about legislating on appropriation bills as it involved the work of my own committee. There has been a propensity to insert in appropriation bills funding for research projects which were not authorized, and a number of other things of that sort.

I did this to the point where I made myself obnoxious to my friends on the Committee on Appropriations for a period of several years, and I have ceased to pursue that as actively as I once did, because I began to recognize that there were many legitimate reasons why there should be or could be legislation on an appropriation bill.

The standards for what are the appropriate reasons for having legislation on an appropriation bill are extremely vague. I can think of a number of good reasons in my own case, and involving the Committee on Science, we have a problem getting the Senators to enact authorization bills, for example. That is because the Senate rules have allowed Members who serve on the Committee on Appropriations to also serve as chairmen of authorizing committees, something they cannot do in the House of Representatives.

These Senators have a very strong interest in doing things efficiently, so they do it on the appropriation bill and leave the authorizing bills sort of hanging out to dry over there in the Senate. This is not the way the system is supposed to work.

In the case of what is going on in most instances here in the House, authorizing on an appropriation bill constitutes the fastest and most efficient way to get action accomplished on something that needs to be accomplished or should be accomplished. I think that is a legitimate reason to have an exception to the rule, to have a waiver. These waivers, of course, are frequently granted by the Committee on Rules to include situations where there seems to be a good reason to have such a waiver. But there is, again, no standard as to when waivers will be granted.

Many of the amendments that we have considered here are an effort to legislate on an appropriation bill by Members of the House who are not appropriators, but they see an amendment to the appropriation bill as the fastest way to get action.

□ 1745

This was the case with the sleepwear amendment as I recall, and it comes up very often.

Now, there are cases in which waivers are not granted; and, of course, in that case any Member can raise a point of order against language in an appropriations bill and we end up with in some cases half or 75 percent of an appropriation bill being "stick it" and we go to conference with no House position. That is not sound legislation, it is not efficient, and we need to think this through.

Now, I am not proposing a solution, but I am saying that this matter has gotten to the point where I think at the beginning of the next session of Congress there ought to be responsible Members who look at the problem and come up with reasonable solutions, which might include having authorizing committees ask the appropriators to include legislative language on an appropriations bill in order to move something through the other body that needs to be moved. That would seem to be reasonable to me. It is completely different from what we do now, but I have found that the whole system works better when there is close cooperation between the authorizing committee and the Committee on Appropriations.

At the present time, that exists in some cases; it does not exist in other cases, and we need to regularize that. We need to have a regular order under which we can understand what is appropriate and what is not appropriate.

Mr. Chairman, I make this brief statement in order to alert my friends to the fact that if I am so blessed as to return to this great body I may propose such a change in the rules.

AMENDMENT NO. 29 OFFERED BY MR.  
SCARBOROUGH

Mr. SCARBOROUGH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 29 offered by Mr. SCARBOROUGH:

At the end of the bill, insert after the last section (preceeding the short title) the following new section:

SEC.— None of the funds made available in this Act may be used to carry out Executive Order 13083.

Mr. SCARBOROUGH. Mr. Chairman, President Clinton signed Executive Order 13083 on May 14, while out of the country, and we believe it is a serious affront to the Federalist framework established in the United States Constitution. It could potentially lead to the abuse of power by individual agencies as they attempt to interpret this Executive Order.

The order establishes broad, ambiguous, and we believe unconstitutional tests to justify Washington bureaucratic intervention in matters that are typically left to State and local communities. Neither the Constitution, the Bill of Rights, nor the Federalist Papers even remotely justify Executive Order 13083 or its expansion of Federal regulatory activity.

Back in 1987, President Ronald Reagan signed an Executive Order which this Executive Order reverses. In the Reagan Executive Order it stated, "The constitutional relationship among sovereign governments, State and national, is formalized in and protected by the tenth amendment to the Constitution."

President Reagan also said, "It is my intention to curb the size and influence

of the Federal establishment and to demand recognition of the distinction between the powers granted to the Federal Government and those reserved to the States or upon the People."

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, the gentleman and I have had a chance to discuss this amendment. I discussed it with the gentleman from Ohio (Mr. STOKES) as well. While we will need to massage this as we go towards conference, we are inclined at this point to accept the amendment.

Mr. SCARBOROUGH. Mr. Chairman, reclaiming my time, I thank the gentleman from California. And if no one is willing to object to it—

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Chairman, the amendment is also acceptable to us.

Mr. ARMEY. Mr. Chairman, I rise in support of the Scarborough amendment to curtail funding for Executive Order 13083, President Clinton's efforts to grab power from the states in the name of "federalism."

Ronald Reagan had it right. In 1987, President Reagan reaffirmed the principles of federalism—that powers not explicitly given to the federal government are reserved for the States and individuals.

The specifically enumerated federal powers that are designed to limit Washington's power is the very cornerstone of our fundamental liberties. It is at the heart of what the American people expect from Washington—respect for their rights to know what's best for them—without Washington interference.

Unless we preserve a healthy balance between the States and the federal government, we risk the creation of a government that is beyond control, one insulated from the will of the people. It is for that reason that our Constitution lays out enumerated powers of the federal government—powers given to it only by the people in the nation. It was the genius of the founders—a way to ensure that no leader pandered away the wealth and resources of the nation.

In fact, a central theme of our 1994 "Contract with America" was the return of power to the States and the revival of federalism. The nation responded, with overwhelming enthusiasm.

I was astonished to learn that on May 14th, President Clinton issued a new Executive Order that overturns Ronald Reagan's 1987 federalism Order and repudiates a principle so deeply held by all Americans.

I was pleased to read in today's Washington Post that OMB has decided it erred in its federalism executive order based on unanimous opposition from states, cities, and counties. I commend Chairman DAVID MCINTOSH for his hearing that demonstrated this opposition yesterday.

This amendment is still a valuable message to send the White House, and I commend the leadership of my colleague, JOE SCARBOROUGH.

I hope the committee will accept this amendment. I urge the committee, in the

strongest possible terms, to retain this amendment as they work with the Senate and come to a final resolution on this appropriation bill. Congress must also be clear in rejecting this effort by the Administration to change longstanding federalism principles.

Is there a more fundamental guarantee of liberty than this check on federal powers?

President Clinton's pronounced exceptions to federalism swallow up the principle with nearly one bite.

Paul Begala, one of President Clinton's advisors, in talking about President Clinton's increased use of Executive orders, was quoted as saying, "Stroke of the Pen. Law of the Land. Kinda Cool."

Kinda Cool, Mr. Begala? With a stroke of the pen, President Clinton undermined the foundations of federalism. With a stroke of the pen, he repudiated a time honored, fundamental principle that rules this nation. By a stroke of the pen he gave a green light to future unwarranted and unconstitutional national regulatory powers and actions. With a stroke of the pen, he may have done irreparable harm to individual rights and liberties.

As President Reagan would say—"Well, there they go again."

President Clinton is starting to demonstrate a comfort level with an unprecedented use of executive branch powers—trying to effect policy without going through the regular, time-consuming legislative process, where the American people are represented, negotiations occur and laws are made.

The Wall Street Journal labeled this phenomenon on July 8th in their lead editorial, as "King Clinton." The editorial says we are witnessing "a Presidency that has attempted to build between itself and the other branches a kind of moat of nonaccountability. . . . If it receives subpoenas, it rejects them or files lawsuits against them. Raw background files on hundreds in the political opposition are summoned from the FBI. . . . If Congress balks, overleap it with whatever executive order is needed, to satisfy the courtier constituencies." The editorial goes on to say, [it is time for the Congress] "to act as a check and balance on the assertion of the royal prerogatives."

Executive Orders, Presidential Memorandums, Presidential Decision Directives and Proclamations can sometimes have tremendous policy impact on the nation, yet they do not require the approval of Congress. They do have the force of law. These legal tools are not mentioned in the Constitution, but have grown up based on the implied powers inherent in the grant of "executive power" to the President in Article 2, section 1. President Clinton seems bent on using his powers until someone says stop.

The federal courts have stopped this President from legislating through Executive orders before. Who recalls President Clinton's Executive Order to forbid government contractors from hiring permanent striker replacements? There, the courts found the President had overreached.

Who recalls the Federal "land grab" in Utah? 1.7 million acres—by "presidential proclamation."

What about the stroke of a pen addition of "sexual orientation" to federal anti-discrimination laws? All other "protected categories" were put into this Executive Order because Congress had passed a law for them—race, gender, ethnicity, religion, handicap, and age.

Previous efforts along these lines were based on statute, not political pressure and pandering. If this is the right thing to do, let's do it the right way—through the legislative process, where the American people have a voice.

Then there is the dangerous manipulation or disregard of the Constitution's wording when it comes to the census, as President Clinton pursues a politically motivated concept of sampling, rather than actual counting of people. The Constitution is a restraint on government power, but not for this team in the White House.

Consider the many legal maneuvers we have seen from this White House—all in efforts to escape scrutiny. Using taxpayer funded lawyers oftentimes, this President is undermining executive branch accountability by invoking novel and frivolous constitutional privileges—with the ultimate effect of hiding the facts from the public.

Who can forget the attempt to escape questioning by the Paula Jones attorneys by the claim that this President was "on duty," in accordance with the Soldiers and Sailors Relief Act? And, how can this President have such disrespect for the Secret Service that, instead of asking them to tell the truth, he seeks to establish a new "protective function" privilege, risking the making of bad law to save himself from potential embarrassment?

Who isn't appalled at the efforts by Clinton allies to intimidate political opponents or witnesses? Where is the outrage about the fact that we now know that this White House has an "enemies list" and that research on those enemies is bought and paid for by the President's lawyers?

In summary, Paul Begala may think this is "kinda neat," but President Clinton is running roughshod over our Constitution.

As for the Congress, it is time to make a stand. There is an abuse of power occurring that can no longer be tolerated.

It is time for the Congress to say, "enough is enough." In representing the American people, you and I are far too familiar with the fact that compromise and negotiation is difficult and slow—yet, it is the very hallmark of divided federal government. Lawmaking and the process of making laws occur here, Mr. President, not with the stroke of your pen.

A vote against the Scarborough amendment is a vote for another form of government; it is a vote against the Framers' vision of how we were to preserve our liberties.

I urge my colleagues to vote yes to affirm the federalism principles that Ronald Reagan articulated.

Mr. BARR of Georgia. Mr. Chairman, today I ask my colleagues to send a clear message to the White House that our venerable Constitution is alive and well, if not at 1600 Pennsylvania Avenue, at least here in the People's House. Especially, that the principles of the Tenth Amendment endure.

On May 14, from Great Britain, President Clinton issued Executive Order 13083 which completely undercuts the notion of federalism that forms the basis of our entire system of government. This Executive Order deeply undermines, if not obliterates, the Tenth Amendment to the United States Constitution.

Congress must stop the White House by responding aggressively and quickly. Blocking this unconstitutional Executive Order on federalism is essential. If we fail to act by August 12, 1998, the Order will go into effect; no ifs

ands or buts; and regardless of what promises or platitudes are issued by the Administration.

As most of us are aware, in 1987, President Ronald Reagan issued Executive Order 12612, reaffirming the principles of federalism and the powers reserved to states and individuals as outlined in the Tenth Amendment.

Ronald Reagan's Executive Order which is explicitly repealed by President Clinton, detailed that the federal government was given few, limited, and enumerated powers. Reagan's Executive Order served as a limitation on Executive Agencies, not an accelerant on their work, as proposed in President Clinton's order.

In the Constitution the Framers granted specific federal powers, and outlined when the government legitimately may exercise its authority.

They did not intend the federal government to exercise authority over the states, local communities, and the people except in very limited and clearly delineated circumstances, such as a national currency, or customs matters.

The Executive Order which will in effect have the force of law if we don't stop it, lists several, all-encompassing "exceptions" under which the powers of the states and the people could be abrogated by any federal agency at any time; ignoring and overriding the Tenth Amendment.

Some individuals, I presume we will hear from today, will argue this Executive Order constitutes nothing more than the President's opinion and does not carry the force of law. These individuals are wrong.

Congress must stop the Clinton Administration practice by responding aggressively and quickly. This amendment today will be the first step to block this unconstitutional Executive Order on federalism.

This reflects a systematic, very conscious political plan by this Administration. A recent New York Times article noted that some of President Clinton's "closest advisers deeply pessimistic about the chances of getting major legislation passed during the rest of the year, Mr. Clinton plans to issue a series of executive orders to demonstrate that he can still be effective."

The President's recent actions raise a bright crimson flag signaling just what he thinks of the office of the President.

I have already heard from hundreds of individuals from around the country, outraged over this Executive Order.

It is time for this Congress to focus the political issues for the public. Today we take the first step to bring back the Framers' principles of checks and balances.

This is not a theoretical debate. The consequences of our failure to act will be real, immediate, and continuing; from taxes levied by federal agencies with no congressional authorization, to international agreements being forced on state and local governments without any advise and consent by the Senate.

The Clinton Administration believes power should be given to, taken by, and retained in Washington. They believe in a top-down governing structure—not the bottom-up structure clearly envisioned by our Founding Fathers and by many of us in this Chamber. Power comes from the individual not the Federal Government.

I rise in support of the Gentleman from Florida's amendment and ask my colleagues to support this important issue.

Mr. MCINTOSH. Mr. Chairman, I was outraged by President Clinton's recent Executive Order (E.O.) 13083 which revoked President Reagan's historic Executive Order on Federalism issued in 1987. President Reagan's order provided many protections for and reflected great deference to State and local governments.

By stark contrast, President Clinton's order, issued without prior consultation with State and local governments, betrays and repudiates an 11-year tradition of trust and mutual consultation between the States and the Federal Government. In its place, President Clinton's order lays the groundwork for an unprecedented Federal power grab in virtually every area of policy previously reserved to the States under the Tenth Amendment.

On June 8, I wrote President Clinton that "I could not understand how you, as a former Governor, could willingly abandon the protections accorded the states since 1987 from unwarranted federal regulatory burdens." Prior to the new order's revocation, there were "important constraints on federal regulatory power by requiring a minimum of federal intrusion and substantial deference to state governance. With E.O. 13083, you have swept away these limitations on the power of the federal government." I stated my belief that the bottom line is that the new order would wreak havoc on the balance of power envisioned by the Constitution between the States and the Federal Government.

On June 10, my subcommittee called the National Governors' Association (NGA) to ascertain NGA's views of the new executive order. Shockingly, NGA's Executive Director was totally unaware of the order. NGA learned about it first from my staff!

Apparently, the Clinton-Gore White House had neither consulted with any of the seven principal State and local interest groups prior to issuance of the new order nor notified them about it after its issuance. The way they went about this executive order belies any claim that the Clinton Administration intends to consult with State and local governments.

On July 17, leadership of "the Big 7"—the governors, the state legislatures, the cities, the counties, the mayors, the city/county managers, and council of State governments—wrote the President requesting that the new order be withdrawn. They wrote "we feel that Executive Order 13083 so seriously erodes federalism that we must request its withdrawal," which should occur "as quickly as possible."

Although the President has agreed "to delay implementation of the Executive Order . . . and to make changes where appropriate," at this point, frankly, there is no change that will repair the damage to the President's credibility that has resulted from the stealth issuance of this order.

It takes a lot of nerve for a president, while out of the country, to issue an order that completely reverses an 11-year commitment to the States and gives federal regulators sweeping new justifications for interfering with State affairs, but giving the States: no advance notice of the order; no opportunity to comment; and no voice in a decision that will drastically upset the constitutional balance of power between the States and the federal government.

In this climate of bad faith, the States are extremely reluctant to entrust their social, moral, and financial destiny to an Administra-

tion that governs by midnight decrees issued on the fly.

Yesterday, I chaired a hearing to examine (1) the potential impacts of President Clinton's Executive Order on Federalism on State and local governments and (2) the need for a possible legislative solution to address the concerns of State and local governments. This hearing allowed key State and local elected officials to voice their concerns and former and current Administration officials to express the rationales for their Federalism executive orders.

To ensure that the States' constitutional rights and protections are guaranteed, the only sure path at this stage is to enshrine the principles of Federalism in law and not leave them to the President's whim. By repealing the protections afforded in earlier executive orders issued by President Reagan and reaffirmed by this President, President Clinton has demonstrated that he cannot be trusted to defend the States against an ever-expanding federal bureaucracy. Congress must take responsibility and pass new legislation that will codify federalism principles.

Vote yes on the Scarborough amendment.

Mr. DELAHUNT. Mr. Chairman, I rise in strong opposition to the amendment.

I happen to support the San Francisco policy. I believe that companies should provide benefits to the domestic partners of their employees. And I think it is reasonable for a local jurisdiction to choose to award county contracts to companies whose practices conform to local civil rights policies.

But it really doesn't matter what I think about this policy, or any other \* \* \* you think about it. The only opinion that matters is the opinion of the citizens of San Francisco.

With all due respect to the gentleman from California, where did he get the idea that Congress has the right to step in and nullify the contracting decisions made by locally-elected leaders?

This Congress has told local governments what to do about a lot of things. We have used federal grants to dictate local policies regarding abortion and contraception, educational standards, and juvenile crime. The list goes on and on.

Whatever one may think about these federal mandates, most of them can claim at least some tenuous connection to the national interest.

But what possible national purpose can we have in telling the County of San Francisco how to award its contracts? Next, we'll be placing street lights and directing traffic.

I think that if members of Congress want to try their hand at local government, they should run for mayor. Otherwise, they should content themselves with governing the country.

We have no authority to tell the people of San Francisco—or any other locality—whom they should select to perform their public contracts. I know of no legitimate national interest that can justify this kind of incursion into state and local prerogatives.

Many groups, including the National Association of Counties, have expressed alarm over this amendment. It is a feeling we all should share.

Let's defeat this outrageous amendment, and get back to the business we were sent here to do.

The CHAIRMAN. The question is on the amendment offered by the gen-

tleman from Florida (Mr. SCARBOROUGH).

The amendment was agreed to.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I did not want to interfere with the progress of the gentleman from Florida (Mr. SCARBOROUGH), but I did want to underline the significance of this to Members.

As I understand it, we have now adopted an amendment that acts against the President's Federalism order. That is relevant, because I have been told, by looking at the work of the Committee on Rules, that when we do the Commerce, Justice, State appropriation, an amendment will be offered by the gentleman from Colorado (Mr. HEFLEY) which would cancel an Executive Order involving the civil service and discrimination and will also include this.

So I do want to make it clear now to Members that having adopted this amendment today, which cancels the Federalism order, when the vote comes on the amendment of the gentleman from Colorado which deals with sexual orientation and the executive branch, it will have a part dealing with Federalism which will be moot. That is, the Federalism part of that amendment, of the Hefley amendment, will now not mean anything. So the Hefley amendment is now back to its original form before it was transmogrified by the Committee on Rules.

Thus, and I want to stress this again because it did get a little complicated, it is a little late, people may be getting low blood sugar and may not be paying attention, we now have adopted an amendment which, to the extent that we can, cancels the President's Federalism order. I was not in favor of that. I tried to yell loud, but nobody heard me.

On the other hand, what it means is that when the Hefley amendment comes before us, even though it will purport to deal both with the question of sexual orientation in the Executive Order on the civil service and with anti-Federalism, it will in fact be solely on sexual orientation, because the Federalism part will be redundant and it will, therefore, have no role whatsoever in the debate.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this as a courtesy to the House to give plenty of notice as to what my motion to recommit will be, if we ever get to that point tonight.

Let me explain briefly what it will be. There are provisions in this bill which, in essence, prevent the Consumer Product Safety Commission from enforcing new regulations with respect to fire retardant furniture. Language was adopted to this bill which will prohibit the enforcement of provisions that are designed to protect people from flammable furniture. So I will simply be offering a motion to strike the sentence beginning on line 7

on page 55 and strike section 425 of the bill.

Mr. Chairman, I will be doing this, frankly, because I think this proposal in the bill is masquerading under false pretenses. Supporters of the provision in the bill will be saying, well, what is more reasonable than simply providing more time for the study of the matter before the Consumer Product Safety Commission can take up a new rule?

What I think would be more reasonable is that we quit allowing lawyers to jerk this Congress around and get to the point of actually protecting the public from a serious safety hazard.

I want to say, Mr. Chairman, this is going on governmentwide, whether we are talking about consumer products and pajamas for children, or whether we are talking about flammable furniture, or whether we are talking about OSHA in its efforts to try to protect workers from repetitive motion injuries. In each case, we have got smart law firms in this town who put together a case on behalf of their clients. They go to a friendly Member of Congress or a friendly committee or a friendly Chamber of the Congress, and they say, "Boys and girls, why don't you help us out? Shield us from regulatory action."

Well, when we shield them from regulatory action, we really expose the general public and workers in this country to dangerous products, dangerous work facilities, and the result is injured workers, the result is injured children, and in some cases we have the death of children and the death of consumers.

So, Mr. Chairman, it just seems to me that this Congress is going to have to make a choice. We are either going to stand with the law firms that advocate for these special interests or we are going to stand for the public that we are supposed to represent.

So, I will be offering that motion at the proper time and wanted to give the House notice of that fact now.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have an amendment Number 20 which would stop the promulgation of the copper rule. I am not going to offer it, because of my concern of what it would do in some places where the copper rule needs to be applied.

I have heard the assurances of the gentleman from California (Mr. WAXMAN) and the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from California (Chairman LEWIS) of the appropriations subcommittee, and I take those assurances for cooperation. And next year, I will be back to cut the \$15 million out of the administrator's office, a very tempting target, if necessary.

Mr. MCINTOSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, very quickly, the language of this bill on the Kyoto Protocol was wonderful. I wanted to engage in a quick colloquy with its author, the gentleman from Michigan (Mr.

KNOLLENBERG), about a couple of the provisions in that language.

Mr. Chairman, I would ask the gentleman, do those activities include drafting, preparing, or developing rules, orders or decrees, or work such as preparing notices or other language or studies that would be used to justify rules, orders, or decrees that would implement the Kyoto Protocol?

Mr. KNOLLENBERG. Mr. Chairman, if the gentleman would yield, the gentleman is correct.

Mr. MCINTOSH. Mr. Chairman, would this language also prohibit the finalization of any rules—

POINT OF ORDER

Mr. OBEY. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. OBEY. Mr. Chairman, we did not hear that exchange. I would like to have the question repeated.

The CHAIRMAN. The gentleman is correct. If the Committee would be in order, the gentleman from Wisconsin (Mr. OBEY) and all gentlemen and gentlewomen deserve the opportunity to be heard.

If the gentleman from Indiana (Mr. MCINTOSH) would repeat the question.

Mr. MCINTOSH. Mr. Chairman, the question was: Do those activities regarded in the Knollenberg amendment include drafting, preparing, or developing rules, orders, or decrees, or work such as preparing notices other language or studies that would be used to justify rules, orders, or other decrees that would implement the Kyoto Protocol?

Mr. KNOLLENBERG. Yes, those regulatory activities would be precluded.

Mr. MCINTOSH. Mr. Chairman, would this language also prohibit the finalization of any rules, regulations, or orders implementing the Kyoto Protocol prior to Senate ratification, whether or not authorized by current law?

Mr. KNOLLENBERG. Mr. Chairman, yes; and when and if the protocol were ratified after full and open discussion by the Senate, these provisions would be void.

Mr. MCINTOSH. Mr. Chairman, I would ask what this funding restriction would not do. Does it limit funding for balanced education activities that are not propaganda advocacy or lobbying?

Mr. KNOLLENBERG. No, it does not.

Mr. MCINTOSH. Mr. Chairman, what about legitimate climate science and research and development activities?

Mr. KNOLLENBERG. Mr. Chairman, I would tell the gentleman that those activities are still funded and encouraged. In fact, we have increased funding for the global climate change research account within this bill by \$10 million.

Mr. MCINTOSH. What about existing programs and ongoing activities to carry out the United States voluntary commitments under the 1992 Climate Change Convention?

Mr. KNOLLENBERG. The United States will live up to its commitments.

Mr. MCINTOSH. So what we are really talking about here is just stopping action by EPA to implement the protocol prior to ratification, not legitimate programs or education or research?

Mr. KNOLLENBERG. Mr. Chairman, the gentleman again is correct. And we have good reason to be concerned about EPA's back-door regulatory actions. EPA has repeatedly sought to expand its authority to restrict greenhouse gas emissions where no such authority exists.

Mr. MCINTOSH. We cannot allow EPA to circumvent our constitutional process through such action.

Mr. KNOLLENBERG. I agree. The Kyoto Protocol is a flawed treaty. Our only safeguard against a flawed treaty is our constitutional process.

Mr. MCINTOSH. Mr. Chairman, the language of the gentleman from Michigan is crucial to prevent back-door regulatory implementation. I thank the gentleman for bringing it.

Mr. KNOLLENBERG. Mr. Chairman, I rise to thank my colleagues, Representatives OBEY and MCINTOSH, for their discussions on the House floor regarding the fine line between education and advocacy efforts conducted by the Environmental Protection Agency (EPA). I have ongoing concerns that some of the EPA's education activities at times crossed that line and became advocacy efforts.

Mr. OBEY offered an apt description of education when he explained to Mr. MCINTOSH during the debate over his amendment, and that his amendment clarifying the EPA's ability to conduct educational outreach was meant to allow only those activities that were objective in nature and presented both sides of the issue in a factual manner.

In my view, much of the EPA's past problems have stemmed from its inability to present information in an objective and balanced manner. If information is presented without allowing the airing of both sides, it ceases to be education, and becomes advocacy. There is a fine line between education and advocacy, and the EPA must recognize this distinction and refrain from crossing this line.

So, I thank the gentleman from Wisconsin for helping me to make this very important point. It is my hope that the OBEY amendment will help clarify what is the necessary role of the Administration, and compel the EPA to promote balance and objectivity in all its future activities.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I listened carefully to the colloquy that just took place and I want to point out that that colloquy may reflect the views of the two gentlemen who entered into it, but I do not think they accurately reflect the views of the House.

□ 1800

Last week the House adopted an amendment to the Knollenberg language that came out of the Committee on Appropriations, an amendment offered by the gentleman from Wisconsin (Mr. OBEY). The OBEY amendment made it quite clear that the EPA would not be precluded from doing studies and

educational efforts, that the House did not want the Knollenberg language to be interpreted so narrowly, and so I do not know whether that colloquy was an attempt to make some legislative history, but I just want to use this opportunity to point out that I do not think it reflects the views of the House.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me simply say that the only use of any colloquy, if they have any use at all, is to explain legislative history. If readers of the RECORD want to know what the legislative history is, they need to read more than the comments of two Members of the Congress who agree with each other, who get up for 2 minutes and think that they have taken a public opinion poll.

The fact is that the Knollenberg amendment has been modified by the Obey amendment, and it seems to me that there is no accurate description of what that amendment means, as amended, unless all parties to the action actually have a consensus.

Mr. WAXMAN. Reclaiming my time, Mr. Chairman, I would point out that the gentleman is absolutely correct. I do not think that the Knollenberg language, as amended by the gentleman from Wisconsin (Mr. OBEY) would preclude the EPA from developing any information they need to permit an adequate ratification debate and to express their views on such a debate on behalf of the administration.

Mr. MCINTOSH. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Indiana.

Mr. MCINTOSH. Mr. Chairman, let me say it certainly was not my intention and the intention of the gentleman from Michigan (Mr. KNOLLENBERG) to modify the legislative intent as expressed by this body with the Obey amendment. There was much debate during that time about those activities that would be allowed and the difficulty of defining the line and when it became advocacy.

I think the debate that we had on the House floor the other night, the gentleman is correct, accurately reflects the legislative history regarding that amendment, and that is incorporated into the Knollenberg amendment.

We were merely exploring other provisions, not intending to rewrite any of the legislative history regarding the Obey amendment.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for his clarification. I do want to point out that some of the colloquy that I heard reflected his individual views, and it did not reflect how I interpret Knollenberg language, as amended by Obey, and should not be used for any legal interpretation of the Knollenberg amendment as so modified.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 501, proceedings will now

resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 5 offered by the gentleman from Indiana (Mr. ROEMER); amendment No. 22 offered by the gentleman from New York (Mr. HINCHEY); amendment No. 32 offered by the gentleman from Tennessee (Mr. HILLEARY).

AMENDMENT NO. 5 OFFERED BY MR. ROEMER

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. ROEMER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROEMER: Page 72, line 15, strike "\$5,309,000,000" and insert "\$3,709,000,000".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to House Resolution 501, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

The vote was taken by electronic device, and there were—ayes 109, noes 323, not voting 2, as follows:

[Roll No. 345]

AYES—109

Barrett (WI)	Hoekstra	Obey
Bass	Holden	Owens
Bateman	Inglis	Pallone
Bereuter	Kanjorski	Paul
Berry	Kaptur	Paxon
Blagojevich	Kelly	Payne
Blumenauer	Kennedy (MA)	Pelosi
Brown (OH)	Kildee	Peterson (MN)
Camp	Kind (WI)	Pomeroy
Carson	Kingston	Porter
Chabot	Klecza	Portman
Christensen	Klug	Poshard
Coble	LaFalce	Ramstad
Coburn	Largent	Rivers
Conyers	Latham	Roemer
Costello	Lazio	Roukema
Coyne	Leach	Sanders
Danner	Lee	Sanford
DeFazio	Levin	Schaffer, Bob
Delahunt	LoBiondo	Schumer
Dingell	Lowe	Shays
Doyle	Luther	Shuster
Duncan	Maloney (NY)	Slaughter
Ensign	Manzullo	Smith (MI)
Evans	Markey	Stark
Fossella	McHugh	Strickland
Frank (MA)	McInnis	Stupak
Franks (NJ)	Meehan	Tierney
Ganske	Miller (CA)	Upton
Goode	Minge	Velazquez
Goodlatte	Mink	Vento
Goodling	Moakley	Visclosky
Gutierrez	Myrick	Wamp
Hamilton	Nadler	Woolsey
Hefley	Neumann	Yates
Herger	Nussle	
Hilleary	Oberstar	

NOES—323

Abercrombie	Armey	Barcia
Ackerman	Bachus	Barr
Aderholt	Baesler	Barrett (NE)
Allen	Baker	Bartlett
Andrews	Baldacci	Barton
Archer	Ballenger	Becerra

Bentsen	Gordon	Norwood
Berman	Goss	Olver
Bilbray	Graham	Ortiz
Bilirakis	Granger	Oxley
Bishop	Green	Packard
Bliley	Greenwood	Pappas
Blunt	Gutknecht	Parker
Boehkert	Hall (OH)	Pascrell
Boehner	Hall (TX)	Pastor
Bonilla	Hansen	Pease
Bonior	Harman	Peterson (PA)
Bono	Hastert	Petri
Borski	Hastings (FL)	Pickering
Boswell	Hastings (WA)	Pickett
Boucher	Hayworth	Pitts
Boyd	Hefner	Pombo
Brady (PA)	Hill	Price (NC)
Brady (TX)	Hilliard	Pryce (OH)
Brown (CA)	Hinchee	Quinn
Brown (FL)	Hinojosa	Radanovich
Bryant	Hobson	Rahall
Bunning	Hooley	Rangel
Burr	Horn	Redmond
Burton	Hostettler	Regula
Buyer	Houghton	Reyes
Callahan	Hoyer	Riggs
Calvert	Hulshof	Riley
Campbell	Hunter	Rodriguez
Canady	Hutchinson	Rogan
Cannon	Hyde	Rogers
Capps	Istook	Rohrabacher
Cardin	Jackson (IL)	Ros-Lehtinen
Castle	Jackson-Lee	Rothman
Chambliss	(TX)	Roybal-Allard
Chenoweth	Jefferson	Royce
Clay	Jenkins	Rush
Clayton	John	Ryun
Clement	Johnson (CT)	Sabo
Clyburn	Johnson (WI)	Salmon
Collins	Johnson, E. B.	Sanchez
Combest	Johnson, Sam	Sandlin
Condit	Jones	Sawyer
Cook	Kasich	Saxton
Cooksey	Kennedy (RI)	Scarborough
Cox	Kennelly	Schaefer, Dan
Cramer	Kilpatrick	Scott
Crane	Kim	Sensenbrenner
Crapo	King (NY)	Serrano
Cubin	Klink	Sessions
Cummings	Knollenberg	Shadegg
Cunningham	Kolbe	Shaw
Davis (FL)	Kucinich	Sherman
Davis (IL)	LaHood	Shimkus
Davis (VA)	Lampson	Sisisky
Deal	Lantos	Skaggs
DeGette	LaTourette	Skeen
DeLauro	Lewis (CA)	Skelton
DeLay	Lewis (GA)	Smith (NJ)
Deutsch	Lewis (KY)	Smith (OR)
Diaz-Balart	Linder	Smith (TX)
Dickey	Lipinski	Smith, Adam
Dicks	Livingston	Smith, Linda
Dixon	Lofgren	Snowbarger
Doggett	Lucas	Snyder
Dooley	Maloney (CT)	Solomon
Doolittle	Manton	Souder
Dreier	Martinez	Spence
Dunn	Mascara	Spratt
Edwards	Matsui	Stabenow
Ehlers	McCarthy (MO)	Stearns
Ehrlich	McCarthy (NY)	Stenholm
Emerson	McCollum	Stokes
Engel	McCrery	Stump
English	McDade	Sununu
Eshoo	McDermott	Talent
Etheridge	McGovern	Tanner
Everett	McHale	Tauscher
Ewing	McIntosh	Tauzin
Farr	McIntyre	Taylor (MS)
Fattah	McKeon	Taylor (NC)
Fawell	McKinney	Thomas
Fazio	McNulty	Thompson
Filner	Meek (FL)	Thornberry
Foley	Meeks (NY)	Thune
Forbes	Menendez	Thurman
Ford	Metcalf	Tiahrt
Fowler	Mica	Torres
Fox	Millender-	Towns
Frelinghuysen	McDonald	Traficant
Frost	Miller (FL)	Turner
Furse	Mollohan	Walsh
Galleghy	Moran (KS)	Waters
Gejdenson	Moran (VA)	Watkins
Gekas	Morella	Watt (NC)
Gephardt	Murtha	Watts (OK)
Gibbons	Neal	Waxman
Gilchrest	Nethercutt	Weldon (FL)
Gillmor	Ney	Weldon (PA)
Gilman	Northup	Weller

Wexler  
Weygand  
White  
Whitfield

Wicker  
Wilson  
Wise  
Wolf

Wynn  
Young (AK)

Souder  
Stabenow  
Stupak  
Sununu  
Tierney

Towns  
Upton  
Visclosky  
Walsh  
Weldon (PA)

Weller  
Weygand  
Wise  
Yates

Waxman  
Weldon (FL)  
Wexler  
White

Whitfield  
Wicker  
Wilson  
Wolf

Woolsey  
Wynn  
Young (AK)

NOT VOTING—2

Gonzalez  
Young (FL)

NOES—285

NOT VOTING—3

Gonzalez  
Velazquez  
Young (FL)

□ 1823

Messrs. SAXTON, JACKSON of Illinois, CRAPO, Ms. GRANGER and Mr. NEY changed their vote from "aye" to "no".

Mrs. MYRICK, Mr. MARKEY, Mr. STARK and Ms. KAPTUR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 22 OFFERED BY MR. HINCHEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 146, noes 285, not voting 3, as follows:

[Roll No. 346]

AYES—146

Ackerman  
Allen  
Andrews  
Baldacci  
Barcia  
Barrett (WI)  
Bass  
Bereuter  
Boehler  
Bonior  
Borski  
Boswell  
Brady (PA)  
Brown (OH)  
Camp  
Castle  
Conyers  
Costello  
Coyne  
Crane  
Davis (IL)  
Delahunt  
DeLauro  
Doyle  
Ehlers  
Engel  
English  
Ewing  
Fattah  
Fawell  
Forbes  
Ford  
Fossella  
Fox  
Frank (MA)  
Franks (NJ)  
Frelinghuysen  
Ganske  
Gejdenson  
Gekas  
Gilman  
Goodling  
Greenwood  
Gutierrez

Hastert  
Hinchey  
Hoekstra  
Holden  
Houghton  
Hulshof  
Hyde  
Jackson (IL)  
Johnson (CT)  
Johnson (WI)  
Kanjorski  
Kelly  
Kennedy (MA)  
Kennedy (RI)  
Kennelly  
Kildee  
Kilpatrick  
Kind (WI)  
King (NY)  
Kingston  
Klecza  
Klink  
LaFalce  
LaHood  
Latham  
Lazio  
Leach  
Levin  
Lipinski  
LoBiondo  
Lowey  
Maloney (CT)  
Maloney (NY)  
Manton  
Manzullo  
Markey  
Mascara  
McCarthy (MO)  
McCarthy (NY)  
McDade  
McGovern  
McHale  
McHugh  
McIntosh

McNulty  
Meehan  
Meeks (NY)  
Menendez  
Moakley  
Mollohan  
Murtha  
Nadler  
Neal  
Neumann  
Nussle  
Oberstar  
Obey  
Olver  
Owens  
Pallone  
Pappas  
Pascrell  
Paxon  
Payne  
Peterson (PA)  
Petri  
Pitts  
Porter  
Poshard  
Quinn  
Rangel  
Rivers  
Roemer  
Rothman  
Roukema  
Rush  
Sanders  
Saxton  
Schumer  
Sensenbrenner  
Serrano  
Shays  
Shimkus  
Shuster  
Slaughter  
Smith (MI)  
Smith (NJ)  
Solomon

Abercrombie  
Aderholt  
Archer  
Army  
Bachus  
Baesler  
Baker  
Ballenger  
Barr  
Barrett (NE)  
Bartlett  
Barton  
Bateman  
Becerra  
Bentsen  
Berman  
Berry  
Bilbray  
Bilirakis  
Bishop  
Blagojevich  
Bliley  
Blumenauer  
Blunt  
Boehner  
Bonilla  
Bono  
Boucher  
Boyd  
Brady (TX)  
Brown (CA)  
Brown (FL)  
Bryant  
Bunning  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Campbell  
Canady  
Cannon  
Capps  
Cardin  
Carson  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clay  
Clayton  
Clement  
Clyburn  
Coble  
Coburn  
Collins  
Combest  
Condit  
Cook  
Cooksey  
Cox  
Cramer  
Crapo  
Cubin  
Cummings  
Cunningham  
Danner  
Davis (FL)  
Davis (VA)  
Deal  
DeFazio  
DeGette  
DeLay  
Deutsch  
Diaz-Balart  
Dickey  
Dicks  
Dingell  
Dixon  
Doggett  
Dooley  
Doolittle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehrlich  
Emerson  
Ensign  
Eshoo  
Etheridge  
Evans

Everett  
Farr  
Fazio  
Filner  
Foley  
Fowler  
Frost  
Furse  
Gallegly  
Gephardt  
Gibbons  
Gilchrest  
Gillmor  
Goode  
Goodlatte  
Gordon  
Goss  
Graham  
Granger  
Green  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hamilton  
Hansen  
Harman  
Hastings (FL)  
Hastings (WA)  
Hayworth  
Hefley  
Hefner  
Herger  
Hill  
Hilleary  
Hilliard  
Hinojosa  
Hobson  
Hooley  
Horn  
Hostettler  
Hoyer  
Hunter  
Hutchinson  
Inglis  
Istook  
Jackson-Lee  
(TX)  
Jefferson  
Jenkins  
John  
Johnson, E. B.  
Johnson, Sam  
Jones  
Kaptur  
Kasich  
Kim  
Klug  
Knollenberg  
Kolbe  
Kucinich  
Lampson  
Lantos  
Largent  
LaTourette  
Lee  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Livingston  
Lofgren  
Lucas  
Luther  
Martinez  
Matsui  
McCollum  
McCrery  
McDermott  
McInnis  
McIntyre  
McKeon  
McKinney  
Meek (FL)  
Metcalf  
Mica  
Millender-  
McDonald  
Miller (CA)  
Miller (FL)  
Minge  
Mink  
Moran (KS)

Moran (VA)  
Morella  
Myrick  
Nethercutt  
Ney  
Northup  
Norwood  
Ortiz  
Oxley  
Packard  
Parker  
Pastor  
Paul  
Pease  
Pelosi  
Peterson (MN)  
Pickering  
Pickett  
Pombo  
Pomeroy  
Portman  
Price (NC)  
Pryce (OH)  
Radanovich  
Rahall  
Ramstad  
Redmond  
Regula  
Reyes  
Riggs  
Riley  
Rodriguez  
Rogan  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Roybal-Allard  
Royce  
Ryun  
Sabo  
Salmon  
Sanchez  
Sandlin  
Sanford  
Sawyer  
Scarborough  
Schaefer, Dan  
Schaffer, Bob  
Scott  
Sessions  
Shadegg  
Shaw  
Sherman  
Sisisky  
Skaggs  
Skeen  
Skelton  
Smith (OR)  
Smith (TX)  
Smith, Adam  
Smith, Linda  
Snowbarger  
Snyder  
Spence  
Spratt  
Stark  
Stearns  
Stenholm  
Stokes  
Strickland  
Stump  
Talent  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Thomas  
Thompson  
Thornberry  
Thune  
Thurman  
Tiahrt  
Torres  
Traficant  
Turner  
Vento  
Wamp  
Waters  
Watkins  
Watt (NC)  
Watts (OK)

□ 1832

Messrs. CLAY, KUCINICH and CHAMBLISS changed their vote from "aye" to "no."

Mr. EHLERS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 32 OFFERED BY MR. HILLEARY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee (Mr. HILLEARY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 231, noes 200, not voting 3, as follows:

[Roll No. 347]

AYES—231

Aderholt  
Archer  
Army  
Bachus  
Baesler  
Baker  
Ballenger  
Barcia  
Barr  
Barrett (NE)  
Bartlett  
Barton  
Bass  
Bateman  
Bereuter  
Berry  
Bilirakis  
Bliley  
Blunt  
Boehner  
Bonilla  
Boswell  
Boucher  
Boyd  
Brady (TX)  
Bryant  
Bunning  
Burton  
Callahan  
Camp  
Canady  
Cannon  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clayton  
Coble  
Coburn  
Collins  
Combest  
Cook  
Cooksey  
Costello  
Crane  
Crapo

Cubin  
Cunningham  
Danner  
Deal  
DeLay  
Diaz-Balart  
Dickey  
Doolittle  
Doyle  
Duncan  
Dunn  
Edwards  
Ehlers  
Ehrlich  
Emerson  
English  
Ensign  
Etheridge  
Ewing  
Fossella  
Fowler  
Fox  
Franks (NJ)  
Gallegly  
Gekas  
Gibbons  
Gillmor  
Goode  
Goodlatte  
Goodling  
Gordon  
Goss  
Graham  
Green  
Gutknecht  
Hall (TX)  
Hansen  
Hastert  
Hastings (WA)  
Hayworth  
Hefley  
Herger  
Hill  
Hilleary  
Hinojosa  
Hoekstra

Holden  
Hostettler  
Hulshof  
Hunter  
Hutchinson  
Inglis  
Johnson (WI)  
Johnson, Sam  
Jones  
Kanjorski  
Kasich  
King (NY)  
Kingston  
Klink  
Klug  
LaHood  
Largent  
Latham  
LaTourette  
Lewis (KY)  
Linder  
Lipinski  
Livingston  
LoBiondo  
Lucas  
Manzullo  
Martinez  
Mascara  
McCollum  
McCrery  
McHugh  
McInnis  
McIntosh  
McIntyre  
Metcalf  
Mica  
Miller (FL)  
Minge  
Moran (KS)  
Myrick  
Nethercutt  
Neumann  
Ney  
Northup  
Norwood

Nussle	Rogers	Spratt	Wexler	Wise	Wynn
Ortiz	Rohrabacher	Stearns	Weygand	Woolsey	Yates
Oxley	Roukema	Stenholm			
Pappas	Royce	Stump		NOT VOTING—3	
Parker	Ryun	Stupak	Gonzalez	Velazquez	Young (FL)
Pastor	Salmon	Talent			
Paul	Sandlin	Tanner		□ 1840	
Paxon	Sanford	Tauzin			
Pease	Saxton	Taylor (MS)			
Peterson (MN)	Scarborough	Taylor (NC)			
Peterson (PA)	Schaefer, Dan	Thornberry			
Petri	Schaffer, Bob	Thune			
Pickering	Sensenbrenner	Thurman			
Pickett	Sessions	Tiahrt			
Pitts	Shadegg	Trafcant			
Pombo	Shaw	Turner			
Pomeroy	Shimkus	Upton			
Portman	Shuster	Walsh			
Pryce (OH)	Sisisky	Wamp			
Quinn	Skeen	Watkins			
Radanovich	Skelton	Watts (OK)			
Rahall	Smith (MI)	Weldon (FL)			
Ramstad	Smith (NJ)	Weldon (PA)			
Redmond	Smith (OR)	Weller			
Regula	Smith (TX)	White			
Reyes	Smith, Linda	Whitfield			
Riley	Snowbarger	Wicker			
Rodriguez	Solomon	Wilson			
Roemer	Souder	Wolf			
Rogan	Spence	Young (AK)			

NOES—200

Abercrombie	Ganske	McNulty
Ackerman	Gejdenson	Meehan
Allen	Gephardt	Meek (FL)
Andrews	Gilchrest	Meeks (NY)
Baldacci	Gilman	Menendez
Barrett (WI)	Granger	Millender-
Becerra	Greenwood	McDonald
Bentsen	Gutierrez	Miller (CA)
Berman	Hall (OH)	Mink
Bilbray	Hamilton	Moakley
Bishop	Harman	Mollohan
Blagojevich	Hastings (FL)	Moran (VA)
Blumenauer	Hefner	Morella
Boehlert	Hilliard	Murtha
Bonior	Hinchev	Nadler
Bono	Hobson	Neal
Borski	Hookey	Oberstar
Brady (PA)	Horn	Obey
Brown (CA)	Houghton	Olver
Brown (FL)	Hoyer	Owens
Brown (OH)	Hyde	Packard
Burr	Jackson (IL)	Pallone
Buyer	Jackson-Lee	Pascrell
Calvert	(TX)	Payne
Campbell	Jefferson	Pelosi
Capps	John	Porter
Cardin	Johnson (CT)	Poshard
Carson	Johnson, E.B.	Price (NC)
Castle	Kaptur	Rangel
Clay	Kelly	Riggs
Clement	Kennedy (MA)	Rivers
Clyburn	Kennedy (RI)	Ros-Lehtinen
Condit	Kennelly	Rothman
Conyers	Kildee	Roybal-Allard
Cox	Kilpatrick	Rush
Coyne	Kim	Sabo
Cummings	Kind (WI)	Sanchez
Davis (FL)	Kleczka	Sanders
Davis (IL)	Knollenberg	Sawyer
Davis (VA)	Kolbe	Schumer
DeFazio	Kucinich	Scott
DeGette	LaFalce	Serrano
Delahunt	Lampson	Shays
DeLauro	Lantos	Sherman
Deutsch	Lazio	Skaggs
Dicks	Leach	Slaughter
Dingell	Lee	Smith, Adam
Dixon	Levin	Snyder
Doggett	Lewis (CA)	Stabenow
Dooley	Lewis (GA)	Stark
Dreier	Lofgren	Stokes
Engel	Lowey	Strickland
Eshoo	Luther	Sununu
Evans	Maloney (CT)	Tauscher
Farr	Maloney (NY)	Thomas
Fattah	Manton	Thompson
Fawell	Markey	Tierney
Fazio	Matsui	Torres
Filner	McCarthy (MO)	Towns
Foley	McCarthy (NY)	Vento
Forbes	McDade	Visclosky
Ford	McDermott	Waters
Frank (MA)	McGovern	Watt (NC)
Frelinghuysen	McHale	Waxman
Frost	McKeon	
Furse	McKinney	

Wexler  
Weygand

Wise  
Woolsey

Wynn  
Yates

NOT VOTING—3

Gonzalez Velazquez Young (FL)

□ 1840

Mrs. CLAYTON changed her vote from "no" to "aye."  
So the amendment was agreed to.  
The result of the vote was announced as above recorded.  
The CHAIRMAN. The committee will rise informally to receive a message.  
The Speaker pro tempore (Mr. LAHOOD) assumed the Chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.  
The SPEAKER pro tempore (Mr. LAHOOD). The Committee will resume its sitting.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The Committee resumed its sitting.  
(By unanimous consent Mr. LINDER was allowed to speak out of order.)

PERSONAL EXPLANATION

Mr. LINDER. Mr. Chairman, regretably I was not present to vote on Roll-call Numbers 337, 338 and 339 last Friday afternoon. Had I been present I would have voted aye on 337, no on vote 338 and aye on vote 339 which was the final passage of the Patient Protection Act.

Ms. DELAURO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to my colleague, the gentleman from Virginia (Mr. SCOTT).

(Mr. SCOTT asked and was given permission to revise and extend his remarks.)

Ms. DELAURO. Mr. Chairman, I rise to support the motion which will be offered by the gentleman from Wisconsin (Mr. OBEY) a little bit later in the evening.

Mr. Chairman, in 1994 the Consumer Product Safety Commission decided to grant part of a petition by State fire marshals, State fire marshals who have been asking the CPSC to develop a safety standard for upholstered furniture to address the problems of fires started from small open flames such as lighters, matches and candles. Every year 200 people are killed and 600 injured unnecessarily by fires which start on upholstered couches and chairs. Most of the fires start when children play with lighters and matches, and every year 40 children under age 5 die in fires started by burning upholstered furniture.

These fires, Mr. Chairman, cost an estimated \$1 billion and are completely avoidable. These fires could be avoided

by using fire-retardant chemicals to reduce the flammability of upholstered furniture. The CPSC has been working for the past 4 years to conduct tests and evaluate all of the issues relating to the proposed standard to reduce fires, but the upholstered furniture industry does not want this standard to move forward, so in subcommittee an amendment was added to tie the CPSC up in red tape and paperwork and delay the development of these standards.

Mr. Chairman, the study required in this bill is unnecessary, it is a stall tactic, and the CPSC estimates that it would take more than 5 years and cost nearly a million dollars to do this unnecessary study. In the meantime more fires will occur putting peoples' lives in danger. Each year that goes by before the standard is put in place 200 people die, each year 600 people are injured unnecessarily, and each year that goes by nearly \$1 billion in damages and social costs from these preventable fires occur. Each year that goes by 40 more children under age five will die from fires and burns.

□ 1845

Will we continue to sacrifice the lives of our children and firemen? Will we pander to the upholstered furniture industry to stop the CPSC from taking steps to prevent these completely avoidable fires? No. I urge my colleagues to support this motion to recommit.

Mr. Chairman, I am pleased to yield to my colleague, the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, we will vote on a motion to recommit with specific instructions to strike section 425. This section puts the interest of an industry over the interest of our citizens. Today we won a victory on children's sleepwear fire safety standards. We demonstrated Congress' bipartisan commitment to ensuring that our children are safer from fires. Now we must continue that commitment by allowing the Consumer Product Safety Commission to proceed on upholstered flammability standards.

In a letter to the Committee on Rules, the Consumer Product Safety Commission called this language an obstacle to their work. They said, and I quote:

The proposal creates additional costs to an ongoing project and adds considerable delay and redundancy with no additional benefits to the American public. This is only intended to interfere and disrupt the orderly process already developed by the Consumer Product Safety Commission to consider a serious hazard facing American consumers.

That is not stated by any Congressperson. That is stated by the CPSC. Unfortunately, if this VA-HUD appropriations bill passes with section 425, the \$16 billion upholstery manufacturing industry will receive an early Christmas present. That is what this is all about.

While the industry is laughing its way to the bank, thousands of Americans will be in jeopardy and will continue to be in jeopardy. They will be

burned because the industry spent thousands of dollars lobbying against a national upholstery flammability standard. Thirty-seven hundred people a year are killed by house fires. Seventeen hundred youngsters are injured due to residential fires, most of which are starting when upholstery furniture catches fire.

This bill blocks the progress that has been made by the Consumer Product Safety Commission. The provision not only delays the project, but it is totally redundant and provides no further benefit to the American public.

While we wait, over 25,000 men, women, and children will have died as a result of burning furniture if we wait a year or 18 months. The Consumer Product Safety Commission calculates that an upholstery flammability standard will have an annual net savings of \$300 million.

AMENDMENT NO. 31 OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 31 offered by Mr. RIGGS: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated by this Act may be used to implement section 12B.2(b) of the Administrative Code of San Francisco, California.

Mr. RIGGS. Mr. Chairman, I will try to be as brief as I can for this debate, because I believe that this is the last substantive amendment pending to the bill before we move to recommittal and final passage.

I am glad the Clerk read my amendment because the amendment has been revised and modified now a couple of times in part because of what I think is the legitimate criticism of earlier versions of the amendment from some of my colleagues on the Democratic side of the aisle.

So the amendment in its current form is intended to do one thing and one thing only, and that is to prevent the City and County of San Francisco government, which is one unit of local government, one political subdivision, and to the extent that my amendment, if it passes, reflects the thinking and the intent and the will of the Congress, by inference, any other local government, to prevent the city and county of San Francisco government from being able to use Federal taxpayer funding, Federal taxpayer funding to condition any city contract to a private organization to require that private organization, whether it be a for-profit business or a not-for-profit community-based charitable organization, to provide domestic partner benefits to their employees.

I think that that is the basis for a very legitimate, a very serious debate in the people's House before any local government can use Federal taxpayer funding in this fashion.

So I want to stipulate at the outset that this is not, in my view, a matter involving local autonomy. It does not force the city and county of San Francisco to change its current law, city ordinance on the use of city funding, local taxpayer funding in this fashion, no matter how misguided I might think that is. For that matter, it does not apply to any city contracts with State taxpayer fund.

While I would disagree with the policy, it does not interfere with the city and county of San Francisco's decision to offer domestic partner benefits to their own employees. It only applies at that point where the city and county attempts to condition the city contract using Federal taxpayer funding to impose this requirement on the private sector. Therein lies, I think, a very important distinction.

Secondly, the way the city's ordinance is currently drafted, chapter 12B of the San Francisco Administrative Code, it requires private organizations doing business with the city to provide benefits to unmarried domestic partners to the same extent as spouses of married employees.

I think we should have a debate on whether we want to elevate that relationship to the same status as marriage, which I consider to be a sacred institution and which I define as the covenant between one man and one woman. I think we can have a very legitimate debate on that.

But the real problem I have with the city ordinance is, as I have mentioned, that it applies to all city contracts and grants using monies deposited or under the control of the city. I quote from the ordinance. So it applies to Federal taxpayer funding as well as State and local taxpayer funding. Hence, the need for my amendment.

This is a relatively recent law, relatively recent development in San Francisco. Since its implementation by the elected decision makers for the city and county of San Francisco, that is to say a majority of the San Francisco Board of Supervisors, there have been a number of organizations that have resisted this policy, some of them for-profit businesses, large corporations like United Airlines, Federal Express. It needs city approval in order to be able to do business, to have facilities in San Francisco International Airport.

Those large corporations, for-profit entities, they have resources that smaller nonprofit community-based charitable organizations do not. So I am not here really on their behalf. I am here on behalf of Catholic Charities and Salvation Army, two venerable organizations. They have longstanding relationships with the city and county of San Francisco government that have found themselves suddenly forced to accept this policy or lose its city contracts.

In the case of Catholic Charities, they were able to work out apparently an agreement that is a slight variation

of the city law. But in the case of the Salvation Army, which refused to buckle to the city policy, the Salvation Army forfeited \$3.5 million of its \$18 million budget. Here is the headline from the San Francisco Examiner newspaper.

The CHAIRMAN. The time of the gentleman from California (Mr. RIGGS) has expired.

(By unanimous consent, Mr. RIGGS was allowed to proceed for 2 additional minutes.)

Mr. RIGGS. Mr. Chairman, the headline says "The Salvation Army has decided to end its contracts with San Francisco and shrink programs serving the homeless, drug addicts and the elderly because of a dispute over the city's domestic partners law."

Some, if not most, or even all of this funding originated with Federal taxpayers and was appropriated by this body, in this annual spending bill, as well as other annual spending bills.

What I want my colleagues to know is that the city law provides for a specific exemption, a sole provider exemption, otherwise known as a waiver, and that the city and county of San Francisco, upon the recommendation of the city's Human Rights Commission, has granted a number of waivers to private contractors doing business with the city of San Francisco, including Blue Cross, Encyclopedia Britannica, the U.S. Tennis Association, Lawrence Hall, Paramount, the large corporation that operates two amusement parks in the San Francisco Bay area so that 9,000 underprivileged kids living in San Francisco could go to those amusement parks this summer; yet it refused to grant a waiver to the Salvation Army and Catholic Charities.

So, Mr. Chairman, I think this is an appropriate debate to take. I think we should take a stand. We should not sanction domestic partner relations; that we should say unequivocally that the American people want leaders who will respect and support rather than dishonor and undermine marriage and the family, and most importantly, I think we should support the rights of private organizations, whether it be the Boy Scouts, Catholic Charities or Salvation Army, to adhere to the traditional values that they have always followed.

So I ask support from my colleagues for my amendment which simply would not allow Federal taxpayer funding from this bill to be used to force or to coerce private groups and businesses to adopt policies that they find morally objectionable.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Riggs amendment. When I came to the floor to oppose the amendment, I did so on the basis of the issue of local autonomy. Having the concern that I do about the impact of a vote on my colleagues that I wish the maker of this motion would share, I am concerned when I hear him making statements about the practice in San Francisco that is not true. Either the

gentleman is ill-informed or he chooses to ignore the truth in this situation.

What this amendment will do is to single out one city. I ask my colleagues, do you want your city singled out next? None of the funds appropriated by this act may be used to implement Section 12B.2(b) of the Administrative Code of the city of San Francisco.

This is the fifth version of the Riggs amendment. It took five versions for the gentleman from California (Mr. RIGGS) to conclude what he wanted our colleagues to consider because this is a very sloppy approach to legislation. It is in violation of local autonomy and it is unconstitutional.

As I said, I came to talk about this in terms of local autonomy, and if I have the time I will, but I do want to set the record straight.

First of all, the city of San Francisco is not forcing anyone to act against his or her or their principles. Indeed, the gentleman from California (Mr. RIGGS) said he is here on behalf of Catholic Charities. He said that.

Catholic Charities and the city of San Francisco have entered into a very amicable agreement about how Catholic Charities will continue to provide the services that it does exceptionally well in helping with the homeless and with child care and other delivery of services as contractors to the city of San Francisco. There is peace between Catholic Charities and the city of San Francisco. I do not know why the gentleman from California (Mr. RIGGS) wants to create a war there.

In terms of the services provided by the Salvation Army, the gentleman from California (Mr. RIGGS) says that there has been a shrinking of programs and they have not been able to provide the services that they have been contracted to do, and that simply is not true. Indeed, the gentleman from California (Mr. RIGGS) says that San Francisco has offered sole-sourcers the opportunity for a waiver but it would not offer that waiver to the Salvation Army. Not true.

That waiver is available to Salvation Army. They chose not to accept it, and in September their contracts will lapse and San Francisco will award the contracts for the delivery of services that Salvation Army so ably provides. Perhaps the contract will go to Catholic Charities which is complying with the law in San Francisco, as I say, very peacefully.

I say to my colleagues I care about the impact of this vote on them and I do not want to ask them to do something that is not in their interest at the end of the day, and I believe it is in their interest at the end of the day to protect the local autonomy.

Indeed, in the words of our colleague, the gentleman from California (Mr. RIGGS), who said on another occasion, when he was arguing against Federal control, he urged us, and I quote, to decentralize authority and responsibility and, yes, funding and revenues back to

the States. This was in the context of the block grants in education.

Then he said, in turn, we will be dis-bursing power to our fellow citizens.

Well, that is a great idea. Why not support it today?

In another statement, he advised the House, we have to have a national policy which specifies that the Federal Government no longer can impose mandates on State and local government.

□ 1900

Well, if the maker of the amendment were to be true to those words, he would vote down his own amendment today.

The Riggs amendment would prohibit, as I say, any funds from being used to implement section 12B, or the antidiscrimination section of the San Francisco Code to the Administrative Code of San Francisco.

I want my colleagues to hear the words of the U.S. Conference of Mayors. If any of my colleagues have cities and towns in their districts, and I assume that they do, they might want to know that they have said: "The modified," and this is now the 5th modification, "Riggs amendment strikes at the heart of a local jurisdiction's obligation to ensure that civil rights are protected within its boundaries."

The Office of Management and Budget warns that "The amendment would impose an unfunded, expensive and extremely burdensome administration requirement on the city."

Can my colleagues just see it now? We are going to administer some homelessness or child care or whatever the service is, and we are going to have to figure out what part of it going to Catholic charities is federal, in a way that meets the criteria of the gentleman from California (Mr. RIGGS) but not those of the City of San Francisco and the Constitution of the United States.

Mr. Chairman, this body is not the city council of any city in the country. I urge my colleagues to vote against this ill-advised, poorly-formed amendment.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from California (Mr. RIGGS), who serves in this House from the State of California, is retiring from his position at the end of this year; and I would make a suggestion that if he wants to get involved in the laws adopted by the City of San Francisco, he ought go to San Francisco and run for the city council.

Because what this amendment has us do here in Washington is interfere with the legitimate local judgments about city contracts by the city itself. It prohibits the use of Federal funds to implement Chapter 12B of San Francisco's Administrative Code, but, obviously, the City does not use Federal funds to implement its ordinances. It does not use Federal funds to pay its employees or its department of public works.

When the City issues an RFP, it does not spend Federal dollars.

So what is this amendment all about? It is a message amendment. It is an attack on the City of San Francisco. It is an affront to the citizens of San Francisco and to the progressive corporate citizenship of companies which provide domestic partner benefits. It is a slap at both small mom and pop businesses and Fortune 500 companies like American Express, IBM, and Shell Oil.

The amendment may not have any real effect on the City's business, but it will unquestionably encourage prejudice and intolerance. It will encourage future attacks on local government, and it will fail to do what it purportedly seeks to accomplish; it will fail to interfere with San Francisco's local judgment about its own contracts.

Mr. Chairman, I want to put into the RECORD following my comments here on the floor a letter from the Human Rights Campaign Fund, the Leadership Conference on Civil Rights, the United States Conference of Mayors, and the American Civil Liberties Union, and a resolution adopted by the City of Los Angeles, all opposing this amendment.

I urge my colleagues to oppose it. It is an unwarranted, extraordinary interference with local community judgment. It is not the job of the Congress to be micromanaging the business of American cities.

Mr. Chairman, I urge defeat of this amendment. I include at this time the letters I just referenced.

VOTE NO ON THE RIGGS AMENDMENT TO VA-HUD APPROPRIATIONS

(Working for Lesbian and Gay Equal Rights)

Representative Riggs (R-CA) intends to introduce an amendment when the House resumes consideration of the VA-HUD Appropriations bill. The amendment would prohibit the City of San Francisco from using VA-HUD funds to implement its entire city ordinance against discrimination in city contracts. The ordinance requires all city contractors to prohibit discrimination based on factors which include race, color, religion, sexual orientation, domestic partner status, marital status, or AIDS/HIV status.

UNPRECEDENTED FEDERAL INTERVENTION. The Riggs amendment is an example of gross micro-management of one particular city by the federal government. Congress sets a dangerous precedent and poses a threat to all localities if it begins to use its power to appropriate funds as a means to intimidate and coerce local governments. While the federal government conditions the use of federal funds, these conditions are based on the federal law authorizing the grant program (which is openly debated in Congress) or existing federal government regulations on the use of federal funds (which are subject to public comment). The Riggs amendment is "de facto" legislation on an appropriations bill without appropriate committee consideration and debate.

NO NATIONAL INTEREST AT STAKE. In a recent decision regarding the San Francisco ordinance, the U.S. District Court held that local governments have the discretion, as do individual consumers, to pick and choose the companies and organizations with which they will do business. Federal grant requirements similarly require grantees to comply with civil rights and other federal

law in order to do business with the federal government. While Representative Riggs may disagree with San Francisco's ordinance, there is no national interest at stake in its application.

MEAN SPIRITED PUNISHMENT. Punishing the people in one particular city because their duly elected leaders set a government policy clearly within their jurisdiction is a mean-spirited Congressional action. While the Riggs amendment does not cut off federal funds, use of those funds forces the city to violate its own rules and regulations. VA-HUD dollars are meant to help state and local governments meet the needs of their citizens. They are not meant to punish a locality for setting government policy.

THE ORDINANCE IS FLEXIBLE. The San Francisco ordinance requires city contractors who already provide benefits to married partners of employees to also provide benefits to domestic partners of employees. Several exceptions to the ordinance exist which, for example, have allowed San Francisco to craft an agreement with Catholic Charities that is satisfactory to both. Catholic Charities is now delivering care, housing, counseling and other services under a city contract.

THIS IS AN HRC KEY VOTE.

THE UNITED STATES  
CONFERENCE OF MAYORS,

July 22, 1998.

DEAR MEMBER OF CONGRESS: On behalf of The United States Conference of Mayors, I am writing to express our continued opposition to an amendment to the VA-HUD Appropriations bill which would be a major undermining of local autonomy and the principles of federalism.

The modified amendment proposed by Representative Frank Riggs (CA) would prohibit any funds under the bill from being used by the City of San Francisco to implement sections of its municipal code that provide specific civil rights protections. These protections include prohibiting discrimination on the basis of race or national origin, religion, gender, disability or age.

The nation's mayors are seriously concerned with this unwarranted intrusion into local decision making. The modified Riggs amendment strikes at the heart of a local jurisdiction's obligation to ensure that civil rights are protected within its boundaries.

We again urge you to oppose this amendment on the grounds that the principles of federalism and local autonomy must not be held hostage to the provision of needed federal funding. The amendment would establish a very dangerous precedent and we urge you to oppose its adoption.

Sincerely,

J. THOMAS COCHRAN,  
Executive Director.

LEADERSHIP CONFERENCE ON  
CIVIL RIGHTS,

Washington, DC, July 22, 1998.

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), a coalition of more than 180 national organizations representing people of color, women, labor unions, persons with disabilities, older Americans, major religious groups, gays and lesbians and civil liberties and human rights groups, we write to express our strong opposition to the so-called modified Riggs amendment to H.R. 4194, the FY '99 VA-HUD Appropriations Bill. If enacted, this amendment would mark a profound departure from this nation's bipartisan commitment to equal protection under the law and cause irreparable harm to countless Americans.

The modified Riggs amendment would prohibit the implementation of Chapter 12B of

San Francisco's Administrative Code in programs funded by this bill. Chapter 12B includes fair employment protections prohibiting private vendors who do business with the city from discriminating on the basis of race, gender, color, creed, national origin, disability, and sexual orientation. Chapter 12B also provides for enforcement of these non-discrimination protections through the local Human Rights Commission.

Each year, government entities (federal, state, and local) purchase goods and services from private vendors. For most of the nation's history, women and people of color faced insurmountable legal barriers that deprived them of the opportunity to compete for these government contracts. Even after these legal obstacles were removed in the 1960's, Congress has repeatedly recognized that systemic illegal discrimination continues to deprive countless individuals an equal opportunity to secure the federal government's procurement dollars. Similarly, state and local governments have enacted numerous programs to ensure they are not an active participant in the continuing cycle of discrimination.

Prohibiting the City of San Francisco from ensuring nondiscrimination within programs under its jurisdiction not only would represent an unprecedented intrusion in local government autonomy, but more important, would mark a significant retreat in the nation's bipartisan commitment to effective civil rights enforcement. State and local governments have a compelling interest in expanding employment opportunities and ensuring that taxpayer dollars are not inadvertently being used to subsidize discrimination.

On behalf of the Leadership Conference, I urge you to continue the bipartisan tradition of supporting non-discrimination by rejecting the revised Riggs Amendment that would endanger equal employment opportunities.

Sincerely,

WADE HENDERSON,  
Executive Director.

ACLU,  
WASHINGTON NATIONAL OFFICE,  
Washington, DC, July 23, 1998.

DEAR REPRESENTATIVE: The American Civil Liberties Union strongly urges you to oppose the Riggs Amendment to the Veterans Administration/Housing and Urban Development Appropriations bill. The Riggs Amendment will most likely come up for a vote as early as this afternoon or tomorrow morning.

Congressman Riggs has proposed four different versions of his amendment to punish the City of San Francisco for contracting with businesses that provide domestic partnership health care benefits to their employees. Several of those versions are unconstitutional as lacking any legitimate governmental purpose under the Supreme Court case of *Romer v. Evans*, or as directly violating the constitutional prohibition on Congress passing any bill of attainder—specifying a person or organization for punishment instead of passing a generally applicable law.

The fourth and latest version of the Riggs Amendment raises an entirely new set of problems. It provides that "none of the funds appropriated by this Act may be used to implement Chapter 12B of the Administrative Code of San Francisco, California."

In his rush to punish San Francisco for encouraging its vendors to provide the partners or spouses of both gay and lesbian and heterosexual employees with the same health care benefits, Congressman Riggs is attacking a city law that also protects against discrimination based on race, religion, color, gender, and national origin. Riggs has broadened his attack to include all minorities.

The San Francisco City Council passed Chapter 12B of its Administrative Code to eliminate all forms of discrimination against its employees and persons working for its vendors. The objective is to protect the basic civil rights of persons working for the city—even if those workers are in positions that have been privatized.

The Riggs Amendment will punish San Francisco for doing what all federal civil rights laws permit San Francisco to do. Specifically, federal civil rights laws do not preempt state and local civil rights laws. The purpose of preserving the rights of state and local governments to pass their own civil rights laws is to encourage them to enforce civil rights laws at the state and local level and reduce the need for the federal government to intervene.

The Riggs Amendment violates the historic federal principle of not preempting stronger state or local civil rights laws by punishing a city for passing a provision that provides effective protection for persons based on such characteristics as race, religion, color, natural origin, gender, and sexual orientation. If it passes, the Riggs Amendment will be a big step backward for the protection of civil rights at the state and local level.

For these reasons, the ACLU strongly urges you to vote against the Riggs Amendment.

Sincerely,

LAURA W. MURPHY,  
CHRISTOPHER E. ANDERS.

CITY OF LOS ANGELES,  
California, July 24, 1998.

Re: Include in city's Federal Legislative Program Opposition to Riggs Amendment to H.R. 4194—VA, HUD, and Independent Agencies appropriations bill—which would prohibit any HUD funds from being distributed to a locality which has an ordinance requiring contractors to provide health care benefits to domestic partners of company employees.

I hereby certify that the attached resolution (Miscikowski-Wachs), was adopted by the Los Angeles City Council at its meeting held July 24, 1998.

J. MICHAEL CAREY, *City Clerk*.  
By Judi R. Clarke, Deputy.  
RESOLUTION

Whereas, Congress is in the process of enacting various appropriation bills to fund all Federal programs for the fiscal year beginning October 1, 1998; and

Whereas, one of these bills is H.R. 4194, which makes appropriations for Veterans Affairs, HUD, and Independent Agencies, including funding for homeless programs, housing programs for people living with HIV/AIDS, low-income elderly housing and lead abatement programs; and

Whereas, Representative Frank Riggs has introduced an amendment to this legislation which, although worded differently in its various iterations, would essentially undermine local autonomy and put the Federal Government in the role of dictating policy to cities around the country; and

Whereas, this amendment would essentially prohibit any HUD funds from being distributed to a locality which has an ordinance requiring contractors to provide health care benefits to domestic partners of company employees; and

Whereas, although currently worded to specifically apply only to the City of San Francisco, the real impact of this amendment stretches far beyond the borders of any particular city. The issue is the right of any municipality in America to consider and enact ordinances within their traditional purview without Federal intervention; and

Whereas, the effect of this amendment would be to reduce lead hazard reduction activities for children, eliminate funds for low income elderly housing, curtail services to the homeless and eliminate resources for housing for people with AIDS; and

Whereas, the San Francisco ordinance under attack by this amendment merely requires contractors who already provide benefits to married partners of employees to also provide benefits to domestic partners of employees; and the ordinance provides several exceptions to exempt certain contractors, such as Catholic Charities and the Salvation Army from some of these requirements; and

Whereas, this ordinance has been upheld by a U.S. District Court in San Francisco which held that local governments have the discretion to pick and choose the companies and organizations with which they will do business; and

Whereas, the Riggs amendment has been modified four times in an effort to secure its passage, the last version narrowing to apply only to the City of San Francisco. However, its intent is far reaching and has serious implications for all cities, including the City of Los Angeles which has implemented various efforts to benefit domestic partners, secure living wages for workers and eliminate substandard/slum housing—all programs which may fall victim to some future Congressional initiative such as the Riggs amendment; now, therefore, be it

*Resolved*, That the Council of the City of Los Angeles hereby includes in the City's Federal Legislative Program opposition to the Riggs Amendment to H.R. 4194—the VA, HUD, and Independent Agencies appropriations bill, and any similar legislation which would prohibit any HUD funds from being distributed to a locality which has an ordinance requiring contractors to provide health care benefits to domestic partners of company employees, and would undermine local autonomy and put the Federal Government in the role of dictating policy to cities around the country.

ANDY MISCIKOWSKI,  
Councilwoman, 11th District.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Riggs amendment, because, frankly, this amendment is a clear intrusion into the affairs of a local government. It targets an ordinance approved by only one city in this country, San Francisco; and, frankly, it sets a terrible precedent in so doing.

As has been mentioned, the U.S. mayors oppose the modified Riggs amendment saying that, quote, the modified Riggs amendment strikes at the heart of a local jurisdiction's obligation to ensure that civil rights are protected within its boundaries, unquote. The Leadership Conference on Civil Rights has also expressed its strong opposition, as have other organizations.

Further, the amendment violates the Constitution's prohibition against the enactment of "bills of attainder" by naming specific targets for punishment through the prohibition of funding. I think it would clearly be challenged in the courts.

The amendment would have a substantial financial impact on the City of San Francisco. The Office of Management and Budget has determined that the amendment would impose an un-

funded, expensive and extremely burdensome administrative requirement on the City, unquote.

Mr. Chairman, contrary to the charges made by amendment supporters, the City of San Francisco has worked with organizations with differing beliefs to reach agreements satisfactory to both; and as has been mentioned and I will reiterate, in fact, Catholic charities and the City have reached just such an agreement in regard to the ordinance.

So Mr. Chairman, I repeat, this is a clear instance in which the Federal intervention in local affairs is not appropriate. There is no justification for this intrusion in local decisionmaking. In fact, this amendment would set a dangerous precedent if it were approved, and I hope it will not be approved.

Mr. LANTOS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, San Francisco has two representatives in Congress, and I am proud to join the gentlewoman from California (Ms. PELOSI), my friend and colleague, in expressing my strongest disapproval of this proposed amendment.

This amendment by the gentleman from California (Mr. RIGGS) should be called the "Big Brother Amendment," because it engages in a preposterous degree of micromanagement of the affairs of a city. And it is not surprising that the national organization representing the mayors of our country and the national organization representing the counties in our country are as opposed to this amendment as are we.

It is simply preposterous for the Federal Government to interfere with city ordinances that merely provide for equality of opportunity and fairness. Micromanagement has no role in our legislative process. And to find a subsection of a section of the San Francisco city ordinance to be unacceptable to the Congress of the United States by individuals who favor block grants and who tell us to allow local decisionmaking is so hypocritical as to boggle the mind.

But this is not just interference in local decisionmaking. This is a poorly disguised assault on a persecuted minority, and I hope my colleagues across this political spectrum, from the far right to the left, will oppose this amendment. There is no room in our society for fermenting divisions, hate, and persecution, and this amendment should be rejected.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. RIGGS). I do so because I believe the amendment represents an unwarranted intrusion into the local affairs of one particular city.

The Riggs amendment says that none of the funds in this bill may be used to

implement section 12B.2(b) of the Administrative Code of San Francisco, California. This particular section of local law requires contractors doing business with the City of San Francisco to provide the same benefits to their employees' "domestic partners" as they provide to employees' spouses. Domestic partners are defined as persons registered as such with a government agency pursuant to a State and local law. The apparent intent of the Riggs amendment is to prevent the City from applying this requirement on contracts that use funding from HUD or one of the other Federal agencies covered by this bill.

San Francisco's domestic partnership law is motivated, in part, by a belief that, as a matter of principle, spouses and domestic partners should be treated equally with respect to employee benefits. The practice of providing benefits to domestic partners has been adopted by a great many employers throughout the country, ranging from local governments to large corporations.

I also understand that the City's law is motivated, in part, by a desire to make health benefits more widely available and thereby reduce costs for public health programs.

Now, whether one agrees or disagrees with the particular approach chosen by San Francisco, we should all be able to agree that these are legitimate goals for a municipal government to be pursuing and that the City's elected officials have every right to adopt this rule.

We are so often told, especially by members of the majority party, that greater power must be returned to State and local governments and that the Federal Government should be providing assistance, largely through block grants with few strings attached. And, indeed, many of the programs administered by the Department of Housing and Urban Development that are funded in this bill, there has been an increasing emphasis on local control and local decisionmaking.

The Riggs amendment turns this principle on its head. It singles out one particular city and says that city cannot apply a particular local ordinance to block grant and other funds.

Mr. Chairman, do we believe in local control and local decisionmaking or do we not? If we truly believe in local control, that principle should apply regardless of whether Congress happens to agree with all of the decisions made by every locality. Does Congress really need to turn itself into some sort of super review body for city councils picking and choosing those local enactments with which it agrees and disagrees and singling them out for disapproval in appropriation bills? I hope not. We should not start down that road.

Mr. Chairman, I urge defeat of the Riggs amendment.

Mr. NORWOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. RIGGS).

Mr. RIGGS. Mr. Chairman, I thank my good friend and colleague for seeking recognition and for yielding to me, because at this point in the debate I think it is important that we perhaps clarify some erroneous impressions that I believe my colleagues on the other side of the aisle are laboring under. Certainly I hope that they are not trying to perpetuate some of this nonsense that I have heard in recent days as we diligently sought to narrow the scope and the impacts of my amendment.

Just for the record, there were three versions, not four, not five, and I do not think there is a need to constantly exaggerate.

Just for the record, the City and County of San Francisco is the only such city with this kind of law, this kind of ordinance on the books, using Federal taxpayer funding to force private organizations to comply with the law. They are very proud of that fact. They are proud of the fact that they have a ground-blazing ordinance, their groundbreaking domestic partners law, the equal benefits ordinance which requires that organizations doing business with the City provide health care benefits to gay, lesbian and unmarried partners of their employees if they provide the same benefits to husbands and wives. And I do not think we will get any dispute over here that that is what the ordinance says and what it seeks to do.

So I guess the question to my colleagues is, do my colleagues have any concern about unwarranted intrusion into the private sector? I guess not. Do my colleagues really think that we should elevate a relationship between two unmarried people to the same relationship as two married people? And if we do not, that that is a form of discrimination, as I have heard people who oppose my amendment say repeatedly? Do my colleagues really feel that that is a form of discrimination, that unmarried people are treated differently under the law than married people? Do my colleagues think that that should be the policy of the United States Government, that unmarried people in a relationship are treated the same as married people?

Mr. LANTOS. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. Mr. Chairman, the gentleman from Georgia controls the time.

Mr. LANTOS. Mr. Chairman, is this a rhetorical question or a serious question?

Mr. RIGGS. Mr. Chairman, the gentleman from Georgia controls the time. I will continue on. I will continue on, because, obviously, the gentleman has the ability to get more time on that side of the aisle.

□ 1915

I do not want people, our colleagues who might be following this debate, to labor under a false impression. Of

course the Conference of Mayors, of course local officials, are going to go on record as opposing the amendment. They want as few strings attached as possible. We recognize that.

The gentlewoman from California (Ms. PELOSI) is right when she says that generally speaking it is the Republican philosophy to decentralize funding and to maximize local control. The problem here is that we are talking about Federal taxpayer funding, not just State and local government funding, but Federal taxpayer funding.

My amendment does not jeopardize, as some have attempted to portray, receipt of these funds. The city and county of San Francisco would still get their full allocation of funding under the bill. They just could not use the funding to require that private organizations accept this policy against their fiscal and/or moral objections.

So my amendment merely prohibits the city and county of San Francisco, the first unit of local government to adopt such a law and to use Federal taxpayer funding, to force this law on private sector contractors, from attaching any domestic partner conditions to city contracts with Federal taxpayer funding because it now has had the unintended effect, at least in the case of the Salvation Army, of jeopardizing, if not disrupting, \$3.5 million in funding to serve the homeless, to serve AIDS patients, and to provide meals to elderly citizens.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

(Mr. KUCINICH asked and was given permission to revise and extend his remarks.)

Mr. KUCINICH. Mr. Chairman, I think a national civics lesson is in order here. First of all, as a former mayor of the city of Cleveland, I think that I understand what all mayors understand, and that is that people in our cities pay taxes to city, State, and to the Nation. So people in cities across this country give their tax dollars to the Federal Government. They are Federal taxpayers. That does not give them any less rights, it actually gives them more rights. It gives them something to say at all levels.

I am very concerned, as a former mayor and as a former city councilman, that the Riggs amendment would usurp the right of a local community, and by reference, all local communities, to make their own laws. The principle of home rule is something that every one of us in the Congress of the United States ought to support. We ought to support the principle of home rule.

People make laws at a local level to promote their own safety, to provide for their own services, to make sure that people have their waste collected, have their streets plowed in the winter, the streets clean, to make sure that the people have good recreation and health care. People establish local governments specifically to do that, and

they also establish laws which relate to the concerns of people in the community.

People elect local officials because there are some decisions that are made at a local level, the decision of which ought to be made by the people of that locality. The history of the Federal Government does not provide for preemption of State or civil rights laws where State or civil rights laws of a locality have gone further than the Federal Government.

There is no place like home, and there is no government institution like home rule. How precious is this right of self-government? How precious is this right of home rule? People together, coming together at a local level, they elect their members of council to address local issues which are of importance to the people in their neighborhood, their community, and their city.

City councils meet as legislative bodies to make the laws for a city. It has been said before, we are not a plenary legislative body that seeks to make laws at every level of this government. We make Federal laws. We do not make laws for city councils and the city of San Francisco or Cleveland or Chicago or New York.

All across this land, mayors and councils meet daily, meet weekly, to do what they feel is in the best interests of their community. Local government exists for local matters, and the Federal Government exists for Federal matters, and we should not try to usurp the job and the duty of local government.

But when an amendment is created and aimed specifically at one city, in this case, San Francisco, California, I submit that it attacks home rule not only in San Francisco, but it attacks home rule in every city in the United States of America. As a former mayor, I can tell the Members that that ought not to happen, because that is not what the founders or the framers meant when they created a United States. It attacks home rule in New York, in Cleveland, in Chicago and Los Angeles, in every city and in every suburb and in every town.

Local government means power to the people in its finest. Aside from this attempt to dictate to San Francisco, there is an undercurrent here which is not worthy of this Congress. I ask the Members, whatever happened to keeping government out of people's private lives? Whatever happened to live and let live? Whatever happened to do unto others as you would have them do unto you? Whatever happened to judge not, that ye be not judged?

Mr. Chairman, I yield back, but I do not yield back anybody's constitutional rights.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with some regret to strongly oppose the amendment of my colleague, the gentleman from California (Mr. RIGGS).

Mr. Chairman, I rise to make a couple of points. The first is that many may not know, but the early part of my life in a professional sense involved years in the health and life insurance business. I know a good deal about the group health insurance business and the way those contracts are formed.

I feel very strongly that in this arena, the marketplace ought to have something to say. Indeed, as my colleague, the gentleman from Ohio (Mr. STOKES) indicated, there are corporations across the country who, in specifications they have outlined in terms of health insurance contracts, have included, among other things, provisions such as the ones that are being discussed here. The marketplace will work. People who are bidding to place those contracts can either choose to compete or not compete. So, frankly, I think, in the clearest sense, that ought to be true in this instance in the bay area of California.

Above and beyond that, it strikes me that beauty often lies in the eyes of the genuflector, and I find people in this House, sometimes on both sides of the aisle, stand and pound their chests in support of local control. Indeed, I have often said to my friends who are involved in educational issues at the local level, friends, be very careful as you turn to Washington and look for your educational dollars, and recognize that we only give 10 cents on the dollar for educational purposes, but very quickly those who are delivering that dime want to spend your entire dollar, for they love the control, using the Federal dollar as the reason to control.

In this case, in a most fundamental way, local government is reflecting its views as to what their policy should be, and very much reflecting their community in total, the epitome of what local control is all about.

It seems to me that the first thing the Congress should know is that we do not have all the answers to all the problems around. Indeed, that government that serves best is the government that is closest to the people who would be served.

So for all of those reasons, I would strongly urge the Members of this body to reject the Riggs amendment.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, as the gentleman knows, we are friends and colleagues of the same State congressional delegation, and I respect the gentleman's opinion and views. But I want to explain one more time why I think we should give this very careful thought.

That is simply this: In the instance of the Salvation Army, we have an organization that has had a longstanding relationship with the city of San Francisco. I do not think there is any argument to that. They have long had a presence in the San Francisco Bay area that is specifically within the city and county of San Francisco.

There are a lot of destitute and very needy people in the city of San Francisco. This is an organization dedicated through its founding principles, yes, its Judeo-Christian principles, on which it was founded, to helping the desperately poor and truly needy among us in our society.

So there is an organization that is put in this quandary. They have a presence, a longstanding presence there. They have had a relationship with local government. Local government adopts this law. They condition their contracts; and ultimately, the contractor, this private organization, objects to the contract and to the law on moral and religious grounds.

The problem that I have is that that is not the marketplace working. If it is a private for-profit entity, that is one thing, but this is a private not-for-profit charitable Christian organization that objects on moral and religious grounds, but wants to stay there in the city and continue to provide the services.

Mr. LEWIS of California. Mr. Chairman, reclaiming my time, I must say to the gentleman that there is probably not an organization in the country that I feel more closely to than the Salvation Army. I have worked with them not just here at home but overseas, in many instances in the country of India. I have a great sensitivity there.

But indeed, the marketplace does play a role here. Indeed, I am sure the Salvation Army, like other organizations working with the city, can find a way through this. But we should not be overriding that fundamental element of local control because of either a single organization, or in this case, because some disagree here at the Federal level.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Texas.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, because this is a very destructive amendment, I rise to oppose it, and I hope my colleagues will defeat it handily.

Mr. FILNER. Mr. Chairman, I thank the gentleman from California (Mr. LEWIS) for reminding other Members of his party that they are again conveniently forgetting their own sacred mantras of local control and no Washington interference to meet their own extreme partisan ends. Do they not get it, Mr. Chairman? They cannot have it both ways: honor and even sanctify local control when it suits them, but then disregard it when it conflicts with their own partisan agenda.

I am very concerned that this Congress is attempting to micromanage the affairs of the American public.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I do feel this is a very serious issue. I would really regret it if we paint an issue like this in partisan terms.

Mr. FILNER. I thank the gentleman.

In any terms, Mr. Chairman, this is a very harmful precedent to set. Members should mark my words that each and every one of our communities, as the gentleman from Ohio stated, becomes instantly vulnerable to the very same congressional meddling if we pass this amendment.

As a former city councilman and deputy mayor of the city of San Diego, I recall that my city's working with the Federal Government was a two-way relationship. The city met the reasonable requirements and guidelines of Federal grants and programs, and the Federal Government did not meddle in our city's internal affairs and policies. It was a mutually respectful arrangement that this Congress should continue to honor.

Mr. Chairman, the city of San Francisco has the right to conduct its business as it sees fit. Whether it is domestic partnership benefits or term limits or parking restrictions, if the people of San Francisco do not agree with the policies of their government, it is their prerogative to address these issues at the ballot box. It is not the prerogative of this Congress.

I strongly urge my colleagues to be consistent in their demand to honor local control. Let the people of San Francisco and every city in America govern themselves.

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his statement. I know that he is a former member of the city council, and deputy mayor or vice mayor.

Mr. FILNER. Deputy mayor.

Ms. PELOSI. Deputy mayor of San Diego. I appreciate the perspective he brings to this debate.

I particularly want to thank the chairman of the subcommittee, the gentleman from California (Mr. LEWIS) for his opposition to this amendment.

Mr. Chairman, just for the record, because a statement I made was contradicted by the maker of the motion, I want to submit for the RECORD the five versions of the Riggs amendment. This will be a resubmission, Mr. Chairman, because they have already appeared in the RECORD on July 15, in the case of one of them; on July 16, in the case of two of them; on July 21, in the case of another one; and the amendment that we have before us.

Mr. Chairman, I also want to say that it is interesting that the gentleman stood up and said he spoke here on behalf of Catholic Charities and Salvation Army, and now he is backing off

the Catholic Charities defense because he knows it was not a legitimate one. It is one that does not say that if you oppose the Riggs amendment, then you support domestic partners.

□ 1930

That is not the issue at all. It is about local autonomy. And, as I say, there is nobody here to have to defend Catholic Charities. They do a good job themselves. They are in contract with the City of San Francisco to provide the services that Federal dollars do provide. We do not want them to have to spend some of that money trying to separate which dollar is a San Francisco dollar, which dollar is a California dollar, which dollar is a Federal dollar. We would rather they have the maximum use of those funds for the delivery of services to meet the needs of the people of our community.

Mr. Chairman, I am very proud to represent San Francisco, particularly so in conjunction with my colleague, the gentleman from California (Mr. LANTOS), who spoke so eloquently against this amendment earlier. But we all respect our cities that we represent and we respect our colleagues; and when we ask them to vote for something, we should be on the level with them.

When this legislation comes to the floor, it is about local autonomy. I do not think that the VA-HUD bill is the appropriate venue for us to have a discussion about domestic partners. I do not think it is the appropriate venue for us to tell all the corporations in America, many of the largest corporations in America, and I have the list which I will submit for the RECORD, that what they are doing is immoral and indecent. Perhaps the gentleman thinks that is a legitimate debate for this Congress to have. Let him bring it up as an authorizing measure, but not to interfere with this VA-HUD bill.

Mr. Chairman, I include for the RECORD the amendments offered by the gentleman from California (Mr. RIGGS):

Amendment No. 15. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by this Act may be provided to the City of San Francisco because the City requires, as a condition for an organization to contract with, or receive a grant from, the City, that the organization provide health care benefits for unmarried, domestic partners of individuals who are provided such benefits on the basis of their employment by or other relationship with the organization.

Amendment No. 24. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by title II may be provided to any locality that requires as a condition for an organization to contract with, or receive a grant from, the locality, that the organization provide health care benefits for unmarried, domestic partners of individuals who are provided such benefits on the basis of their employment by or other relationship with the organization.

Amendment No. 25. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by title II may be provided to the political entity known as the City and County of San Francisco, California.

Amendment No. 30. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by this Act may be used to implement Chapter 12B of the Administrative Code of San Francisco, California.

Amendment No. 31. At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. XX. None of the funds appropriated by this Act may be used to implement section 12B.2(b) of the Administrative Code of San Francisco, California.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to echo some of the comments that have been made by my colleagues, most particularly the comments just made by my colleague, the gentleman from California (Mr. LEWIS), with respect to the marketplace and the fact that, in these instances, the marketplace dictates that these provisions do be provided. Do my colleagues know why? In order to get the best people.

These provisions need to be provided because, in this tight labor market, employers want to make sure they get the best possible talent. And I am sure the gentleman from California (Mr. RIGGS) means no slight to those who are receiving human services. Because, obviously, we want the best people out there who are capable of delivering human services to be the people that we have deliver human services. We would not want to shut out anybody from being able to deliver those human services.

So I think we need to address that point that the gentleman from California (Mr. LEWIS) brought up, because I think it is a very good point. It is not a matter of these private companies having extra money so they can dig into their pockets and do something that feels good. These companies adhere to stock markets. They need to provide the best maximum profit. And the reason they know they can do it and provide these benefits is because they know they are going to get the best possible people. The City of San Francisco should be no different from these private corporations.

Mr. Chairman, I just want to bring to the attention of my colleagues in the House, however, the issue that is being brought up here, the issue with respect to local autonomy. It has been echoed over and over again that the Council of Mayors has rejected the Riggs amendment. They have spoken very strongly on this issue. I want to add that the National Association of Counties and County Executives has also come out vigorously against the Riggs amendment because of its usurpation of local control.

But I want to bring to the attention of my colleagues the fact that this really is usurping local control. In fact, so much so that it will undoubtedly

end up in the courts. I am not making anything up here, when the gentleman from California (Mr. RIGGS) himself acknowledges that the only city that is going to be affected is San Francisco.

Mr. Chairman, I thought we were passing a bill that would provide coverage to all the cities and towns in America. But, apparently, the gentleman wants to micromanage and effect a policy in one city in this country. To me, that violates the case of *Romer v. Evans*, which said that Congress cannot pass any bill of attainder which specifies that Congress cannot carve out one city and town or person for direct impact when passing any legislation. That any legislation that the Congress proposes must impact the whole body of general information that the amendment seeks to change, and it cannot specify in one instance. So, for that reason, this will be tied up in the courts.

Let me tell my colleagues what will practically be the result of when this is tied up in the courts. When this is tied up in courts, it will tie up approximately \$65 million in Federal funds which will be tied up. What are those funds? The very programs that the gentleman from California (Mr. RIGGS) says he cares about are going to be compromised because of his amendment.

Homeless people are not going to get the McKinney Grant funds because of the Riggs amendment. People who are homeless because of AIDS are not going to get the necessary Federal funds because the gentleman from California is on this political witch-hunt.

So do not think that this is any old amendment for Members to go in there and cover themselves with political stripes saying, "I was strong today because I stood up and beat up on some minority in this country and was able to scapegoat some group in this country." Do not be so quick to do that, because when we do that we are affecting real people's lives. Real people are going to be affected by this, because of some ideological march that the gentleman from California is on.

Mr. Chairman, I would ask my colleagues to join the gentleman from California (Mr. LEWIS) and others in rejecting this mean-spirited, bigoted, bigoted amendment.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a great deal of comment from the other side on this issue, and I think it is only fair that I yield to the gentleman from California (Mr. RIGGS) so that he may respond.

Mr. RIGGS. Mr. Chairman, I thank the gentleman from Florida (Mr. MICA) for yielding this time to me. I do want the opportunity to respond, since the previous speaker in the well I think just referred to me as being "mean-spirited" and "bigoted." I guess the proper thing to do is to consider the source.

But I also want to respond by saying that I did not know the gentleman

from Rhode Island (Mr. KENNEDY) was a constitutional expert. I did not realize he was a legal scholar.

Mr. Chairman, I do realize that he is reading from a letter, because I have a copy of the same letter. I can read from the same letter. I have a copy from the ACLU, the Washington office, which the gentleman, the renowned constitutional scholar, was just referring to regarding, "The Riggs amendment is an unconstitutional bill of attainder." But right above that it says, in their opinion, "the sole objective of the Riggs amendment is to punish San Francisco for attempting to use its municipal spending powers to help equalize health care benefits for married heterosexual couples and unmarried, due to State law, homosexual couples."

That is kind of a convoluted way, I guess, of explaining their interpretation of my amendment. But it is the purpose of my amendment not to allow them to use Federal taxpayer funding to condition contracts to equate married heterosexual couples with, as they put it, unmarried homosexual couples.

I also want to respond to a couple of points. The gentlewoman from California (Ms. PELOSI) is correct. I stand corrected. We apparently had five versions of the amendment, three of which we drafted in 1 day.

It is rare that one can stand up on the floor and get criticized by one's colleagues for making a good-faith effort. I served with the gentlewoman on the Committee on Appropriations in the last Congress, so I am well aware of the tactics. It is rare that when one makes a good-faith effort to address, as I said at the outset, legitimate concerns raised by one's colleagues that one is then criticized for raising those efforts.

Be that as it may, I want to go back to Salvation Army and Catholic Charities. I will insert the San Francisco Examiner article in the RECORD at the appropriate time that quotes Mr. Richard Love, an appropriate name, spokesman for the Salvation Army who said that, after 11 months of negotiation, the organization told city officials that it could not comply with the ordinance. It is giving up \$3.5 million in city contracts to serve the needy. Three programs, including meals for 1,700 senior citizens, received taxpayers' dollars and will be reduced, but the programs will not be closed.

So it seems to me that the actual effect at the local level was exactly the opposite of what the gentleman from Rhode Island (Mr. KENNEDY), in a kind of hysterical rhetoric, was trying to describe.

The part about Catholic Charities though, well, staying on Salvation Army, it quotes Mr. Love as saying, as I pointed out to the gentleman from California (Chairman LEWIS), chairman of the subcommittee and the primary author of the legislation, "The Salvation Army objects to the domestic partners law on religious grounds.

"The Army's belief system, grounded in traditional interpretation of Scrip-

ture, does not perceive domestic partnership arrangements as similar to the sanctity granted marriage partners."

That is the position of the Salvation Army. But then they went on to say that the Salvation Army says that the group will continue to "provide services to individuals, regardless of race, religion, sexual orientation, or marital status." They just do not want this policy forced on them, because it contradicts their founding principles and the beliefs that they have long adhered to. They have been in San Francisco for 118 years.

Mr. Chairman, with respect to Catholic Charities, and this I do want to personally address to the gentleman from Rhode Island (Mr. KENNEDY), since he is a member of one of best-known Catholic families in America, it says, "Last year the City of San Francisco and the Roman Catholic Archdiocese of San Francisco, which has affiliated agencies with city contracts, fought the mandate."

Mr. Chairman, I would say to the gentlewoman from California (Ms. PELOSI) they fought the mandate. They did not go along with it, Catholic Charities. "In the end, they reached an accommodation which allows employees of Catholic agencies, or any other organization doing business with the city, to designate someone in their household as eligible to receive spousal-equivalent benefits, and that could include a spouse, a sibling, other relative, or other married partner. Citing Church doctrine, the Archdiocese has been a vocal foe of sanctioning domestic partner relations, homosexual or otherwise."

So I think it is very inappropriate to give the impression that Catholic Charities went along willingly.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Ms. PELOSI. Mr. Chairman, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, let the RECORD show that no one here says that Catholic Charities approved of domestic partners laws. What we are saying is that no law in San Francisco forces Catholic Charities to accept domestic partners laws or stops it from contracting with the City.

Catholic Charities and the City of San Francisco have reached their accommodation. There is no fight here in our city on this issue. I do not know why the gentleman from California (Mr. RIGGS) wants to start one on this floor.

Ms. WOOLSEY. Mr. Chairman, reclaiming my time, I rise in strong opposition to this amendment, an amendment designed to prevent San Francisco from requiring their contractors to offer domestic partner benefits.

This legislation is discriminatory, hypocritical, mean-spirited and ill-conceived. This legislation is hypocritical because it blatantly denies local con-

trol. In essence, it says local officials are free to make decisions about local issues, unless we, the Federal Government and individuals in the Congress, do not agree with that local decision.

I thought Republicans wanted more, not less local control. I guess I was wrong.

This amendment is discriminatory because it once again singles out one group, gays and lesbians, for second-class treatment.

This legislation is mean-spirited because it will deny thousands of people living in domestic partnerships the funds that they need to have health care for themselves.

Finally, the amendment offered by the gentleman from California (Mr. Riggs) is ill-conceived because it is an attempt to play politics with the vitally important appropriations process.

This amendment, which has wide-reaching implications for our country through precedents, if through no other way, was rushed to the House Floor without going through the normal committee process because the right-wing element in this country wants to score some political points.

The fact is, Mr. Chairman, San Francisco chooses to view domestic partnership as a legitimate life-style, a choice that thousands of people make. The Federal Government has no right to tell San Francisco what is right or what is wrong.

□ 1745

The Federal Government has no place in interfering with local decisions. This Congress has no place in judging another person's lifestyle.

I urge my colleagues to make this truly moral choice and vote against this amendment and support the principle of home rule.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an amazing day. We have a member of Congress, the gentleman from California (Mr. RIGGS) who has decided that he knows better than San Francisco council members who were elected by San Francisco city citizens.

Wake up, citizens of Portland, Oregon and Portland, Maine. Understand that this amendment affects you and the people you elect.

In fact, this amendment is an equal opportunity offender. It is offensive on a bipartisan basis. It is offensive to the people of this country, and it is offensive to the whole issue of home rule.

I say we should vote for local control, stop the nonsense, vote against the Riggs amendment.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Those who would take this amendment lightly or who would sit on the sidelines of this debate, I would warn them, because it reminds me of the words of Martin Niemoeller commenting on Nazi Germany. He said that, they came first for the Communists,

and I did not speak up because I was not a Communist. Then they came for the Jews, and I did not speak up because I was not a Jew. Then they came for the trade unionists and I did not speak because I was not a trade unionist. Then they came for the Catholics, I did not speak. I was a Protestant. Then they came for me. And no one was left to speak up.

Mr. Chairman, I rise to speak up for those individuals who would be affected by this amendment. It is the City of San Francisco today, could be New York tomorrow, Los Angeles next week, New Orleans next month and even perhaps Chicago next year. I rise against this amendment because I agree with those who have suggested that it is indeed a mean-spirited maneuver that is designed to punish a certain group of individuals in one particular city.

This amendment would bar the City of San Francisco from using HUD funds to execute its entire city ordinance against discrimination in city contracts. If enacted, the well-being of tens of thousands of veterans, disabled people, children, victims of natural disasters, individuals with HIV and AIDs would be jeopardized in order to punish a locality.

I agree with those who have stressed the issue of local control, home rule, citizenship, meaning that people can decide what it is that they will and will not do. I would hate to see us move back to the days of witch-hunting, back to the days of trying to determine what others should and should not do. But I simply close, Mr. Chairman, by saying that I strongly oppose any measure that seeks to discriminate based on sexual orientation, and I urge my colleagues to reject this amendment and let America be America, the America that it has never been but the America that it can and must become.

Mrs. LOWEY. Mr. Chairman, although the sponsor of this amendment would have us believe that this amendment is not as egregious as its earlier incarnation, the fundamental fact remains: its purpose is to nullify a duly adopted local ordinance, micro-manage a city, and punish those who don't share a narrow-minded vision of America.

I have to ask why, in the Congress where Members on both sides of the aisle routinely preach the virtues of states' rights, local governance, and devolution of federal power, we're even considering such a thing. This amendment is really the height of hypocrisy.

If the people of San Francisco—or any city for that matter—have chosen to use their municipal spending powers to prohibit discrimination in city contracts and help equalize health benefits for married heterosexual couples and unmarried same-sex couples, what business do we have in stepping in and overruling that action?

As the U.S. Conference of Mayors has stated, passage of this amendment "would establish a very dangerous precedent." It could harm more than 30,000 people who benefit from federal funding for low-income elderly housing, homeless programs, and housing for people with AIDS. It also would serve to black-

mail other municipalities who—through the democratic process—want to adopt similar ordinances that prohibit discrimination in city contracts.

Call me cynical, but I don't believe the sponsors have had a change in heart on the issue of local control. The truth is that, in this election season, the Republican leadership has decided it's in their political interest to push proposals backed by the Radical Right in order to mobilize their base for the November elections.

This amendment is just one in a series of attacks on those who don't fit the Right Wing's vision of America. In the next few days we'll debate an amendment to strip gay and lesbian federal employees of basic protections against being fired simply because of their sexual orientation.

This is not the direction we should be heading in. I urge all Members to defeat the Riggs Amendment and work instead on bringing all Americans together.

Ms. DELAURO. Mr. Chairman, I rise today in strong opposition to the Riggs Amendment, which is an unacceptable intrusion into local affairs. My colleagues on the other side of the aisle constantly preach to us about government intrusion into local affairs. According to them, government has no place in education. No place in protecting our environment. No place in protecting the safety of American workers.

But when it suits their purpose, it suddenly becomes acceptable to dictate how a city should run its affairs. San Francisco has been a model for the nation in providing benefits for domestic partners. This is a policy determined by San Francisco's government. This is a policy supported by San Francisco's citizens. This is a policy meant to end discrimination and ensure equality under the law.

This amendment would single out the city of San Francisco for punishment because it enacted a policy that the Congressional Majority just doesn't like. Requiring any city to go against its own ordinance in order to use federal funds is simply unacceptable. Congress has no place dictating local affairs to this extent. That's why this amendment is opposed by the U.S. Conference of Mayors, which called it an "unwarranted intrusion into local decision making."

I urge my colleagues to stand up for local decision making and for civil rights and oppose this amendment.

Mr. NADLER. Mr. Chairman, I rise today in strong opposition to this amendment.

This amendment flies in the face of the ideals that many of its proponents purport to hold dear. In debates after debate, my colleagues from the other side of the aisle warn darkly of the dangers of intruding into the affairs of State and local governments. Is that not exactly the effect of this amendment? Some may say that those who have espoused the belief that State and local governments deserve autonomy would be committing a gross act of hypocrisy if they were to support this amendment.

Beyond that fact, I urge my colleagues to oppose this amendment because it is outrageously mean-spirited. This amendment is a blatant effort to deny gay men and lesbians, who live as domestic partners, health benefits through their partners' employment.

If this amendment were to become law, San Francisco and other cities fearing government

intervention would be forced to choose between ensuring their domestic partners receive appropriate health care benefits or, ensuring that funding is available to assist those in need of adequate housing. This is nothing short of blackmail. By punishing localities that set policies that help ensure equal rights in health care benefits, thousands would be hurt through the loss of Federal housing dollars.

In the past few weeks, we have heard much from some Members from the other side of the aisle about their views on homosexuality. Now, these appalling statements are being put into action through attempts, such as this amendment, to legislate away rights that have been hard fought and won fair and square. This level of bigotry must not be tolerated in this body. We must not stand by and allow such a mean-spirited and dangerous amendment to prevail. I urge my colleagues to oppose this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I appreciate the opportunity to speak on this issue tonight. The Riggs amendment would unfairly deny Federal funds to any locality that requires private companies and organizations contracting with the locality to provide health care benefits to unmarried domestic partners of its employees.

Equality in employee compensation is a legitimate public policy goal recognized by a myriad of different entities including cities, municipalities, private and public colleges and universities and private employers both large and small.

This amendment infringes on the right of local government to operate freely and without gross Federal interference. The passage of this amendment would affect an enormous demographic pool. The private lives of our workers and who they choose as life partners should not interfere with their ability to receive spousal benefits. Thousands of people including veterans, the disabled, the elderly, and victims of natural disaster would lose access to spousal benefits, along with the targets of this amendment—the gay and lesbian community.

It is irresponsible for Congress to act on such an important matter without appropriate committee considerations and debate. Equality in employee compensation is a legitimate public policy goal and when employees are denied benefits for their life partners, they are being unequally compensated as compared to their married co-workers, as defined in this amendment. I urge my colleagues to vote "No" on the Riggs amendment.

Ms. LEE. Mr. Chairman, I rise today in strong opposition to this outrageous amendment. Mr. Speaker, this bill brings me memories from my childhood, but not a single good one. I remember how excited I was about going to school. The sad reality was that when I started school, I was unable to attend public schools because education was segregated. I was unable to attend public schools because of the color of my skin. I was unable to attend public schools because I was black. It did not matter that my father proudly served in the military with patriotism risking his life to protect my freedom and that of others regardless of skin color. No, it didn't matter. I, like many others, was subjected to the painful calvary of discrimination. It wasn't until many courageous men and women from all over the country decided to join forces to fight prejudice and the injustice of segregation that these barriers were broken. I learned so much from those

experiences and there is one lesson I will never forget, discrimination—no matter what form it takes—is wrong.

Mr. Speaker, this amendment has gone through four rewrites. Not one, not two, not three, but four rewrites and the latest version is still unfair, invasive, and unconstitutional. Mr. Speaker, the San Francisco's civil rights ordinance has the full support of the City and County of San Francisco, its elected mayor and Board of Supervisors. This amendment constitutes nothing but a chilling attack on San Francisco's civil rights laws. It sends out to undermine the civil rights laws of the City and County of San Francisco, a prospect that should sound alarm bells for anyone who supports the effort to attain civil rights in this nation.

Mr. Speaker, I thought that our friends on the other side of the aisle were in favor of more powers for local government not against. Well, may be I'm reading the wrong papers or may be it is that some people have decided to be selective about who to attack, when to attack, and why. If we are the House of the people, we are not to violate their trust by launching a malicious attack on the City of San Francisco and its wonderful people. But the people of San Francisco are not the only ones opposing this amendment. The U.S. Conference of Mayors has indicated that they are " \* \* \* seriously concerned with this unwarranted intrusion into local decision making \* \* \* " Mr. Speaker, the passage of this amendment would establish a frightening precedent, which is why the U.S. Conference of Mayors, the National Association of Counties, the City of Los Angeles, and others have voiced strong opposition to the amendment.

Mr. Speaker, I come from a religious family and I continue to practice my faith. I learned early in life that if we believe in justice we also need to believe in tolerance and respect. Mr. Speaker, I have no doubt in my heart that every single Member of this House agrees with me that discrimination is wrong. Every single person is created equal! If that is the case we need to oppose this attack on civil rights. I encourage my fellow Members to vote no on this amendment.

Ms. NORTON. Mr. Chairman, the Riggs Amendment might just as well be called the "Join the District of Columbia Club" amendment. Until now, bald intrusion into the affairs of a local jurisdiction was confined to the nation's capital. Now another noble city joins the ranks of local jurisdictions run by the Congress of the United States.

San Francisco local code not only bars discrimination based on sexual orientations; San Francisco requires contractors who benefit from city contracts to provide health care and other benefits to domestic partners only if they provide these same benefits to married partners. This is a wise policy because it assures health care at no cost to the city from companies who profit from city contracts. Otherwise the city of San Francisco might well be left to pay for the health care of people with AIDS or other illnesses.

Is there nothing we will not do to promote gay bashing? Some of the most revered principles in this chamber have been sacrificed in the name of anti-gay chest thumping—religious tolerance, civil rights, privacy, service in the armed forces, and now, devolution and local control. We've done enough harm through Federal laws. But this is still a Federal

republic. Let each jurisdiction decide its own local laws locally.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. RIGGS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RIGGS. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point or order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Evidently a quorum is not present.

Pursuant to clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 348]

Abercrombie	Chenoweth	Filner
Ackerman	Christensen	Foley
Aderholt	Clay	Forbes
Allen	Clayton	Ford
Andrews	Clement	Fossella
Archer	Clyburn	Fowler
Armey	Coble	Fox
Bachus	Coburn	Franks (NJ)
Baesler	Collins	Frelinghuysen
Baker	Combest	Furse
Baldacci	Condit	Galleghy
Ballenger	Conyers	Ganske
Barcia	Cook	Gejdenson
Barr	Cooksey	Gekas
Barrett (NE)	Costello	Gephardt
Barrett (WI)	Cox	Gibbons
Bartlett	Coyne	Gilchrest
Barton	Cramer	Gillmor
Bateman	Crane	Gilman
Becerra	Crapo	Goode
Becerra	Cubin	Goodlatte
Bentsen	Cummings	Goodling
Bereuter	Berman	Gordon
Berry	Danner	Goss
Bilbray	Davis (FL)	Graham
Bilirakis	Davis (IL)	Granger
Bishop	Davis (VA)	Green
Blagojevich	Deal	Greenwood
Bliley	DeFazio	Gutierrez
Blumenauer	Delahunt	Gutknecht
Blunt	DeLauro	Hall (OH)
Boehlert	DeLay	Hall (TX)
Boehner	Deutsch	Hamilton
Bonilla	Diaz-Balart	Hansen
Bonior	Dickey	Hastert
Bono	Dicks	Hastings (FL)
Borski	Dingell	Hastings (WA)
Boswell	Dixon	Hayworth
Boucher	Doggett	Hefley
Boyd	Dooley	Hefner
Brady (PA)	Doolittle	Heger
Brady (TX)	Doyle	Hill
Brown (CA)	Dreier	Hilleary
Brown (FL)	Duncan	Hilliard
Brown (OH)	Dunn	Hinchey
Bryant	Edwards	Hinojosa
Bunning	Ehlers	Hobson
Burr	Ehrlich	Hoekstra
Buyer	Emerson	Holden
Callahan	Engel	Hooley
Calvert	English	Horn
Camp	Ensign	Hostettler
Campbell	Eshoo	Houghton
Canady	Etheridge	Hoyer
Cannon	Evans	Hulshof
Capps	Everett	Hunter
Cardin	Ewing	Hutchinson
Carson	Farr	Hyde
Castle	Fattah	Inglis
Chabot	Fawell	Istook
Chambliss	Fazio	Jackson (IL)

Jackson-Lee (TX)	Millender-McDonald	Schaefer, Dan
Jefferson	Miller (CA)	Schaffer, Bob
Jenkins	Miller (FL)	Schumer
John	Minge	Scott
Johnson (CT)	Mink	Sensenbrenner
Johnson (WI)	Mollohan	Serrano
Johnson, E. B.	Moran (KS)	Sessions
Johnson, Sam	Moran (VA)	Shadegg
Jones	Morella	Shaw
Kanjorski	Murtha	Shays
Kaptur	Myrick	Sherman
Kasich	Nadler	Shimkus
Kelly	Neal	Shuster
Kennedy (MA)	Nethercutt	Sisisky
Kennedy (RI)	Neumann	Skaggs
Kennelly	Ney	Skeen
Kildee	Northup	Skelton
Kilpatrick	Norwood	Slaughter
Kim	Nussle	Smith (MI)
Kind (WI)	Oberstar	Smith (NJ)
King (NY)	Obey	Smith (OR)
Kingston	Olver	Smith (TX)
Klecza	Ortiz	Smith, Adam
Klink	Owens	Smith, Linda
Klug	Oxley	Snowbarger
Knollenberg	Packard	Snyder
Kolbe	Pallone	Solomon
Kucinich	Pappas	Souder
LaFalce	Parker	Spence
LaHood	Pascrell	Spratt
Lampson	Pastor	Stabenow
Lantos	Paul	Stearns
Largent	Paxon	Stenholm
Latham	Pease	Stokes
Lazio	Pelosi	Strickland
Leach	Peterson (MN)	Stump
Lee	Peterson (PA)	Stupak
Levin	Petri	Sununu
Lewis (CA)	Pickering	Talent
Lewis (GA)	Pickett	Tanner
Lewis (KY)	Pitts	Tauscher
Linder	Pombo	Tauzin
Lipinski	Pomeroy	Taylor (MS)
Livingston	Porter	Taylor (NC)
LoBiondo	Portman	Thomas
Lofgren	Poshard	Thompson
Lowey	Price (NC)	Thornberry
Lucas	Pryce (OH)	Thune
Luther	Quinn	Thurman
Maloney (CT)	Radanovich	Tiahrt
Maloney (NY)	Rahall	Tierney
Manton	Ramstad	Towns
Manzullo	Redmond	Trafficant
Markey	Regula	Turner
Mascara	Reyes	Upton
Matsui	Riggs	Vento
McCarthy (MO)	Riley	Visclosky
McCarthy (NY)	Rivers	Walsh
McCollum	Rodriguez	Wamp
McCrery	Roemer	Waters
McDermott	Rogan	Watkins
McGovern	Rogers	Watt (NC)
McHale	Rohrabacher	Watts (OK)
McHugh	Ros-Lehtinen	Waxman
McInnis	Rothman	Weldon (FL)
McIntosh	Roukema	Weldon (PA)
McIntyre	Roybal-Allard	Weller
McKeon	Royce	Wexler
McKinney	Rush	Weygand
McNulty	Ryan	White
Meehan	Sabo	Whitfield
Meek (FL)	Sanchez	Wicker
Meeks (NY)	Sanders	Wilson
Menendez	Sandlin	Wise
Metcalf	Sanford	Wolf
Mica	Sawyer	Woolsey
	Saxton	Wynn
		Young (AK)

□ 2009

The CHAIRMAN. Four hundred fourteen Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. RIGGS) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 214, noes 212, not voting 8, as follows:

[Roll No. 349]

AYES—214

Aderholt Graham Pickering  
 Archer Granger Pickett  
 Arney Greenwood Pitts  
 Bachus Gutknecht Pombo  
 Baesler Portman Hall (OH)  
 Baker Hall (TX) Pryce (OH)  
 Ballenger Hamilton Quinn  
 Barr Hansen Radanovich  
 Barrett (NE) Hastert Ramstad  
 Bartlett Hastings (WA) Redmond  
 Barton Hayworth Regula  
 Bateman Hefley Riggs  
 Bereuter Hergert Riley  
 Berry Hill Roemer  
 Bilirakis Hilleary Rogan  
 Bishop Hobson Rogers  
 Bliley Hoekstra Rohrabacher  
 Blunt Holden Ros-Lehtinen  
 Boehner Hostettler Soukema  
 Bonilla Hulshof Royce  
 Bono Hunter Ryun  
 Brady (TX) Hutchinson Salmon  
 Bryant Hyde Sandlin  
 Bunning Inglis Scarborough  
 Burr Istook Schaefer, Dan  
 Buyer Jenkins Schaffer, Bob  
 Callahan John Sensenbrenner  
 Calvert Johnson, Sam Sessions  
 Camp Jones Shadegg  
 Canady Kasich Shimkus  
 Cannon Kim Shuster  
 Chabot King (NY) Skeen  
 Chambliss Kingston Skelton  
 Chenoweth Klug Smith (MI)  
 Christensen Knollenberg Smith (NJ)  
 Coble LaHood Smith (OR)  
 Coburn Largent Smith (TX)  
 Collins Latham Smith, Linda  
 Combest Lewis (KY) Snowbarger  
 Cook Linder Solomon  
 Cooksey Lipinski Souder  
 Costello Livingston Spence  
 Cox LoBiondo Stearns  
 Cramer Lucas Stenholm  
 Crane Manzullo Stump  
 Crapo McCollum Sununu  
 Cunningham McHugh Talent  
 Danner Danner Tanner  
 Deal McIntosh Tauzin  
 DeLay McIntyre Taylor (MS)  
 Diaz-Balart McKeon Taylor (NC)  
 Dickey Metcalf Thomas  
 Doolittle Mica Thornberry  
 Dreier Moran (KS) Thune  
 Duncan Myrick Tiahrt  
 Dunn Nethercutt Traficant  
 Ehlers Ehlers Neumann  
 Ehrlich Ney Turner  
 Emerson Northup Upton  
 Everett Norwood Walsh  
 Ewing Nussle Wamp  
 Fawell Ortiz Watkins  
 Fossella Oxley Watts (OK)  
 Fox Packard Weldon (FL)  
 Gallegly Pappas Weldon (PA)  
 Ganske Parker Weller  
 Gekas Paul Whitfield  
 Gibbons Paul Wicker  
 Gillmor Paxon Wilson  
 Goode Pease Wolf  
 Goodlatte Peterson (MN) Young (AK)  
 Goodling Peterson (PA)  
 Petri Petri

NOES—212

Abercrombie Brown (FL) DeLauro  
 Ackerman Brown (OH) Deutsch  
 Allen Campbell Dicks  
 Andrews Capps Dingell  
 Baldacci Cardin Dixon  
 Barcia Carson Doggett  
 Barrett (WI) Castle Dooley  
 Bass Clay Doyle  
 Becerra Clayton Edwards  
 Bentsen Clement Engel  
 Berman Clyburn English  
 Bilbray Condit Ensign  
 Blagojevich Blagojevich Eshoo  
 Blumenauer Coyne Etheridge  
 Boehlert Cubin Evans  
 Bonior Cummings Farr  
 Borski Davis (FL) Fattah  
 Boswell Davis (IL) Fazio  
 Boucher Davis (VA) Filner  
 Boyd DeFazio Foley  
 Brady (PA) DeGette Forbes  
 Brown (CA) Delahunt Ford

Fowler Levin  
 Frank (MA) Lewis (CA)  
 Franks (NJ) Lewis (GA)  
 Frelinghuysen Lofgren  
 Frost Lowey  
 Furse Luther  
 Gejdenson Maloney (CT)  
 Gephardt Maloney (NY)  
 Gilchrest Manton  
 Gilman Markey  
 Gordon Martinez  
 Goss Mascara  
 Green Matsui  
 Gutierrez McCarthy (MO)  
 Harman McCarthy (NY)  
 Hastings (FL) McCrery  
 Hefner McDermott  
 Hilliard McGovern  
 Hinojosa McHale  
 Hooley McKinney  
 Horn McNulty  
 Houghton Meehan  
 Hoyer Meek (FL)  
 Jackson (IL) Meeke (NY)  
 Jackson-Lee Menendez  
 (TX) Millender-  
 Jefferson McDonald  
 Johnson (CT) Miller (CA)  
 Johnson (WI) Miller (FL)  
 Johnson, E. B. Minge  
 Kanjorski Mink  
 Kaptur Mollohan  
 Kelly Moran (VA)  
 Kennedy (MA) Morella  
 Kennedy (RI) Murtha  
 Kennelly Nadler  
 Kildee Neal  
 Kilpatrick Oberstar  
 Kind (WI) Obey  
 Kleczka Olver  
 Klink Owens  
 Kolbe Pallone  
 Kucinich Pascrell  
 LaFalce Pastor  
 Lampson Payne  
 Lantos Pelosi  
 Lazio Pomeroy  
 Leach Poshard  
 Lee Price (NC)  
 Rahall

Rangel  
 Reyes  
 Rivers  
 Rodriguez  
 Rothman  
 Roybal-Allard  
 Rush  
 Sabo  
 Sanchez  
 Sanders  
 Sanford  
 Sawyer  
 Saxton  
 Schumer  
 Scott  
 Serrano  
 Shaw  
 Shays  
 Sherman  
 Sisisky  
 Skaggs  
 Slaughter  
 Smith, Adam  
 Snyder  
 Spratt  
 Stabenow  
 Stark  
 Stokes  
 Strickland  
 Stupak  
 Tauscher  
 Thompson  
 Thurman  
 Tierney  
 Torres  
 Towns  
 Velazquez  
 Vento  
 Visclosky  
 Waters  
 Watt (NC)  
 Waxman  
 Wexler  
 Weygand  
 White  
 Wise  
 Woolsey  
 Wynn

NOT VOTING—8

Burton McDade Yates  
 Gonzalez Moakley Young (FL)  
 LaTourette Porter

□ 2016

So the amendment was agreed to.  
 The result of the vote was announced  
 as above recorded.

## PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, earlier this evening, although I was in the Capitol building, I did not hear the bell for the vote on Rollcall No. 349 and consequently was not present for the vote. Had I been present, I would have voted "no."

The CHAIRMAN. The Clerk will read the final lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999".

Ms. DELAURO. Mr. Chairman, I insert the following for the RECORD.

U.S. CONSUMER PRODUCT SAFETY COMMISSION  
 [Statement of Chairman Ann Brown, August 3, 1994]

## CHILDREN'S SLEEPWEAR

I voted today to terminate the Commission's rulemaking proceeding to amend the Standards for the Flammability of Children's Sleepwear in sizes 0-6x and 7-14. I also voted to terminate the stay of enforcement after providing firms an adequate lead time to bring their sleepwear garments into compliance with the flammability standards.

The proposal approved by the Commission today would exempt so-called tight-fitting sleepwear garments from the flammability

standards, and sleepwear garments for infants under one year of age. In considering whether to support continuing the rule-making proceeding, I have made it clear that my primary concern is that the Commission take no action that would reduce the level of safety currently provided by the children's sleepwear standards. I am unable to support changing the sleepwear standards unless I can make the statutory findings that the changes would not present an unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage. Since I am not convinced by the evidence currently available that I can make this finding, I cannot vote to support the proposed amendments.

I am concerned that the available data fail to support the conclusion that exempting tight fitting garments from the regulation will not decrease safety. Available injury and death data demonstrate to me that the sleepwear standards are working. Although incident data was not kept on a statistical basis before issuance of the sleepwear standards in 1972 (sizes 0-6x) and 1975 (sizes 7-14), it is clear that a significant number of burn injuries and deaths associated with children's sleepwear did occur. Over the years, the actual numbers of injuries and deaths associated with sleepwear injuries and deaths appear to have declined dramatically. Although there is speculation that this decline may be based on such things as the reduced number of persons smoking and safer appliances such as space heaters and ranges, it is merely speculation. It is just as likely that the injuries and deaths have declined because the sleepwear standards are working.

I recognize that there is a consumer preference for cotton children's sleepwear garments especially in infant sizes, and that the Commission staff has encountered difficulty in enforcing the sleepwear standards because of this consumer preference. I have taken this into account in reaching my decision. I understand and am sympathetic to these concerns.

I do not disagree with the staff's conclusion that tight-fitting cotton garments present less of a hazard than loose-fitting cotton garments. I am skeptical, however, of the staff's conclusion that if the standard is amended, parents will switch from loose-fitting cotton garments (e.g. t-shirts) to exempt tight-fitting sleepwear. There is no factual evidence of consumer demand for tight-fitting sleepwear. There is no factual evidence that consumers would switch from loose-fitting noncomplying garments to exempted tight-fitting garments. It is at least as likely that the purchase of tight-fitting garments will be at the expense of garments that meet the children's sleepwear flammability standards. If so, the level of safety afforded children may well be reduced. Further, even if skin tight garments could reduce burn injuries, I am concerned that it is not practical to think that consumers will actually sleep in them. We may well find that consumers purchase tight-fitting garments in larger sizes to increase comfort, thereby obviating any safety benefit staff has indicated might be achieved with tight-fitting garments.

Regarding the proposed exemption for sleepwear for infants less than six months of age, existing evidence shows that infants at this tender age are exposed to ignition sources. The exemption would cover at least 20% of sleepwear garments in sizes 0-14. I am unable to agree to an exemption that could leave these infants more vulnerable to injury or death.

U.S. CONSUMER  
PRODUCT SAFETY COMMISSION,  
Washington, DC, April 10, 1998.

Hon. ROSA DELAURO,  
U.S. House of Representatives, Washington, DC.  
DEAR CONGRESSWOMAN DELAURO: Thank you for your letter opposing the change in the CPSC's children's sleepwear standard. I appreciate your kind words about my opposition to the change. As you know, I share your views. I continue to be concerned that parents will not switch from loose fitting garments to tight fitting sleepwear. I also am unable to agree with the nine month exemption that could leave infants more vulnerable to injury.

In these circumstances, it appears the only remedy is legislative action to restore the previous rule. If you decide to introduce a bill to achieve that result, my staff and I would be pleased and honored to assist you in drafting an appropriate bill.

Sincerely,

ANN BROWN.

[From the Fort Worth Star-Telegram, Jul. 27, 1998]

SO NOW WE'RE BACK TO FLAMMABLE  
PAJAMAS?

(By Molly Ivins)

AUSTIN—Keeping your eye on the shell with the pea under it seems to get harder and harder. While the media are focused on the thrilling antics of Monica, Ken Starr and Co., there are just a few other itty-bitty items that you might want to pay some attention to. Your babies, for example. Congress is now engaged in a quiet donnybrook over whether to keep the old flammability standards for children's pajamas. Thought that one was over, did you? Thought that after the consumer movement forced pajama manufacturers to make kids' PJs from flame-resistant material back in 1972—and after the number of children burned to death every year from having their PJs catch on fire decreased tenfold—that no one was ever going to question whether that was a good idea again.

Wrong. Consumer protection is so politically incorrect these days that Congress won't even listen to groups representing firefighters and trauma care providers on this issue, much less consumer advocates.

The Consumer Product Safety Commission revised its flammability standards for sleepwear in 1996, in theory because parents were letting their kids sleep in oversize cotton T-shirts, which are comfortable but highly flammable. According to "The Washington Post," from 200 to 300 kids a year are treated in emergency rooms for burns related to billowy sleepwear. Under the new standards, snug-fitting garments such as long underwear can be sold as sleepwear, and pajamas for infants younger than 9 months need not be flame-resistant.

Rep. Rosa DeLauro, D-Conn., introduced a bill in May to reinstate the earlier standards and then tried to tack it onto the VA-HUD bill as an amendment in June. Cotton lobbyists learned of the move and started lobbying Republicans—including Reps. Henry Bonilla, Larry Combest and Mac Thornberry, all of Texas.

Bonilla will move to strike DeLauro's amendment today. He told "The Washington Post" last week, "I don't have a huge cotton constituency in my district, but my state does," and added that the Texas drought has already taken a toll on cotton farmers. "They came to me and explained this would place severe restrictions on what they could produce."

Excuse me—did I just hear someone say we should bail out the cotton farmers by letting more little kids get burned to death every

year? Did anyone think to ask the cotton farmers whether they approve of this move? Because I seriously doubt that they do.

DeLauro said, "It is just mind-boggling to me that we would allow special interests to influence this legislation." However, according to Bonilla's press secretary this week, his main motive here is procedural: DeLauro's bill never got a hearing, and here she is trying to tack it onto an unrelated bill.

I find this objection breathtaking—using the amendment-on-an-unrelated-bill maneuver has been a specialty of Republicans in this Congress. As previously reported, they have used unrelated bills to pass amendments damaging the environment, fouling up the Department of Interior's efforts to get a fair royalty from the oil companies (the Kay Bailey Hutchison special) and innumerable other horrors.

(The "St. Louis Post-Dispatch" recently editorialized: "Republicans are sneakily trying to chisel away at environmental protections. . . . they are using the legislative rider to slip through anti-environmental bills that would wilt under the glare of public scrutiny. . . . This summer the riders have multiplied like E. coli.")

In fact, I'd bet good money that the Republicans have done more actual legislation by the sneaky amendment-and-rider method than they have passed actual legislation (an easy bet, given their remarkable non-performance in general). Boy oh boy, if that's now an objection on procedural grounds, these R's will never get anything passed.

We could go on and on with these examples, but let's take a look at the broader perspective instead.

There are two things we can do about corporate misbehavior in this society: We can have the government regulate corporations for health, safety and environmental damage, or we can let people who have been damaged by corporations haul them into court and sue the b-----. What is happening is that both avenues of control are being squeezed out of existence. "Regulation" is a dirty word to the Republicans, and at the same time they are restricting the right of citizens to sue in every way they possibly can.

According to a study by the Violence Policy Center, the latest effort was a bill placing wide-ranging limits on product liability lawsuits against "small business." You may think that "small business" means the mom-and-pop candy stores. Nah. Specially included as a "small favor" in "small business" are, among others, manufacturers of Saturday-night-specials, the AK-47, the TEC-9 and the Street Sweeper. Cut, eh?

Look, friends, this is all fairly simple. Corporate money dominates politics, and the politicians dance with them what brung 'em. Until we force politicians to change the way campaigns are financed, rule by corporate money will continue. And while we're on the subject, please notice that corporations have put millions and millions and millions of dollars into the campaign to convince us that lawsuits against do-baddding corporations are rotten, unfair and nasty. Welcome back to flammable pajamas.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. COMBEST, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4194) making appropriations for

the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 501, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. COBURN. Mr. Chairman, I demand a separate vote on the so-called Coburn amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment:

At the end of the bill, insert after the last section (preceding the short title) the following new sections:

SEC. \_\_\_\_\_. The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the Mutual Mortgage Insurance guarantee and direct loan program, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by \$199,999,999.

SEC. \_\_\_\_\_. The amounts otherwise provided by this Act are revised by reducing the amount made available under the heading "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—FEDERAL HOUSING ADMINISTRATION—FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT" for non-overhead administrative expenses necessary to carry out the guaranteed and direct loan programs, and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—VETERANS HEALTH ADMINISTRATION—MEDICAL CARE", by \$103,999,999.

Mr. COBURN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PARLIAMENTARY INQUIRIES

Mr. LEWIS of California. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LEWIS of California. Mr. Speaker, to clarify for the House, is this the amendment that will transfer administrative funds for FHA's program that are in the HUD provisions and move those moneys to veterans programs?

The SPEAKER pro tempore. Would the gentleman like the amendment read?

The reading of the amendment was suspended by unanimous consent and would the gentleman demand a reading of the gentleman from Oklahoma's amendment?

Mr. LEWIS of California. Mr. Chairman, I believe my question was clear.

Mr. WAXMAN. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WAXMAN. My inquiry is whether it is timely to ask for another separate vote in the House of an amendment adopted in committee.

The SPEAKER pro tempore. The House has proceeded past that opportunity when the Chair inquired earlier.

The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COBURN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 351, noes 73, not voting 10, as follows:

[Roll No. 350]

AYES—351

Abercrombie	Clyburn	Gallegly
Ackerman	Coble	Ganske
Aderholt	Coburn	Gejdenson
Allen	Collins	Gekas
Andrews	Combust	Gephardt
Archer	Condit	Gibbons
Army	Cook	Gillmor
Bachus	Cooksey	Gilman
Baesler	Costello	Goode
Baker	Cox	Goodlatte
Baldacci	Coyne	Goodling
Ballenger	Cramer	Gordon
Barcia	Crane	Goss
Barr	Crapo	Graham
Barrett (NE)	Cubin	Granger
Barrett (WI)	Cunningham	Greenwood
Bartlett	Danner	Gutknecht
Barton	Davis (FL)	Hall (OH)
Bass	Davis (IL)	Hall (TX)
Bateman	Davis (VA)	Hamilton
Bereuter	Deal	Hansen
Berry	DeFazio	Hastert
Bilbray	DeLauro	Hastings (WA)
Bilirakis	DeLay	Hayworth
Bishop	Dickey	Hefley
Bliley	Dicks	Hefner
Blunt	Dingell	Herger
Boehlert	Dooley	Hill
Bonilla	Doolittle	Hilleary
Bono	Doyle	Hilliard
Borski	Dreier	Hinchev
Boswell	Duncan	Hinojosa
Boucher	Dunn	Hobson
Boyd	Edwards	Hoekstra
Brady (PA)	Ehlers	Holden
Brady (TX)	Ehrlich	Hooley
Brown (FL)	Emerson	Horn
Brown (OH)	Engel	Hostettler
Bryant	English	Houghton
Bunning	Ensign	Hulshof
Burr	Eshoo	Hunter
Buyer	Etheridge	Hutchinson
Callahan	Evans	Hyde
Calvert	Everett	Inglis
Camp	Ewing	Istook
Campbell	Farr	Jackson-Lee
Canady	Fattah	(TX)
Cannon	Filner	Jefferson
Capps	Foley	Jenkins
Cardin	Forbes	John
Carson	Ford	Johnson (CT)
Castle	Fossella	Johnson (WI)
Chabot	Fowler	Johnson, E. B.
Chambliss	Fox	Johnson, Sam
Chenoweth	Franks (NJ)	Jones
Christensen	Frelinghuysen	Kanjorski
Clement	Frost	Kasich

Kelly	Nussle	Shays
Kennelly	Ortiz	Shimkus
Kildee	Oxley	Shuster
Kim	Packard	Sisisky
Kind (WI)	Pallone	Skeen
King (NY)	Pappas	Skelton
Kingston	Parker	Slaughter
Klecicka	Pascrell	Smith (MI)
Klink	Pastor	Smith (NJ)
Klug	Paul	Smith (OR)
LaHood	Paxon	Smith (TX)
Lampson	Pease	Smith, Adam
Lantos	Peterson (MN)	Smith, Linda
Largent	Peterson (PA)	Snowbarger
Latham	Petri	Snyder
LaTourette	Pickering	Solomon
Leach	Pickett	Souder
Levin	Pitts	Spence
Lewis (GA)	Pombo	Spratt
Lewis (KY)	Pomeroy	Stabenow
Linder	Porter	Stearns
Lipinski	Portman	Stenholm
LoBiondo	Poshard	Strickland
Lowe	Price (NC)	Stump
Lucas	Pryce (OH)	Stupak
Maloney (CT)	Quinn	Sununu
Maloney (NY)	Radanovich	Talent
Manton	Rahall	Tanner
Manzullo	Ramstad	Tauscher
Mascara	Redmond	Tauzin
Matsui	Regula	Taylor (MS)
McCarthy (MO)	Reyes	Taylor (NC)
McCarthy (NY)	Riggs	Thomas
McCollum	Riley	Thompson
McCrery	Rivers	Thornberry
McGovern	Rodriguez	Thune
McHale	Roemer	Thurman
McHugh	Rogan	Tiahrt
McInnis	Rogers	Towns
McIntosh	Rohrabacher	Trafficant
McIntyre	Ros-Lehtinen	Turner
McKeon	Rothman	Upton
McKinney	Roukema	Visclosky
McNulty	Royce	Walsh
Menendez	Ryun	Wamp
Metcalf	Salmon	Watkins
Mica	Sanchez	Watts (OK)
Millender-	Sanders	Weldon (FL)
McDonald	Sandlin	Weldon (PA)
Miller (FL)	Sanford	Weller
Minge	Sawyer	Wexler
Mink	Saxton	Weygand
Moran (KS)	Scarborough	White
Morella	Schaefer, Dan	Whitfield
Murtha	Schaffer, Bob	Wicker
Myrick	Schumer	Wilson
Nethercutt	Sensenbrenner	Wise
Neumann	Serrano	Wolf
Ney	Sessions	Wynn
Northup	Shadegg	Young (AK)
Norwood	Shaw	

NOES—73

Becerra	Jackson (IL)	Neal
Bentsen	Kaptur	Oberstar
Berman	Kennedy (MA)	Olver
Blagojevich	Kennedy (RI)	Owens
Blumenauer	Kilpatrick	Payne
Bonior	Knollenberg	Pelosi
Brown (CA)	Kolbe	Rangel
Clayton	Kucinich	Roybal-Allard
Conyers	LaFalce	Rush
Cummings	Lazio	Sabo
DeGette	Lee	Scott
Delahunt	Lewis (CA)	Sherman
Deutsch	Livingston	Skaggs
Diaz-Balart	Lofgren	Stark
Dixon	Luther	Stokes
Doggett	Markey	Tierney
Fawell	Martinez	Torres
Fazio	McDade	Velazquez
Frank (MA)	McDermott	Vento
Furse	Meeke (FL)	Waters
Gilchrest	Meeks (NY)	Watt (NC)
Green	Miller (CA)	Waxman
Gutierrez	Mollohan	Woolsey
Hastings (FL)	Moran (VA)	
Hoyer	Nadler	

NOT VOTING—10

Boehner	Harman	Yates
Burton	Meehan	Young (FL)
Clay	Moakley	
Gonzalez	Obey	

□ 2036

Mr. DOGGETT changed his vote from "aye" to "no."

Mr. SHAYS and Mr. ABERCROMBIE changed their vote from "no" to "aye." So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the engrossment and a third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. I certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the bill, H.R. 4194, to the Committee on Appropriations with instructions to report the same back to the House with an amendment as follows:

On page 55, line 7, strike the sentence beginning on line 7, and strike section 425.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes in support of his motion.

Mr. OBEY. Mr. Speaker, the rule under which this bill was considered contains a self-executing provision, the effect of which was to delay from anywhere between 2 and 5 years the Consumer Product Safety Commission's adoption of a rule protecting consumers from flammable furniture. Because of the way that rule was adopted, Members were precluded from offering any amendments to that provision.

The proponents of that provision will say that all this provision does is to allow for more study and to get more science before the Commission proceeds. In fact, in my view, the real purpose of this provision is to stall and stall and stall some more, in hopes that eventually they will get a commission with a different makeup so that the rule will never proceed at all. Mr. Speaker, this is part of a pattern. What has been happening is that law firms around this town have been hired by clients. Those clients are hired to prevent action by the government to prevent consumers or workers from being protected by new actions of the government.

So whether it is children's pajamas or whether it is OSHA being precluded from offering a new rule to stop the development of carpal tunnel syndrome by millions of workers or whether it is consumers continuing to die because of flammable furniture, those law firms find friendly voices in Congress who will carry out their wishes and we wind up with language like this in the bill.

I think the issue is very simple in this case. More deaths occur in this country from upholstered furniture than from any other product under the Consumer Product Safety Commission jurisdiction.

So the vote is very simple. If Members want to vote to save lives, Members will vote for this amendment to allow the Commission to proceed to develop rules that will protect the public from flammable furniture. If Members want to let yet another industry continue to expose consumers to life-threatening products, then Members will vote against the amendment. It is as simple as that.

I would urge an aye vote on the motion to recommit.

Mr. LEWIS of California. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I strongly urge my colleagues to oppose this procedural motion.

Mr. Speaker, I yield to my colleague, the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I thank my chairman for yielding. I thank him for a good bill.

Mr. Speaker, I urge support of the bill and certainly urge defeat of the Obey motion to recommit with instructions.

In the 1970s, the Consumer Product Safety Commission issued a regulation concerning children's sleepwear, and in this 1970s regulation, the CPSC required that baby's sleepwear be coated with a chemical known as tris, T-R-I-S. Thereafter, the regulation went out and all of the baby sleepwear in America was coated with this chemical.

It turns out that this chemical caused cancer. It was a pesticide. It had to be recalled at enormous expense to the American people, at enormous danger to American consumers, and it continues to be a black mark on the history of the Consumer Product Safety Commission.

This is what then Congressman AL GORE had to say about the tris disaster with the Consumer Product Safety Commission: Quote, "The magnitude of this nightmare is difficult to fathom. Here we take all of the sleepwear for children of this country and soak it in what is basically a pesticide, a mutagenic, and then we wrap up American children in these garments." I unquote then Congressman AL GORE.

Now, Mr. Speaker, if you believe this is the only mistake that the Consumer Product Safety Commission will ever make, then perhaps you need to vote for the motion to recommit by my friend from Wisconsin.

□ 2045

If my colleagues believe that Federal regulatory agencies are always right and never make a mistake and never need an outside scientist looking at what they propose, then maybe my colleagues should vote for the motion of the gentleman from Wisconsin (Mr. OBEY).

What are we talking about here? We are talking about a proposed regulation by the Consumer Product Safety Commission that says every bit of upholstered furniture in the United

States of America will be coated with flame-retardant chemicals. My colleagues might ask, what is wrong with this? Let us just coat furniture with a flame-retardant chemical.

Well, here is the problem. EPA, our own Federal Government, says that these chemicals are harmful. Let me just list three of them, if I can pronounce them:

Decabromodiphenyl oxide. EPA says it is a class C carcinogen. It causes cancer.

Ammonium nitrate. Do my colleagues know what EPA says about this flame retardant chemical that would go on furniture? It says it causes adverse affects across whole ecosystems.

Antimony trioxide, a B2 carcinogen. It causes tumors.

That is what the Consumer Product Safety Commission is proposing that we put on furniture in the United States of America.

Now, if it does not bother my colleagues to have thousands and tens of thousands of Americans exposed to what the EPA says is a toxic chemical, then maybe my colleagues should vote for this motion.

Mr. Speaker, I think the scientists raise serious questions. We are all for saving lives. Every Member of this Congress wants to prevent fire-related deaths, and we have done that working through the subcommittee of the gentleman from California (Mr. LEWIS) and working with voluntary and mandatory programs with industries. But we need to ask ourselves the question: Are we preventing one kind of harm while allowing all sorts of other dangers to come about?

How do we resolve questions like this? We do not make the decisions ourselves. We are elected officials. We turn it over to science. And in this Federal Government, we have procedures for reasonable scientific peer review; and, despite the hyperbole, that is exactly what this well-crafted bill and well-crafted compromise by the gentleman from California (Mr. LEWIS) does. It turns the issue over to scientists within the Consumer Product Safety Commission. It turns it over to scientists within the National Institutes of Health, an agency that we are plussing up the funding for.

So I say when my colleagues vote in just a moment, vote against taking unwarranted risks with American industrial workers and consumers. Vote for sound science. Vote for the bill and against the Obey motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair will reduce to 5 minutes the minimum time for an electronic vote on final passage.

The vote was taken by electronic device, and there were—ayes 164, noes 261, not voting 9, as follows:

[Roll No. 351]

AYES—164

Abercrombie	Hastings (FL)	Nadler
Ackerman	Hilliard	Neumann
Allen	Hinchey	Oberstar
Andrews	Holden	Obey
Baldacci	Hoolley	Olver
Barcia	Hoyer	Owens
Barrett (WI)	Jackson (IL)	Pallone
Becerra	Jackson-Lee	Pascrell
Bentsen	(TX)	Pastor
Berman	Jefferson	Payne
Blagojevich	Johnson (WI)	Pelosi
Blumenauer	Johnson, E. B.	Pomeroy
Boniior	Kanjorski	Poshard
Borski	Kaptur	Rangel
Brady (PA)	Kennedy (MA)	Rivers
Brown (CA)	Kennedy (RI)	Rodriguez
Brown (FL)	Kennelly	Roemer
Brown (OH)	Kildee	Rothman
Capps	Kilpatrick	Roybal-Allard
Cardin	Kleczka	Rush
Carson	Klink	Sabo
Clay	Kucinich	Sanchez
Clement	LaFalce	Sanders
Conyers	Lampson	Sawyer
Costello	Lantos	Schumer
Coyne	Lee	Scott
Cummings	Levin	Serrano
Davis (FL)	Lewis (GA)	Sherman
Davis (IL)	Lipinski	Skaggs
DeFazio	Lofgren	Skelton
DeGette	Lowey	Slaughter
Delahunt	Luther	Smith, Adam
DeLauro	Maloney (CT)	Snyder
Deutsch	Maloney (NY)	Stabenow
Dicks	Manton	Stark
Dixon	Markey	Stokes
Doggett	Mascara	Strickland
Doyle	Matsui	Stupak
Edwards	McCarthy (MO)	Tauscher
Engel	McCarthy (NY)	Thurman
Eshoo	McDermott	Tierney
Evans	McGovern	Towns
Farr	McHale	Velazquez
Fattah	McKinney	Vento
Fazio	McNulty	Visclosky
Filner	Meehan	Waters
Ford	Meek (FL)	Waxman
Frost	Meeks (NY)	Weldon (PA)
Furse	Menendez	Wexler
Gejdenson	Millender-	Weyland
Gephardt	McDonald	Wise
Gordon	Miller (CA)	Wolf
Green	Mink	Woolsey
Gutierrez	Moran (VA)	Wynn
Hall (OH)	Morella	
Hamilton	Murtha	

NOES—261

Aderholt	Boyd	Cooksey
Archer	Brady (TX)	Cox
Armey	Bryant	Cramer
Bachus	Bunning	Crane
Baesler	Burr	Crapo
Baker	Burton	Cubin
Ballenger	Buyer	Cunningham
Barr	Callahan	Danner
Barrett (NE)	Calvert	Davis (VA)
Bartlett	Camp	Deal
Barton	Campbell	DeLay
Bass	Canady	Diaz-Balart
Bateman	Cannon	Dickey
Bereuter	Castle	Dingell
Berry	Chabot	Dooley
Bilbray	Chambless	Doolittle
Bilirakis	Chenoweth	Dreier
Bishop	Christensen	Duncan
Bliley	Clayton	Dunn
Blunt	Clyburn	Ehlers
Boehlert	Coble	Ehrlich
Boehner	Coburn	Emerson
Bonilla	Collins	English
Bono	Combest	Ensign
Boswell	Condit	Etheridge
Boucher	Cook	Everett

Ewing	Largent	Rogan	Boswell	Hansen	Pickering	Hastings (FL)	McCarthy (MO)	Rush
Fawell	Latham	Rogers	Boucher	Hastert	Pickett	Herger	McCarthy (NY)	Salmon
Foley	LaTourrette	Rohrabacher	Boyd	Hastings (WA)	Pitts	Hilliard	McDermott	Sanchez
Forbes	Lazio	Ros-Lehtinen	Brady (TX)	Hayworth	Pombo	Hinchey	McGovern	Sanders
Fossella	Leach	Roukema	Brown (CA)	Hefley	Porter	Hoekstra	McHale	Sanford
Fowler	Lewis (CA)	Royce	Brown (FL)	Hefner	Portman	Holden	McKinney	Sawyer
Fox	Lewis (KY)	Ryun	Bryant	Hill	Price (NC)	Hooley	McNulty	Schaffer, Bob
Franks (NJ)	Linder	Salmon	Bunning	Hilleary	Pryce (OH)	Hostettler	Meehan	Schumer
Frelinghuysen	Livingston	Sandlin	Burr	Hinojosa	Quinn	Hoyer	Meeks (NY)	Sensenbrenner
Galleghy	LoBiondo	Sanford	Burton	Hobson	Radanovich	Jackson (IL)	Menendez	Serrano
Ganske	Lucas	Saxton	Buyer	Horn	Rahall	Jackson-Lee	Millender-	Sherman
Gekas	Manzullo	Scarborough	Callahan	Houghton	Ramstad	(TX)	McDonald	Sisisky
Gibbons	Martinez	Schaefer, Dan	Calvert	Hulshof	Redmond	Jefferson	Miller (CA)	Skaggs
Gilchrist	McCullum	Schaffer, Bob	Camp	Hunter	Regula	Johnson (WI)	Minge	Skelton
Gillmor	McCrery	Sensenbrenner	Campbell	Hutchinson	Reyes	Johnson, E.B.	Mink	Slaughter
Gilman	McDade	Sessions	Canady	Hyde	Riggs	Kanjorski	Morella	Smith, Adam
Goode	McHugh	Shadegg	Cannon	Inglis	Riley	Kennedy (MA)	Nadler	Smith, Linda
Goodlatte	McInnis	Shaw	Castle	Istook	Rogan	Kennedy (RI)	Oberstar	Snyder
Goodling	McIntosh	Shays	Chabot	Jenkins	Rogers	Kennelly	Obey	Stabenow
Goss	McIntyre	Shimkus	Christensen	John	Rohrabacher	Kildee	Olver	Stark
Graham	McKeon	Sisisky	Clayton	Johnson (CT)	Ros-Lehtinen	Kilpatrick	Owens	Strickland
Granger	Metcalf	Skeen	Clement	Johnson, Sam	Roukema	Kind (WI)	Pallone	Stupak
Greenwood	Mica	Smith (MI)	Coble	Jones	Ryun	Klecza	Pascrell	Tauscher
Gutknecht	Miller (FL)	Smith (NJ)	Coburn	Kaptur	Sabo	Klink	Pastor	Tierney
Hall (TX)	Minge	Smith (OR)	Collins	Kasich	Sandlin	Klug	Paul	Torres
Hansen	Mollohan	Smith (TX)	Combust	Kelly	Saxton	Kucinich	Payne	Towns
Hastert	Moran (KS)	Smith, Linda	Cook	Kim	Scarborough	LaFalce	Pelosi	Velazquez
Hastings (WA)	Myrick	Snowbarger	Cooksey	King (NY)	Schaefer, Dan	Lantos	Peterson (MN)	Vento
Hayworth	Solomon	Kingston	Cramer	Kingston	Scott	Lee	Petri	Visclosky
Hefley	Ney	Knollenberg	Crapo	Knollenberg	Sessions	Levin	Pomeroy	Waters
Hefner	Northup	Kolbe	Cubin	LaHood	Shadegg	Lewis (GA)	Poshard	Watt (NC)
Herger	Norwood	LaHood	Cunningham	Lampson	Shaw	Lofgren	Rangel	Waxman
Hill	Nussle	Danner	Dann	Lampson	Shays	Lowe	Rivers	Wexler
Hilleary	Ortiz	Davis (VA)	Davis (VA)	Largent	Shimkus	Luther	Rodriguez	Weygand
Hinojosa	Oxley	Deal	Deal	Latham	Shuster	Maloney (CT)	Roemer	Woolsey
Hobson	Packard	DeLay	DeLay	LaTourrette	Skeen	Maloney (NY)	Rothman	Wynn
Hoekstra	Pappas	Diaz-Balart	Diaz-Balart	Lazio	Smith (MI)	Manton	Roybal-Allard	
Horn	Parker	Dickey	Dickey	Leach	Smith (NJ)	Markey	Royce	
Hostettler	Paul	Dicks	Dicks	Lewis (CA)	Smith (OR)			
Houghton	Paxon	Dixon	Dixon	Lewis (KY)	Smith (TX)			
Hulshof	Pease	Doolley	Doolley	Linder	Snowbarger			
Hunter	Peterson (MN)	Doolittle	Doolittle	Lipinski	Solomon			
Hutchinson	Peterson (PA)	Doyle	Doyle	Livingston	Souder			
Hyde	Petri	Dreier	Dreier	LoBiondo	Spence			
Inglis	Pickering	Dunn	Dunn	Lucas	Spratt			
Istook	Pickett	Ehlers	Ehlers	Manzullo	Stearns			
Jenkins	Pitts	Ehrlich	Ehrlich	Martinez	Stenholm			
John	Pombo	Emerson	Emerson	Mascara	Stokes			
Johnson (CT)	Porter	Ensign	Ensign	Matsui	Stump			
Johnson, Sam	Portman	Etheridge	Etheridge	McCollum	Sununu			
Jones	Price (NC)	Evans	Evans	McCrery	Talent			
Kasich	Pryce (OH)	Everett	Everett	McHugh	Tanner			
Kelly	Quinn	Watt (NC)	Watt (NC)	McInnis	Tauzin			
Kim	Radanovich	Watts (OK)	Watts (OK)	McIntosh	Taylor (MS)			
Kind (WI)	Rahall	Foley	Foley	McIntyre	Taylor (NC)			
King (NY)	Ramstad	Forbes	Forbes	McKeon	Thomas			
Kingston	Redmond	Ford	Ford	Meek (FL)	Thompson			
Klug	Regula	Fossella	Fossella	Metcalf	Thornberry			
Knollenberg	Reyes	Fowler	Fowler	Mica	Thune			
Kolbe	Riggs	Fox	Fox	Miller (FL)	Thurman			
LaHood	Riley	Franks (NJ)	Franks (NJ)	Mollohan	Tiahrt			
		Frelinghuysen	Frelinghuysen	Moran (KS)	Traficant			
		Galleghy	Galleghy	Moran (VA)	Turner			
		Ganske	Ganske	Murtha	Upton			
		Gekas	Gekas	Myrick	Walsh			
		Gibbons	Gibbons	Nethercutt	Wamp			
		Gilchrist	Gilchrist	Neumann	Watkins			
		Gillmor	Gillmor	Ney	Watts (OK)			
		Gilman	Gilman	Northup	Weldon (FL)			
		Goode	Goode	Norwood	Weller			
		Goodlatte	Goodlatte	Nussle	White			
		Goodling	Goodling	Ortiz	Whitfield			
		Goss	Goss	Oxley	Wicker			
		Graham	Graham	Packard	Wilson			
		Granger	Granger	Pappas	Wise			
		Greenwood	Greenwood	Parker	Wolf			
		Gutknecht	Gutknecht	Paxon	Young (AK)			
		Hall (OH)	Hall (OH)	Pease				
		Hall (TX)	Hall (TX)	Peterson (PA)				

## NOT VOTING—9

Frank (MA) Moakley Torres  
Gonzalez Neal Yates  
Harman Shuster Young (FL)

## □ 2104

Mr. WELDON of Pennsylvania changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This is a five-minute vote.

The vote was taken by electronic device, and there were—yeas 259, nays 164, not voting 11, as follows:

[Roll No. 352]

## YEAS—259

Abercrombie	Barr	Bilirakis
Aderholt	Barrett (NE)	Bishop
Archer	Bartlett	Bliley
Armey	Barton	Blunt
Bachus	Bass	Boehler
Baesler	Bateman	Boehner
Baker	Bereuter	Bonilla
Ballenger	Bilbray	Bono

Ackerman	Carson	Dingell
Allen	Chenoweth	Doggett
Andrews	Clay	Duncan
Baldacci	Clyburn	Edwards
Barcia	Condit	Engel
Barrett (WI)	Conyers	English
Becerra	Costello	Eshoo
Bentsen	Cox	Farr
Berman	Coyne	Fattah
Berry	Crane	Fazio
Blagojevich	Cummings	Filner
Blumenauer	Davis (FL)	Frost
Bonior	Davis (IL)	Furse
Borski	DeFazio	Gejdenson
Brady (PA)	DeGette	Gephardt
Brown (OH)	Delahunt	Green
Capps	DeLauro	Gutierrez
Cardin	Deutsch	Hamilton

## NAYS—164

Chambliss	Harman	Weldon (PA)
Frank (MA)	McDade	Yates
Gonzalez	Moakley	Young (FL)
Gordon	Neal	

## □ 2113

Mr. Costello and Mr. Herger changed their vote from "yea" to "nay."

Mr. Mascara changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## □ 2115

## PERSONAL EXPLANATION

Mr. ETHERIDGE. Mr. Speaker, earlier today, during the consideration of rollcall votes 343 and 344, I was unavoidably detained. Had I been present, I would have voted "yes" on each vote.

## PERSONAL EXPLANATION

Ms. GRANGER. Mr. Speaker, I was unavoidably detained during the rollcall vote on the adoption of the conference report on H.R. 629, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act earlier today. If I had been present, I would have voted "aye."

## PERSONAL EXPLANATION

Mr. SHUSTER. Mr. Speaker, I was in the Chamber when the previous vote occurred, and I regret that I was not recognized. Thank you for recognizing me now.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3396

Mr. MORAN of Virginia. Mr. Speaker, I ask unanimous consent that my

name be removed as cosponsor of H.R. 3396.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

**REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2801**

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that the gentlewoman from Michigan (Ms. STABENOW) be removed as a cosponsor of H.R. 2801.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

**REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 375**

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that I may be removed as a cosponsor of H. Res. 375.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

**REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3000**

Mr. FORD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

**MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999**

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report accompanying the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

**REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3396 and H.R. 1515**

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor from H.R. 3396 and H.R. 1515.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

**CONGRESSIONAL GOLD MEDAL TO GERALD R. AND BETTY FORD**

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Financial Services be discharged from further consideration of the bill (H.R. 3506) to award a congressional gold medal to Gerald R. and Betty Ford, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

Mr. LAFALCE. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the gentleman from Delaware (Mr. CASTLE) for an explanation of the bill.

Mr. CASTLE. Mr. Speaker, under the gentleman's reservation in response, let me state that H.R. 3506 was introduced by the gentleman from Michigan (Mr. EHLERS) and cosponsored by 296 Members. It authorizes President Clinton to present to Gerald R. and Betty Ford a gold medal on behalf of Congress and in recognition of their dedicated public service and outstanding humanitarian contributions to the people of the United States, and to commemorate the 85th anniversary of the birth of President Ford, the 80th anniversary of the birth of Mrs. Ford, the 50th anniversary of the first election of Gerald R. Ford to the House of Representatives, and their 50th wedding anniversary.

The bill authorizes appropriation of up to \$20,000 to cover the cost of providing the medal. The actual amount spent for the medal is recouped by the Mint through the sale of authentic bronze reproductions of the medal.

Mr. LAFALCE. Mr. Speaker, reclaiming my time, as a proud cosponsor of the resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3506

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to Gerald R. and Betty Ford a gold medal of appropriate design—

(1) in recognition of their dedicated public service and outstanding humanitarian contributions to the people of the United States; and

(2) in commemoration of the following occasions in 1998:

(A) The 85th anniversary of the birth of President Ford.

(B) The 80th anniversary of the birth of Mrs. Ford.

(C) The 50th wedding anniversary of President and Mrs. Ford.

(D) The 50th anniversary of the 1st election of Gerald R. Ford to the United States House of Representatives.

(E) The 25th anniversary of the approval of Gerald R. Ford by the Congress to become Vice President of the United States.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated not to exceed \$20,000 to carry out this section.

**SEC. 2. DUPLICATE MEDALS.**

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 1 shall be reimbursed out of the proceeds of sales under subsection (a).

**SEC. 3. NATIONAL MEDALS.**

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

**GENERAL LEAVE**

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3506, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

**GENERAL LEAVE**

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 4059, and that I may include tabular and extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

**CONFERENCE REPORT ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999**

Mr. PACKARD. Mr. Speaker, pursuant to the order of the House of today, I call up the conference report on the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered read.

(For conference report and statement, see proceedings of the House of July 24, 1998 at page H6427.)

The SPEAKER pro tempore. The gentleman from California (Mr. PACKARD) and the gentleman from North Carolina (Mr. HEFNER) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. PACKARD).

Mr. PACKARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would advise the Members of the House that we do not expect this to take more than just a few moments.

Less than a month ago, we voted on the floor of the House on this bill, H.R. 4059, and it passed 396 to 10. No controversy came out of the conference. It was a very amicable and successful conference.

Mr. Speaker, this conference report calls for an 8 percent decrease in fund-

ing from last year's appropriated level. It was a successful conference. We came to an agreeable compromise between the Senate version of the bill and the House version.

Mr. Speaker, I simply want to thank the members of my subcommittee and the staff that has helped craft this conference report.

Mr. Speaker, I submit the following for inclusion in the RECORD:

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1999 (H.R. 4059)

	FY 1998 Enacted	FY 1999 Estimate	House	Senate	Conference	Conference compared with enacted
Military construction, Army.....	714,377,000	790,876,000	780,599,000	810,476,000	868,728,000	+ 154,349,000
Military construction, Navy.....	683,866,000	468,150,000	570,643,000	565,030,000	604,593,000	-79,073,000
Military construction, Air Force.....	701,855,000	454,810,000	550,475,000	627,874,000	615,809,000	-86,046,000
Military construction, Defense-wide.....	646,342,000	491,675,000	611,075,000	560,485,000	553,114,000	-93,228,000
<b>Total, Active components.....</b>	<b>2,746,240,000</b>	<b>2,205,511,000</b>	<b>2,512,782,000</b>	<b>2,563,865,000</b>	<b>2,642,242,000</b>	<b>-103,998,000</b>
Department of Defense Military Unaccompanied Housing Improvement Fund: Rescission (FY 1997, P.L. 104-196).....					-5,000,000	-5,000,000
Military construction, Army National Guard.....	118,350,000	47,675,000	70,338,000	137,315,000	142,403,000	+ 24,053,000
Emergency appropriations (P.L. 105-174).....	3,700,000					-3,700,000
Military construction, Air National Guard.....	190,444,000	34,761,000	97,701,000	163,161,000	169,801,000	-20,643,000
Military construction, Army Reserve.....	74,167,000	71,287,000	71,894,000	101,633,000	102,119,000	+ 27,952,000
Military construction, Naval Reserve.....	47,329,000	15,271,000	33,721,000	21,621,000	31,621,000	-15,708,000
Military construction, Air Force Reserve.....	30,243,000	10,535,000	35,371,000	22,835,000	34,371,000	+ 4,128,000
<b>Total, Reserve components.....</b>	<b>464,233,000</b>	<b>179,529,000</b>	<b>309,025,000</b>	<b>446,585,000</b>	<b>480,315,000</b>	<b>+ 16,082,000</b>
<b>Total, Military construction.....</b>	<b>3,210,473,000</b>	<b>2,385,040,000</b>	<b>2,821,817,000</b>	<b>3,010,430,000</b>	<b>3,117,557,000</b>	<b>-92,916,000</b>
NATO Security Investment Program.....	152,600,000	185,000,000	169,000,000	152,600,000	155,000,000	+ 2,400,000
Revised economic assumptions.....					-1,000,000	-1,000,000
<b>Total, NATO.....</b>	<b>152,600,000</b>	<b>185,000,000</b>	<b>169,000,000</b>	<b>152,600,000</b>	<b>154,000,000</b>	<b>+ 1,400,000</b>
Family housing, Army:						
New construction.....	101,650,000	70,100,000	41,700,000	70,100,000	83,100,000	-18,550,000
Construction improvements.....	86,100,000	28,629,000	37,429,000	49,679,000	48,479,000	-37,621,000
Planning and design.....	9,550,000	6,350,000	6,350,000	6,350,000	6,350,000	-3,200,000
General reduction.....		-1,639,000	-2,639,000	-1,639,000	-2,639,000	-2,639,000
<b>Subtotal, construction.....</b>	<b>197,300,000</b>	<b>103,440,000</b>	<b>82,840,000</b>	<b>124,490,000</b>	<b>135,290,000</b>	<b>-62,010,000</b>
Operation and maintenance.....	1,140,568,000	1,104,733,000	1,097,697,000	1,104,733,000	1,094,697,000	-45,871,000
<b>Total, Family housing, Army.....</b>	<b>1,337,868,000</b>	<b>1,208,173,000</b>	<b>1,180,537,000</b>	<b>1,229,223,000</b>	<b>1,229,987,000</b>	<b>-107,881,000</b>
Family housing, Navy and Marine Corps:						
New construction.....	175,196,000	59,504,000	29,125,000	59,504,000	59,504,000	-115,692,000
Construction improvements.....	203,536,000	211,991,000	92,037,000	217,791,000	227,791,000	+ 24,255,000
Planning and design.....	15,100,000	15,618,000	15,618,000	15,618,000	15,618,000	+ 518,000
General reduction and revised economic assumptions.....		-6,323,000	-6,323,000	-6,323,000	-7,323,000	-7,323,000
<b>Subtotal, construction.....</b>	<b>393,832,000</b>	<b>280,790,000</b>	<b>130,457,000</b>	<b>286,590,000</b>	<b>295,590,000</b>	<b>-98,242,000</b>
Operation and maintenance.....	976,504,000	915,293,000	915,293,000	915,293,000	912,293,000	-64,211,000
Emergency appropriations (P.L. 105-174).....	18,100,000					-18,100,000
<b>Total, Family housing, Navy and Marine Corps.....</b>	<b>1,388,436,000</b>	<b>1,196,083,000</b>	<b>1,045,750,000</b>	<b>1,201,883,000</b>	<b>1,207,883,000</b>	<b>-180,553,000</b>
Family housing, Air Force:						
New construction.....	159,943,000	140,499,000	124,344,000	179,199,000	176,099,000	+ 16,156,000
Construction improvements.....	123,795,000	81,778,000	81,778,000	123,238,000	104,108,000	-19,687,000
Planning and design.....	11,971,000	11,342,000	11,342,000	11,342,000	11,342,000	-629,000
General reduction and revised economic assumptions.....		-7,584,000	-9,584,000	-11,084,000	-10,584,000	-10,584,000
<b>Subtotal, construction.....</b>	<b>295,709,000</b>	<b>228,035,000</b>	<b>207,880,000</b>	<b>302,695,000</b>	<b>280,965,000</b>	<b>-14,744,000</b>
Operation and maintenance.....	830,234,000	789,995,000	785,204,000	789,995,000	783,204,000	-47,030,000
Emergency appropriations (P.L. 105-174).....	2,400,000					-2,400,000
<b>Total, Family housing, Air Force.....</b>	<b>1,128,343,000</b>	<b>1,016,030,000</b>	<b>993,084,000</b>	<b>1,092,690,000</b>	<b>1,064,169,000</b>	<b>-64,174,000</b>
Family housing, Defense-wide:						
Construction improvements.....	4,900,000	345,000	345,000	345,000	345,000	-4,555,000
Planning and design.....	50,000					-50,000
<b>Subtotal, construction.....</b>	<b>4,950,000</b>	<b>345,000</b>	<b>345,000</b>	<b>345,000</b>	<b>345,000</b>	<b>-4,605,000</b>
Operation and maintenance.....	32,724,000	36,899,000	36,899,000	36,899,000	36,899,000	+ 4,175,000
<b>Total, Family housing, Defense-wide.....</b>	<b>37,674,000</b>	<b>37,244,000</b>	<b>37,244,000</b>	<b>37,244,000</b>	<b>37,244,000</b>	<b>-430,000</b>
Department of Defense Family Housing Improvement Fund.....		7,000,000	242,438,000	7,000,000	2,000,000	+ 2,000,000
Homeowners Assistance Fund, Defense.....		12,800,000	7,500,000	12,800,000		
<b>Total, Family housing.....</b>	<b>3,892,321,000</b>	<b>3,477,330,000</b>	<b>3,506,553,000</b>	<b>3,580,840,000</b>	<b>3,541,283,000</b>	<b>-351,038,000</b>
<b>New construction.....</b>	<b>(436,789,000)</b>	<b>(270,103,000)</b>	<b>(195,169,000)</b>	<b>(308,803,000)</b>	<b>(318,703,000)</b>	<b>(+118,086,000)</b>
<b>Construction improvements.....</b>	<b>(418,331,000)</b>	<b>(322,743,000)</b>	<b>(211,589,000)</b>	<b>(391,053,000)</b>	<b>(380,723,000)</b>	<b>(-37,608,000)</b>
<b>Planning and design.....</b>	<b>(36,671,000)</b>	<b>(33,310,000)</b>	<b>(33,310,000)</b>	<b>(33,310,000)</b>	<b>(33,310,000)</b>	<b>(-3,361,000)</b>
<b>General reduction.....</b>	<b>(2,980,030,000)</b>	<b>(15,546,000)</b>	<b>(18,546,000)</b>	<b>(19,046,000)</b>	<b>(20,546,000)</b>	<b>(-20,546,000)</b>
<b>Operation and maintenance.....</b>	<b>(2,980,030,000)</b>	<b>(2,846,920,000)</b>	<b>(2,835,093,000)</b>	<b>(2,846,920,000)</b>	<b>(2,827,093,000)</b>	<b>(-152,937,000)</b>
<b>Family Housing Improvement Fund.....</b>	<b>(7,000,000)</b>	<b>(7,000,000)</b>	<b>(242,438,000)</b>	<b>(7,000,000)</b>	<b>(2,000,000)</b>	<b>(+ 2,000,000)</b>
<b>Homeowners Assistance Fund.....</b>	<b>(20,500,000)</b>	<b>(12,800,000)</b>	<b>(7,500,000)</b>	<b>(12,800,000)</b>	<b>(12,800,000)</b>	<b>(-20,500,000)</b>
<b>Emergency appropriations (P.L. 105-174).....</b>	<b>(20,500,000)</b>	<b>(20,500,000)</b>	<b>(20,500,000)</b>	<b>(20,500,000)</b>	<b>(20,500,000)</b>	<b>(-20,500,000)</b>

## MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1999 (H.R. 4059)— continued

	FY 1998 Enacted	FY 1999 Estimate	House	Senate	Conference	Conference compared with enacted
<b>Base realignment and closure accounts:</b>						
Part II.....	116,754,000					-116,754,000
Part III.....	768,702,000	433,464,000	433,464,000	433,464,000	427,164,000	-341,538,000
Part IV.....	1,175,398,000	1,297,240,000	1,297,240,000	1,297,240,000	1,203,738,000	+28,340,000
Emergency appropriations (P.L. 105-174).....	1,020,000					-1,020,000
<b>Total, Base realignment and closure accounts.....</b>	<b>2,061,874,000</b>	<b>1,730,704,000</b>	<b>1,730,704,000</b>	<b>1,730,704,000</b>	<b>1,630,902,000</b>	<b>-430,972,000</b>
Family housing, Navy and Marine Corps (FY99 Sec. 125).....		6,000,000	6,000,000	6,000,000	6,000,000	+6,000,000
Revised economic assumption (FY98 Sec. 125).....	-108,800,000					+108,800,000
<b>Grand total:</b>						
New budget (obligational) authority.....	9,208,468,000	7,784,074,000	8,234,074,000	8,480,574,000	8,449,742,000	-758,726,000
Appropriations.....	(9,183,248,000)	(7,784,074,000)	(8,234,074,000)	(8,480,574,000)	(8,454,742,000)	(-728,506,000)
Rescissions.....					(-5,000,000)	(-5,000,000)
Emergency appropriations (P.L. 105-174).....	(25,220,000)					(-25,220,000)

Mr. PACKARD. Mr. Speaker, I reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I would like to congratulate the gentleman from California (Chairman PACKARD) for his work, as well as the work of the staff on the committee, which I think is one of the staffs that is most responsive to the needs of the members on the Committee on Appropriations.

This is a good bill. We did the very best that we could with very limited funds, and we targeted it toward quality of life for our men and women in the Armed Forces. I would urge everyone to support this bill.

Mr. Speaker, I rise today in support of the conference agreement for the FY 1999 Military Construction bill.

I also want to thank the Subcommittee Chairman, Mr. PACKARD, for his hard work as well as the bipartisan spirit he has encouraged among the members of this committee.

The bill provides \$8.4 billion for military construction, family housing, and the last two rounds of base closings.

Although members recognize the importance of this bill in meeting the needs of the men and women that serve us in the military, this bill is \$734 million dollars below last years level. I can't say that I am happy to see funding for this important bill drop like this.

Within the allocations, though, this is a good agreement that responds to the highest priority needs of our service men and women.

Of course, I am very proud of the years of service that I have given this subcommittee. It used to be easy to forget the folks that serve us in the military, and we have changed that.

The past few years, though, the numbers keep getting lower and lower. It worries me.

Giving our men and women in the military a decent place to live and work is not just one of the keys to military readiness and retention, it is also a basic responsibility we all shoulder.

I urge all members to support the conference agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. PACKARD. Mr. Speaker, let me conclude by simply saying this is the last conference report for the gentleman from North Carolina (Mr. HEFNER) and we want to thank him with a round of applause.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I will not take the 2 minutes. I simply want to, on this side of the aisle, express our congratulations to the gentleman from North Carolina (Mr. HEFNER) for the wonderful service he has provided this institution.

He has worked for as long as he has been here for decent working conditions and decent living conditions for our American servicemen and service-women, and I think this institution owes him a debt of gratitude for the work he has done on behalf of all of them.

Mr. HEFNER. Mr. Speaker, I yield back the balance of my time.

Mr. PACKARD. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 417, nays 1, not voting 16, as follows:

[Roll No. 353]

YEAS—417

Abercrombie	Cox	Hall (TX)
Ackerman	Coyne	Hamilton
Aderholt	Cramer	Hansen
Allen	Crane	Hastert
Andrews	Crapo	Hastings (FL)
Archer	Cubin	Hastings (WA)
Armye	Cummings	Hayworth
Bachus	Cunningham	Hefley
Baessler	Danner	Hefner
Baker	Davis (FL)	Herger
Baldacci	Davis (IL)	Hill
Ballenger	Davis (VA)	Hilleary
Barcia	Deal	Hilliard
Barr	DeFazio	Hinchey
Barrett (NE)	DeGette	Hinoyosa
Barrett (WI)	Delahunt	Hobson
Bartlett	DeLauro	Hoekstra
Barton	DeLay	Holden
Bass	Deutsch	Hooley
Bateman	Diaz-Balart	Horn
Becerra	Dicks	Hostettler
Bentsen	Dingell	Houghton
Bereuter	Dixon	Hoyer
Berman	Doggett	Hulshof
Berry	Dooley	Hunter
Bilbray	Doolittle	Hutchinson
Bilirakis	Doyle	Hyde
Bishop	Dreier	Inglis
Blagojevich	Dunn	Istook
Bliley	Edwards	Jackson (IL)
Blumenauer	Ehlers	Jackson-Lee
Blunt	Ehrlich	(TX)
Boehlert	Emerson	Jefferson
Boehner	Engel	Jenkins
Bonilla	English	John
Bonior	Ensign	Johnson (CT)
Bono	Eshoo	Johnson (WI)
Borski	Etheridge	Johnson, E. B.
Boswell	Evans	Johnson, Sam
Boucher	Everett	Jones
Boyd	Ewing	Kanjorski
Brady (PA)	Farr	Kaptur
Brady (TX)	Fattah	Kasich
Brown (CA)	Fawell	Kelly
Brown (FL)	Fazio	Kennedy (MA)
Brown (OH)	Filner	Kennedy (RI)
Bryant	Foley	Kennelly
Bunning	Forbes	Kildee
Burr	Ford	Kilpatrick
Burton	Fossella	Kim
Buyer	Fowler	Kind (WI)
Callahan	Fox	King (NY)
Calvert	Franks (NJ)	Kingston
Camp	Frelinghuysen	Kleczka
Campbell	Frost	Klink
Canady	Furse	Klug
Cannon	Gallely	Knollenberg
Capps	Ganske	Kolbe
Cardin	Gejdenson	Kucinich
Carson	Gekas	LaFalce
Castle	Gephardt	LaHood
Chabot	Gibbons	Lampson
Chambliss	Gilchrest	Lantos
Chenoweth	Gillmor	Largent
Christensen	Gilman	Latham
Clay	Goode	LaTourette
Clayton	Goodlatte	Lazio
Clement	Goodling	Leach
Clyburn	Gordon	Lee
Coble	Goss	Levin
Coburn	Graham	Lewis (CA)
Collins	Granger	Lewis (GA)
Combest	Green	Lewis (KY)
Condit	Greenwood	Lipinski
Conyers	Gutierrez	Livingston
Cook	Gutknecht	LoBiondo
Cooksey	Hall (OH)	Lofgren
Costello		Lowey

Lucas	Pease	Slaughter
Luther	Pelosi	Smith (MI)
Maloney (CT)	Peterson (MN)	Smith (NJ)
Maloney (NY)	Peterson (PA)	Smith (OR)
Manton	Petri	Smith (TX)
Manzullo	Pickering	Smith, Adam
Markey	Pickett	Smith, Linda
Martinez	Pitts	Snowbarger
Mascara	Pombo	Snyder
Matsui	Pomeroy	Solomon
McCarthy (MO)	Porter	Souder
McCarthy (NY)	Portman	Spence
McCrery	Poshard	Spratt
McDade	Price (NC)	Stabenow
McDermott	Pryce (OH)	Stark
McGovern	Quinn	Stearns
McHale	Radanovich	Stenholm
McHugh	Rahall	Stokes
McInnis	Ramstad	Strickland
McIntosh	Redmond	Stump
McIntyre	Regula	Stupak
McKeon	Reyes	Sununu
McKinney	Riggs	Talent
McNulty	Riley	Tanner
Meehan	Rivers	Tauscher
Meek (FL)	Rodriguez	Tauzin
Meeks (NY)	Roemer	Taylor (MS)
Menendez	Rogan	Taylor (NC)
Metcalf	Rohrabacher	Thomas
Mica	Ros-Lehtinen	Thompson
Millender-	Rothman	Thornberry
McDonald	Roukema	Thune
Miller (CA)	Roybal-Allard	Thurman
Miller (FL)	Royce	Tiahrt
Minge	Rush	Tierney
Mink	Ryun	Traficant
Mollohan	Sabo	Turner
Moran (KS)	Salmon	Upton
Moran (VA)	Sanchez	Velazquez
Morella	Sanders	Vento
Murtha	Sandlin	Visclosky
Myrick	Sanford	Walsh
Nadler	Sawyer	Wamp
Nethercutt	Saxton	Waters
Neumann	Scarborough	Watkins
Ney	Schaefer, Dan	Watt (NC)
Northup	Schaffer, Bob	Watts (OK)
Nussle	Schumer	Waxman
Oberstar	Scott	Weldon (FL)
Obey	Sensenbrenner	Weldon (PA)
Olver	Serrano	Weller
Ortiz	Sessions	Wexler
Owens	Shadegg	Weygand
Oxley	Shaw	White
Packard	Shays	Wicker
Pallone	Sherman	Wilson
Pappas	Shimkus	Wise
Parker	Shuster	Wolf
Pascrell	Sisisky	Woolsey
Pastor	Skaggs	Wynn
Paxon	Skeen	Young (AK)
Payne	Skelton	

NAYS—1

Paul  
NOT VOTING—16

Duncan	Moakley	Towns
Frank (MA)	Neal	Whitfield
Gonzalez	Norwood	Yates
Harman	Rangel	Young (FL)
Linder	Rogers	
McCollum	Torres	

□ 2142

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCDADE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and that I may include tabular and extraneous material on H.R. 4060, the matter to be considered now.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4060, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. MCDADE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. VENTO moves that in resolving the differences between the House and Senate, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4060, be instructed to disagree with the provision in Title IV of the Senate amendment, providing funding for the Denali Commission, and the provision in Title VI of the Senate amendment, the authorization for such Commission.

The SPEAKER pro tempore. Under the rule, the gentleman from Minnesota (Mr. VENTO) will control 30 minutes and the gentleman from Pennsylvania (Mr. MCDADE) will control 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important motion that could save the American taxpayers \$20 million in this fiscal year which is included in the Senate bill, unauthorized, and could save tens of millions of dollars in each of fiscal years 2000, 2001, 2002 and 2003.

The Senate provisions of the Energy and Water Development Bill include a small title, title VI, that goes under the innocuous title of Denali Commission. However, if one reads the title, it becomes clear that this Denali Commission is designed to be more than a small help for the isolated communities of Alaska. This commission is destined to become the new Alaska Department of Economic Development funded by the Federal Government and the Federal taxpayers.

This commission is granted broad authority to develop a statewide comprehensive plan for economic and infrastructure development and, as I said, is given \$20 million to approve project and grant proposals in fiscal year 1999. The bill goes on to authorize such sums

as may be necessary for the following 4 years.

It does not take much imagination, given the prominent role of Alaska in the Senate appropriation process, as to what is going to happen with regards to this in future years. Federal funding will be as much as the traffic will bear, fundamentally. While we would be handing over millions of dollars for economic development in Alaska, we are providing a pittance of Federal oversight or accountability.

There are no guidelines or standards as to the grants that are provided. There is no qualification. There is no matching funds. The oversight, of course, by the GAO and the Inspector General will probably prove ample if something like this were ever put in place and point out in graphic detail all the mistakes and political deal that will have been made and the misappropriation and or waste of federal dollars.

This Denali Commission is stacked and is dominated by Alaskans with a board composed of a representative from the Chamber of Commerce, the executive director of the Alaska Municipal League, the president of the University of Alaska, a representative of the governor and a single Federal representative, who would be subject to Senate confirmation, in essence a Senate veto over the one national voice.

Mr. Speaker, it is my understanding that the original intent of the legislative proposal was to help those Alaskans who lived in the bush regions, the rural parts of the State. Mr. Speaker, this is far afield of what was considered.

The bill did not have any hearings in the House or Senate. It was inserted into the Senate appropriations bill. As a member of an authorizing committee, I would point out to my colleagues this is how bad law is developed. I would hope that we would instruct our conferees not to agree to this egregious provision, that we go back to the regular order, the regular process in terms of hearings in the sunlight of open hearing and debate on this issue; to pass the authorization, if there is a justification to pass it, through the House and the Senate and then provide for an appropriate commission and funding as justified and reasonable.

I might say, too, that Alaska as a State seems to be doing quite well these days and has not been short-changed with regards to resources of the Federal Government. In fact, it is pointed out that it is one of the leading States in terms of per capita investment by the Federal Government and has a surplus today of \$25 billion due to its oil revenues, so much so that it will be making \$1,400 rebates this year for each person without a sales tax in most parts of Alaska, without an income tax.

I think that the State of Alaska, while having serious problems that we need to work on, and I have worked on many of them over the years, this is not the way to go, this is not the route

to go to create an economic authority to pass out grants. I urge my colleagues to strongly support my motion to instruct conferees, not to accept these provisions.

Mr. Speaker, I include the following two documents for the RECORD:

TAXPAYERS FOR COMMON SENSE,

Washington, DC, July 29, 1998.

Hon. BRUCE VENTO,

House of Representatives, Washington, DC.

DEAR REPRESENTATIVE VENTO: Taxpayers for Common Sense is pleased to support your motion to instruct House conferees to oppose authorization and funding for the Denali Commission (Title VI) in the FY99 Energy and Water Appropriations bill. We oppose Title VI for the following reasons:

Process: A big new commission doesn't belong in a spending bill. Even if such a commission were a nice idea (Taxpayers for Common Sense doesn't think it is), it is totally outrageous that the five pages of authorization language creating this commission are stuck into an appropriations bill.

Cost: No ceiling. The language authorizes "such sums as may be necessary" for the years 2000 through 2003. If this commission is enacted, no doubt there will be huge pressure to continue it after 2003. In short, Congress would be establishing an open-ended program with no authorization ceiling.

Substance: No controls and poorly drafted. Many other federal public works programs contain safeguards to make sure the money goes to good use. But Title VI requires no local cost sharing (as is required for Corps of Engineers water projects), no targeting of benefits to communities of need, and no criteria for judging priorities. There is nothing in Title VI to prevent money from simply being spread around to politically influential localities for low-priority projects and people who don't need the benefits.

Role: Should federal taxpayers pay for this? The commission would use federal taxpayers' money to accomplish what are clearly state projects addressing unique state concerns. Congress should be eliminating programs like this, not creating more of them.

Waste: Half-baked commission unlikely to achieve goals. With all of these failings, the commission is unlikely to achieve its goals and may very well end up wasting taxpayer money.

When the House considers the motion to go to conference on the FY99 Energy and Water Appropriations bill, Taxpayers for Common Sense urges all Representatives to vote for your motion to instruct on this issue. Please call me at (202) 546-8500 x102 if you have questions.

Sincerely,

RALPH DEGENNARO,  
Executive Director

[From the Anchorage Daily News, July 12, 1998]

PERMANENT FUND; RECORD DIVIDEND ON OUR RICHES

The Alaska Permanent Fund provided further proof of its status as the state's most powerful economic engine on Thursday with word that its value grew to about \$25 billion as of June 30, the end of the fiscal year.

That's a staggering number. But a much smaller number is the one that strikes home for most Alaskans—the estimated \$1,460 that each Alaskan will receive this fall for doing no more than living here.

That number is a guess, but Alaska Permanent Fund Corp. spokesman Jim Kelly does promise a record check, meaning something bigger than the \$1,296 sent to each Alaskan in 1997.

Call it \$1,400. That means an Alaska family of four will receive \$3,600 this fall. That's money to use for everything from appliances to cars to college savings to knocking down debt. No other state in the union gives its people such a direct, no-strings share of its revenue. What other state has the means?

No state income tax. In Anchorage, no sales tax. A yearly check that's grown to four figures. A \$25 billion fund that provides more revenue to the state than oil does. Financial-crisis? Not even with oil at \$12 a barrel. Other states would love this crisis.

Alaska has its share of problems and challenges, from Third World sanitary conditions in some villages and troubled fisheries to battles over subsistence rights and religious convictions. But we're not broke. We're rich.

That's a problem, too. We must decide what to do as a state with the Permanent Fund's income. We must decide what to do as families and individuals with our dividends.

May we be cursed with such difficulties for a long time to come.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MCDADE asked and was given permission to revise and extend his remarks.)

Mr. MCDADE. Mr. Speaker, I want to point out to my colleagues, they do not need to be told that the hour is late. I think we are trying to get as much as we can done before we break. This bill is a pending bill which passed this body, Mr. Speaker, by a vote of 404-4. All we are saying to our colleagues is do not fetter us as we go to conference. Give us the opportunity to continue to represent the House that will merit a vote like this as we come back.

Mr. Speaker, I hope this will be roundly defeated.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER), the ranking member of the Committee on Resources.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time. I rise in support of his motion to instruct conferees to maintain the House position that he has offered.

The House has passed a clean energy and water bill without controversy over antienvironmental legislative riders which have bogged down Interior and other appropriations bills. The Vento motion to instruct would put the House on record in opposition to a \$20 million Alaska grant program which has been included as a rider in the Senate bill.

It is my understanding that the original intent of authorizing these funds was for the purpose of improving sanitation, drinking water and other basic needs of remote native villages in Alaska. Let me clearly state that I recognize the serious problems in rural Alaska and support responsible congressional efforts to address them.

But the Senate rider, as presently drafted, is not limited to using Federal funds to meet priority needs of native

Alaskans. Instead, the Senate would empower a five-person commission to develop a statewide, comprehensive plan for economic and infrastructure development. No native Alaskan nor rural Alaskan is directly appointed to the commission. Rather, the Chamber of Commerce, the Alaskan Municipal League, the university president, all of which are urban dominated, are given a vote in distributing \$20 million in federally funded grants with no strings attached.

Let us not allow ourselves to be fooled here. This is a blank check to use Federal funds to promote road building, resource extraction and other favorite causes of development proponents in Alaska. This is a recipe for federally funded antienvironmental mischief.

The Senate would spend \$20 million in Federal funds for Alaska development grants in 1999 and authorizes unlimited amounts for the next 4 years. So the next 4 years we would see a repeated habit of the Senate adding money for this purpose as the appropriations bills come from the Senate.

As the gentleman who has offered this motion points out, we have not been stingy with Alaska. In 1996, they insisted upon \$110 million in emergency economic disaster relief in southeast Alaska communities impacted by the closure of two pulp mills because of poor markets. Some of that money was used to hire lobbyists to come down here and ask for more money. I think what we have seen here, that is \$110 million, now there is \$20 million for this study. Then there is open-ended appropriations for the next 4 years. I do not think that the taxpayers of this country can afford to do business this way. I do not think that we can ask for another \$20 million. If this was important, then why did they not use some of the \$110 million we gave them 2 years ago to do economic and infrastructure studies?

I would also point out very clearly, as the gentleman who offered this motion has pointed out, and, that is, Alaska has a permanent fund of \$23 billion. That \$23 billion fund is supposed to be there in perpetuity for the future of Alaska and its residents. I have no problem with that. But maybe Alaska and its residents concerned about their economic development in the future could find it in their heart to spend \$20 million of their \$23 billion for the purposes of ensuring the kind of infrastructure and development that they think they need to go into the future.

This is a permanent fund that is currently spinning off \$1,300 for every man, woman and child who is a resident of the State of Alaska. That is fine. That is what they decided to do with the fund. But because they decided to have the fund make those expenditures does not mean that the Federal Government and all of the rest of the taxpayers of this country need to come in and fill behind those decisions with \$20 million in a study that is very

loosely constructed and without limitations as to the future appropriations for it. I think it is fair to ask the State legislature to step up to the plate and contribute to addressing the problems of rural Alaska, but the Senate rider does not even require matching funds from the State of Alaska.

In the State of California, we have huge infrastructure problems, we have huge problems trying to meet our water needs, our transportation needs, our airport needs, all the things that so many of us in other States experience. But we are not getting \$20 million from the Federal Government to study that and we are not getting 4 years of unlimited appropriations to study that in the future.

Clearly, there ought to be some effort to try to focus this study on the problems of rural Alaska. There ought to be some effort to have the State match the money for this study.

There are many, many studies and many, many projects in this bill that are worthwhile. But local communities are matching those, States are matching those, private organizations are matching that. This one is simply a free gift of \$20 million to the State of Alaska. I would urge Members to support the Vento motion.

Mr. MCDADE. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Resources.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I rise in opposition to the motion to instruct conferees.

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I believe that if a comprehensive infrastructure bill was brought to the full floor of this Congress, there would be many people who would support it. I think it is quite clear that the infrastructure needs of the country are quite severe and that we ought to have a comprehensive approach to these infrastructure needs. But this is a particular appropriation for one particular State, \$20 million in one fiscal year and an open-ended circumstance for the next several years, probably as much as \$100 million over a 5-year period for the State of Alaska.

As has been pointed out, this Congress has not been ungenerous to the State of Alaska. Alaska is second only to the State of Mississippi in terms of Federal per capita aid.

In addition to that, the State has its own \$42 billion fund from oil royalties. That fund will be distributed to every man, woman and child in the State this year as it was last year. Last year, every person in the State received about \$1,300. That is \$5,200 for a family of four.

It is also true that Alaska has not been aggressive in taxing itself. This is

a State without a State income tax, and much of the State does not have a State sales tax. So it is hard to imagine why the Congress would be appropriating this particular money for this one State for this one particular situation, particularly when the expenditure is so open-ended.

In other words, this money could be spent for virtually anything. It could be spent to build roads anywhere. It could be spent to engage in a whole host of activities which would be contrary to sound environmental not less economic policy.

With all that in mind, Mr. Speaker, I think that it is prudent for us to join with those who have called this a taxpayer boondoggle and support the Vento motion.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCDADE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota (Mr. VENTO).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

#### CALL OF THE HOUSE

Mr. MCDADE. Mr. Speaker, may I explain to my colleagues that for the first time in 36 years, I am about to move a call of the House, and I only do so because the leadership on both sides is trying to get a rule up, so, therefore, Mr. Speaker, I move reluctantly a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 354]

#### ANSWERED "PRESENT"—403

Abercrombie	Bonior	Clayton
Ackerman	Bono	Clement
Aderholt	Borski	Clyburn
Allen	Boswell	Coble
Andrews	Boucher	Coburn
Armey	Boyd	Collins
Bachus	Brady (PA)	Combest
Baesler	Brady (TX)	Condit
Baker	Brown (CA)	Conyers
Baldacci	Brown (FL)	Cook
Ballenger	Brown (OH)	Cooksey
Barcia	Bryant	Costello
Barr	Bunning	Cox
Barrett (NE)	Burr	Coyne
Barrett (WI)	Burton	Cramer
Bartlett	Buyer	Crane
Barton	Calvert	Crapo
Bass	Camp	Cubin
Becerra	Campbell	Cummings
Bentsen	Canady	Cunningham
Bereuter	Cannon	Danner
Berry	Capps	Davis (FL)
Bilirakis	Cardin	Davis (IL)
Blagojevich	Carson	Davis (VA)
Bliley	Castle	Deal
Blumenauer	Chabot	DeFazio
Blunt	Chambliss	DeGette
Boehlert	Chenoweth	Delahunt
Boehner	Christensen	DeLauro
Bonilla	Clay	Deutsch

Diaz-Balart	Kelly	Peterson (PA)
Dickey	Kennedy (MA)	Petri
Dicks	Kennedy (RI)	Pickering
Dingell	Kennelly	Pickett
Dixon	Kildee	Pitts
Doggett	Kilpatrick	Pombo
Dooley	Klink	Pomeroy
Doolittle	Kind (WI)	Porter
Doyle	King (NY)	Portman
Dreier	Kingston	Poshard
Duncan	Klecza	Price (NC)
Dunn	Klink	Quinn
Ehlers	Klug	Radanovich
Ehrlich	Knollenberg	Rahall
Emerson	Kolbe	Ramstad
Engel	Kucinich	Rangel
English	LaFalce	Redmond
Ensign	LaHood	Regula
Eshoo	Lampson	Reyes
Etheridge	Largent	Riggs
Evans	Latham	Rivers
Everett	LaTourrette	Rodriguez
Ewing	Lazio	Roemer
Farr	Leach	Rogers
Fattah	Lee	Rohrabacher
Fazio	Levin	Ros-Lehtinen
Filner	Lewis (CA)	Rothman
Foley	Lewis (GA)	Roukema
Forbes	Lewis (KY)	Roybal-Allard
Ford	Lipinski	Royce
Fossella	Livingston	Rush
Fowler	LoBiondo	Ryun
Fox	Lofgren	Sabo
Franks (NJ)	Lowe	Salmon
Frelinghuysen	Lucas	Sanchez
Frost	Luther	Sanders
Furse	Maloney (CT)	Sandlin
Gallegly	Maloney (NY)	Sanford
Ganske	Manton	Sawyer
Gejdenson	Manzullo	Saxton
Gephardt	Markey	Schaefer, Dan
Gibbons	Martinez	Schaffer, Bob
Gilchrest	Mascara	Schumer
Gillmor	Matsui	Scott
Gilman	McCarthy (MO)	Sensenbrenner
Goode	McCarthy (NY)	Serrano
Goodlatte	McCollum	Sessions
Goodling	McCrery	Shadegg
Goss	McDade	Shaw
Graham	McDermott	Shays
Granger	McGovern	Sherman
Green	McHale	Shimkus
Greenwood	McHugh	Shuster
Gutierrez	McInnis	Sisisky
Gutknecht	McIntosh	Skaggs
Hall (OH)	McIntyre	Skeen
Hall (TX)	McKeon	Skelton
Hamilton	McKinney	Slaughter
Hansen	McNulty	Smith (MI)
Hastert	Meehan	Smith (NJ)
Hastings (FL)	Meek (FL)	Smith (OR)
Hastings (WA)	Meeks (NY)	Smith (TX)
Hayworth	Menendez	Smith, Adam
Hefley	Metcalfe	Smith, Linda
Hefner	Mica	Snowbarger
Herger	Millender-	Snyder
Hill	McDonald	Solomon
Hilleary	Miller (CA)	Souder
Hilliard	Miller (FL)	Spence
Hinchey	Minge	Spratt
Hinojosa	Mink	Stabenow
Hobson	Mollohan	Stearns
Hoekstra	Moran (KS)	Stenholm
Holden	Moran (VA)	Stokes
Hooley	Morella	Strickland
Horn	Murtha	Stump
Hostettler	Myrick	Stupak
Houghton	Nadler	Sununu
Hoyer	Nethercutt	Talent
Hulshof	Neumann	Tauscher
Hunter	Ney	Tauzin
Hutchinson	Northup	Taylor (MS)
Hute	Oberstar	Taylor (NC)
Inglis	Obey	Thomas
Istook	Olver	Thompson
Jackson (IL)	Ortiz	Thornberry
Jackson-Lee	Oxley	Thune
(TX)	Packard	Thurman
Jefferson	Pallone	Tiahrt
Jenkins	Pappas	Tierney
John	Parker	Torres
Johnson (CT)	Pascarell	Towns
Johnson (WI)	Pastor	Traficant
Johnson, E. B.	Paul	Turner
Johnson, Sam	Paxon	Upton
Jones	Payne	Velazquez
Kanjorski	Pease	Vento
Kaptur	Pelosi	Visclosky
Kasich	Peterson (MN)	Walsh

Wamp	Weller	Wilson
Waters	Wexler	Wise
Watkins	Weygand	Wolf
Watt (NC)	White	Woolsey
Watts (OK)	Whitfield	Wynn
Weldon (PA)	Wicker	Young (AK)

□ 2225

The SPEAKER pro tempore (Mr. LAHOOD). On this rollcall, 403 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

#### APPOINTMENT OF CONFEREES ON H.R. 4060, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on H.R. 4060: Messrs. MCDADE, ROGERS, KNOLLENBERG, FRELINGHUYSEN, PARKER, CALLAHAN, DICKEY, LIVINGSTON, FAZIO of California, VISCLOSESKY, EDWARDS, PASTOR and OBEY.

There was no objection.

#### LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I ask for this time for the purpose of reporting on the schedule.

Mr. Speaker, let me begin by saying I appreciate all the Members for their patience. Working this time of the year in appropriations season is always difficult, we know. We are about to begin consideration of a rule for the transportation appropriations bill.

We have a little bit of difficulty with that bill, but the principals who are involved in it are, in fact, actively, and I think effectively, working towards a solution of that. So I would suggest that we could move forward with the rule and then by the time we have the vote on the rule I am sure we will be ready to begin our work and complete our work on transportation.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, if I might say to the majority leader, most folks have been working on both sides of the aisle. We are going on probably the 14th hour of a workday today. In addition to that, we have had an extraordinary week, an emotional and stressful week, as we all know. Folks have been working long hours and long shifts, including the Capitol Police, as the gentleman is fully aware and appreciates.

I do not know what we gain by going into at 10:30 in the evening a contentious rule that has not been worked out yet, and even if it is worked out I am not sure that we are in a position to even proceed on the appropriation bill itself.

I am cognizant of the pressures that the majority has with respect to finishing these appropriation bills, and I can appreciate that having once been in the majority, but I think I would say to my friend, the gentleman from Texas, that in consultation with many of my colleagues on both sides of the aisle, I think they have expressed a desire to me anyway that the prudent thing today and this evening would be to leave and come back and start fresh after the funeral in the morning.

I would just offer that to my friend, the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, let me thank the gentleman for suggesting that. I appreciate the gentleman for his concern, not only for the Members but for the staff, in particular our Capitol Police who are still standing their stations around the Capitol. It is because we, as a group, have clearly indicated our desire, rightly so, to spend the time tomorrow and then again on Friday in attendance to these very important funerals, that we feel the compulsion to complete the work as best we can this week and to try to do so in maximum consideration of all people.

I just would like to assure the gentleman from Michigan that all of these matters are of concern to me and I am working the best I can.

□ 2230

We are ready now, though, to begin to move forward on the rule; and given the progress that I am confident I am seeing with the gentleman from New York (Mr. NADLER) and others, I think we can be confident we can complete our work tonight and all get some rest.

I thank the gentleman.

#### REPORT ON RESOLUTION PROVIDING SPECIAL INVESTIGATIVE AUTHORITY FOR THE COMMITTEE ON EDUCATION AND THE WORKFORCE

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105-658) on the resolution (H. Res. 507) providing special investigative authority for the Committee on Education and the Workforce, which was referred to the House Calendar and ordered to be printed.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3262

Mr. FROST. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 3262.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### PROVIDING FOR CONSIDERATION OF H.R. 4328, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call

up House Resolution 510 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 510

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4328) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 7 of rule XXI or section 401(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning with “, of which”, on page 11, line 19, through “Fund” on line 20; page 16, lines 20 through 24; beginning with “: Provided” on page 18, line 2, through “motor carriers” on line 5; and page 54, lines 4 through 8. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such paragraph and not against the entire paragraph. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Dallas, Texas (Mr. FROST), my friend, and pending that I yield myself such time as I may consume. Mr. Speaker, all time that I will be yielding will be for debate purposes only.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks and to include extraneous material in the RECORD on the resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, this rule makes in order H.R. 4328, the Department of Transportation and Related Agencies Appropriations Bill for fiscal year 1999 under an open rule containing a number of noncontroversial waivers against points of order. The rule also self-executes two noncontroversial changes in the bill, of which one is technical in nature.

I would like to commend the gentleman from Virginia (Mr. WOLF), chairman of the Subcommittee on Transportation, as well as the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the full committee, and the other members of the committee for the tremendous job that they did in producing a bill that adequately funds our Nation's priorities within the constraints imposed by both the Balanced Budget Act of 1997 and the Transportation Equity Act of 1998.

Although 70 percent of the bill consists of spending mandated by the T.E.A. 21, resulting in a substantial increase in funding for highway and transit programs, the subcommittee was also able to increase funding for drug interdiction efforts and transportation safety programs.

A total of \$406 million is provided for Coast Guard counter-drug activities, an increase of \$73.8 million over the President's request. Funding to reduce fatalities on the Nation's roadways is increased by more than 8 percent.

Despite this balanced effort, I find it hard to believe that the administration, which signed the T.E.A. 21 bill into law, could be critical of the funding levels that are in this appropriations bill. Unfortunately, this seems to be par for the course for an administration that proposes to pay for more government spending with \$9 billion in new taxes and user fees that are political nonstarters.

Mr. Speaker, the Committee on Appropriations produced a fair and balanced bill, and the Committee on Rules was equal to the task of reporting this rule. Therefore, I urge adoption of both the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, it is my intention to make a fairly brief opening statement and then to yield back all of our time in an effort to try and move this along.

Mr. Speaker, while I rise in support of this rule and this bill making appropriations for the Department of Transportation for fiscal year 1999, I am concerned that a point of order may lie

against an amendment which seeks to limit expenditures of funds for a highway project funded in this bill. Mr. Speaker, should this point of order be pursued and ultimately upheld, the House will set a terrible precedent which may have ramifications far beyond this transportation appropriations.

The matter is now being negotiated, but I do want to express my concern that a major change in the rules that govern this House was included in T-21 and was never even considered by the Committee on Rules. That being said, Mr. Speaker, while the funding level of this appropriations bill is slightly below the levels requested by the President in several areas, overall, the Committee on Appropriations did a good job of providing adequate funding for most of the programs and services in the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I urge adoption of the rule, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-291)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iraqi emergency is to continue in effect beyond August 2, 1998, to the *Federal Register* for publication.

The crisis between the United States and Iraq that led to the declaration on August 2, 1990, of a national emergency has not been resolved. The Government of Iraq continues to engage in activities inimical to stability in the Middle East and hostile to United States interests in the region. Such Iraqi actions pose a continuing unusual and extraordinary threat to the national se-

curity and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Iraq.

WILLIAM J. CLINTON.

THE WHITE HOUSE, July 28, 1998.

ANNUAL REPORT OF THE CORPORATION OF PUBLIC BROADCASTING AND INVENTORY OF FEDERAL FUNDS DISTRIBUTED TO PUBLIC TELECOMMUNICATIONS ENTITIES FOR FISCAL YEAR 1997

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

*To the Congress of the United States:*

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1997 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1997.

Thirty years following the establishment of the Corporation for Public Broadcasting, the Congress can take great pride in its creation. During these 30 years, the American public has been educated, inspired, and enriched by the programs and services made possible by this investment.

The need for and the accomplishments of this national network of knowledge have never been more apparent, and as the attached 1997 annual CPB report indicates, by "Going Digital," public broadcasting will have an ever greater capacity for fulfilling its mission.

WILLIAM J. CLINTON.

THE WHITE HOUSE, July 29, 1998.

REPORT ON PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 105-293)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

*To the Congress of the United States:*

On November 14, 1994, in light of the danger of the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and of the means of delivering such weapons, using my authority under the International Emergency Economic Powers

Act (50 U.S.C. 1701 *et seq.*), I declared a national emergency and issued Executive Order 12938. Because the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have renewed the national emergency declared in Executive Order 12938 annually, most recently on November 14, 1997. Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)), I hereby report to the Congress that I have exercised my statutory authority to issue an Executive order to amend Executive Order 12938 in order to more effectively respond to the worldwide threat of weapons of mass destruction proliferation activities.

The amendment of section 4 of Executive Order 12938 strengthens the original Executive order in several significant ways.

First, the amendment broadens the type of proliferation activity that is subject to potential penalties. Executive Order 12938 covers contributions to the efforts of any foreign country, project, or entity to use, acquire, design, produce, or stockpile chemical or biological weapons (CBW). This amendment adds potential penalties for contributions to foreign programs for nuclear weapons and missiles capable of delivering weapons of mass destruction. For example, the new amendment authorizes the imposition of measures against foreign entities that materially assist Iran's missile program.

Second, the amendment lowers the requirements for imposing penalties. Executive Order 12938 required a finding that a foreign person "knowingly and materially" contributed to a foreign CBW program. The amendment removes the "knowing" requirement as a basis for determining potential penalties. Therefore, the Secretary of State need only determine that the foreign person made a "material" contribution to a weapons of mass destruction or missile program to apply the specified sanctions. At the same time, the Secretary of State will have discretion regarding the scope of sanctions so that a truly unwitting party will not be unfairly punished.

Third, the amendment expands the original Executive order to include "attempts" to contribute to foreign proliferation activities, as well as actual contributions. This will allow imposition of penalties even in cases where foreign persons make an unsuccessful effort to contribute to weapons of mass destruction and missile programs or where authorities block a transaction before it is consummated.

Fourth, the amendment expressly expands the range of potential penalties to include the prohibition of United States Government assistance to the foreign person, as well as United States Government procurement and imports into the United States, which were specified by the original Executive

order. Moreover, section 4(b) broadens the scope of the United States Government procurement limitations to include a bar on the procurement of technology, as well as goods or services from any foreign person described in section 4(a). Section 4(d) broadens the scope of import limitations to include a bar on imports of any technology or services produced or provided by any foreign person described in section 4(a).

Finally, this amendment gives the United States Government greater flexibility and discretion in deciding how and to what extent to impose penalties against foreign persons that assist proliferation programs. This provision authorizes the Secretary of State, who will act in consultation with the heads of other interested agencies, to determine the extent to which these measures should be imposed against entities contributing to foreign weapons of mass destruction or missile programs. The Secretary of State will act to further the national security and foreign policy interests of the United States, including principally our non-proliferation objectives. Prior to imposing measures pursuant to this provision, the Secretary of State will take into account the likely effectiveness of such measures in furthering the interests of the United States and the costs and benefits of such measures. This approach provides the necessary flexibility to tailor our responses to specific situations.

I have authorized these actions in view of the danger posed to the national security and foreign policy of the United States by the continuing proliferation of weapons of mass destruction and their means of delivery. I am enclosing a copy of the Executive order that I have issued exercising these authorities.

WILLIAM J. CLINTON.  
THE WHITE HOUSE, July 28, 1998.

□ 2245

#### RECOGNIZING THE 50TH ANNIVERSARY OF THE INTEGRATION OF THE ARMED FORCES

Mr. BUYER. Mr. Speaker, I ask unanimous consent that the Committee on National Security be discharged from further consideration of the concurrent resolution (H. Con. Res. 294) recognizing the 50th Anniversary of the integration of the Armed Forces, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Indiana?

Mr. SKELTON. Mr. Speaker, reserving the right to object, I will not object, but I would ask the gentleman from Indiana to explain the concurrent resolution.

Mr. BUYER. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Indiana.

Mr. BUYER. Mr. Speaker, I rise tonight to mark an important historical event for the Armed Forces, and indeed, for our Nation. On July 26, 1948, just over 50 years ago, President Truman signed Executive Order 9981 ordering the racial integration of the Armed Forces.

When we think about that in the context of the way things are done today, unlike this election year of 1948, it was a presidential election year, and President Truman was running for his first full term of office. Undeterred by those who today would have counseled him to wait until after the election to make such a controversial decision at that time for the integration of the Armed Forces, he acted in what I believe to be a responsible manner, and he did the right thing.

Some may think that his choice was easy, but I believe that the choice at the time was not easy, and it was a courageous decision. It is not easy to make a decision that may profoundly affect the military readiness over the objections of the military leaders of that day. Yet, Harry Truman did just that. Today we acknowledge the overwhelming correctness of that decision.

While President Truman took the first step, our military executed its orders with discipline and purpose. Sure there have been missteps, and yes, there are still areas that could be improved. Most important, however, is that many of America's fine young men and women were finally able to take their rightful place in the Armed Forces, and it helped transform our society.

As we all know, thousands of young African Americans, both men and women, have joined the Armed Forces. They have not only joined but have succeeded in staying in the military, and in higher numbers than their majority counterparts, and are rising to the highest ranks in the military. In fact, today African Americans alone make up 20 percent of the Armed Forces.

The many extraordinary examples of success obviously are far too numerous to cover adequately in these short remarks, but they include General Colin Powell; the Army four-star General Johnny Wilson; the Navy's first of many black admirals, Rear Admiral Samuel Gravely, Junior; and yes, here recently we honored, tragically, the deceased hero, the Capitol police officer, J.J. Chestnut, who served 20 years in the Air Force and was a Vietnam veteran.

I believe that Officer Chestnut and many others are individuals who have served with honor and went on and, in turn, left the service and made great contributions to their communities and this country.

Mr. SKELTON. Mr. Speaker, under my reservation of objection, first I wish to compliment the gentlewoman from California (Ms. MAXINE WATERS) for her foresight in offering this resolution.

I think it is a very, very appropriate one, particularly realizing that I am from Missouri, and that this past weekend, Mr. Speaker, I had the honor of speaking at the commissioning of the U.S.S. Harry S. Truman in Norfolk, Virginia. So I think it is entirely appropriate that I commemorate 50 years of racial integration in the armed services.

It was President Harry Truman, a fellow Missourian, who took the courageous and historic action in signing Executive Order 9981. President Truman had seen many examples of sacrifice by soldiers and airmen which proved that segregation was incompatible with the values of our Nation: the Tuskegee airmen, who never lost a bomber they accompanied, showed the high quality of black pilots; the heroism of Dory Miller, who manned a machine gun, in violation of the Navy's then segregationist policies, to defend Pearl Harbor against the Japanese invasion. For his brave actions, he was awarded a Navy cross for two confirmed kills on Japanese aircraft.

While integration of our military has not been without difficulty, this executive order was a giant step forward in the quality of our force. Take a good look at it today. It works, and it works well.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Ms. MCKINNEY. Mr. Speaker, reserving the right to object, I, too, would like to join my colleagues in commending what I call America's Congresswoman, the gentlewoman from California (Ms. MAXINE WATERS), for shepherding this legislation through the process onto the floor of the House tonight.

As this body recognizes the 50th anniversary of the integration of the Armed Forces, we must remember the historic role that President Truman's executive order played, not only in opening the military to African Americans, but in advancing the March for civil rights for all outside the military. His signature paved the way for today's Army.

Today 27 percent of the Army is black. These proud men and women comprise 12 percent of the officers and 30 percent of the enlisted soldiers. Eight percent of all generals are black. Prior to Truman's executive order, successful African American soldiers were recognized as exceptional, as distinct.

In 1939, the government established a segregated program at the Tuskegee Institute to train blacks as civilian pilots. These young men became known as the Tuskegee Airmen, and became successful World War II pilots. These brave and accomplished flyers never lost a bomber that they accompanied.

Truman's executive order provided African Americans with the opportunity to be more than just the exception. They were the backbone of our enlisted soldiers, and they are our leaders. They are the heroes, like the

Tuskegee Airmen, and they are role models for American society, both black and white.

General Colin Powell in the U.S. Army, Lieutenant General Benjamin O. Davis in the U.S. Air Force, and the Secretary of Veterans Affairs, Togo West, in today's society our young people cannot have too many honorable role models to help instill in them discipline, confidence, and self-respect.

As we honor the integration of the military, we must not forget the steps it took to get us here. The road has not been easy, and we still have a long way to go. The military must still guard against extremists and racist attacks within its ranks, like the tragic incident at Fort Bragg where two black civilians were gunned down by Lieutenant Burmeister.

We must be wary of differential treatments for blacks and whites in legal proceedings. While some white officers are allowed to retire quietly, other black enlisted personnel are sent to courts-martial.

Let me tell Members about a recent case that has come to my attention. This case is of Sgt. Aidens. Sgt. Aidens became the target of an investigation after he refused to lie that he knew about the misconduct of another black serviceman.

Coincidentally, Sgt. Aidens just last night was found to be guilty of using crack cocaine. The evidence used to find him guilty was a pubic hair sample taken by army investigators. Most of America is not aware of this form of drug testing because it is not proven, it is controversial, and gives false positives for African Americans. However, pubic hair testing has been used in military courts as evidence when accompanied with an urinalysis. Yet, in Sgt. Aidens' case, the Army did not give him a urinalysis. If Sgt. Aidens' verdict is upheld, I am very concerned for every African American in our Armed Forces.

A recent article by Charles Moskos lays out some lessons that we can learn on race in the Army. He suggests, one, we focus on black opportunity channels; two, be ruthless against discrimination; three, affirmative action must be linked to standards; four, a level playing field is not enough. We need to recognize the disadvantages that minorities have and compensate those with additional help.

I hope when we recognize the next 50 years of integration of our Armed Forces, that we look at each shortcoming and racist act not only as a battle lost, but a serious chipping away at the war of what it means to be an American and what America means to the world.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 294

Whereas on July 26, 1948, President Truman issued Executive Order 9981 ordering the integration of the Armed Forces;

Whereas the President stated in the executive order that it was "essential that there be maintained in the armed services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense";

Whereas in the executive order the President declared that "there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin";

Whereas, soon after the President issued the executive order, United States forces in Korea were integrated, leading the way to a fully integrated army;

Whereas the Armed Forces have used the implementation and enforcement of the Civil Rights Act of 1964 as additional tools to eliminate discrimination among their military and civilian personnel;

Whereas in 1998 minorities serve in senior leadership positions throughout the Armed Forces, as officers, as senior non-commissioned officers, and as civilian leaders;

Whereas the Armed Forces have demonstrated a continuing commitment to ensuring the equality of treatment and opportunity for all military and civilian personnel of the Armed Forces; and

Whereas the efforts of the Armed Forces to ensure the equality of treatment and opportunity for their personnel have contributed significantly to the advancement of equality of treatment and opportunity for all Americans: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That the Congress—*

(1) commends the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or national origin; and

(2) recognizes the Department of Defense's celebration of the 50th Anniversary of the integration of the Armed Forces.

□ 2300

AMENDMENT OFFERED BY MR. BUYER

Mr. BUYER. Mr. Speaker, I offer an amendment to the text.

The Clerk read as follows:

Amendment to the text offered by Mr. BUYER:

Page 2, line 2, strike "That the Congress" and all that follows and insert the following: That the Congress commends the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or national origin.

Mr. BUYER. Mr. Speaker, this amendment makes minor modifications to the resolution that addresses concerns over language that may have been interpreted as conflicting with the House rule against commemoratives. These changes have been worked out in advance with the minority and the sponsor of the resolution, and I understand this to be noncontroversial.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the amendment to the text offered by the gentleman from Indiana (Mr. BUYER).

The amendment to the text was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. BUYER

Mr. BUYER. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. BUYER:

Page 1, in the second clause of the preamble insert "50 years ago" after "The President stated".

The amendment to the preamble was agreed to.

TITLE AMENDMENT OFFERED BY MR. BUYER

Mr. BUYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. BUYER:

Amend the title so as to read: "Concurrent resolution commending the Armed Forces for their efforts, leadership, and success in providing equality of treatment and opportunity for their military and civilian personnel without regard to race, color, religion, or national origin."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

#### CONFERENCE REPORT ON H.R. 1385, WORKFORCE INVESTMENT ACT OF 1998

Mr. BOB SCHAFFER of Colorado submitted the following conference report and statement on the bill (H.R. 1385) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 105-659)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1385), to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

#### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) *SHORT TITLE.*—This Act may be cited as the "Workforce Investment Act of 1998".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### *TITLE I—WORKFORCE INVESTMENT SYSTEMS*

*Subtitle A—Workforce Investment Definitions*

Sec. 101. Definitions.

*Subtitle B—Statewide and Local Workforce Investment Systems*

Sec. 106. Purpose.

#### *CHAPTER 1—STATE PROVISIONS*

Sec. 111. State workforce investment boards.

Sec. 112. State plan.

## CHAPTER 2—LOCAL PROVISIONS

- Sec. 116. Local workforce investment areas.  
 Sec. 117. Local workforce investment boards.  
 Sec. 118. Local plan.

## CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

- Sec. 121. Establishment of one-stop delivery systems.  
 Sec. 122. Identification of eligible providers of training services.  
 Sec. 123. Identification of eligible providers of youth activities.

## CHAPTER 4—YOUTH ACTIVITIES

- Sec. 126. General authorization.  
 Sec. 127. State allotments.  
 Sec. 128. Within State allocations.  
 Sec. 129. Use of funds for youth activities.

## CHAPTER 5—ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES

- Sec. 131. General authorization.  
 Sec. 132. State allotments.  
 Sec. 133. Within State allocations.  
 Sec. 134. Use of funds for employment and training activities.

## CHAPTER 6—GENERAL PROVISIONS

- Sec. 136. Performance accountability system.  
 Sec. 137. Authorization of appropriations.

## Subtitle C—Job Corps

- Sec. 141. Purposes.  
 Sec. 142. Definitions.  
 Sec. 143. Establishment.  
 Sec. 144. Individuals eligible for the job corps.  
 Sec. 145. Recruitment, screening, selection, and assignment of enrollees.

- Sec. 146. Enrollment.  
 Sec. 147. Job corps centers.  
 Sec. 148. Program activities.  
 Sec. 149. Counseling and job placement.  
 Sec. 150. Support.  
 Sec. 151. Operating plan.  
 Sec. 152. Standards of conduct.  
 Sec. 153. Community participation.  
 Sec. 154. Industry councils.  
 Sec. 155. Advisory committees.  
 Sec. 156. Experimental, research, and demonstration projects.  
 Sec. 157. Application of provisions of Federal law.  
 Sec. 158. Special provisions.  
 Sec. 159. Management information.  
 Sec. 160. General provisions.  
 Sec. 161. Authorization of appropriations.

## Subtitle D—National Programs

- Sec. 166. Native american programs.  
 Sec. 167. Migrant and seasonal farmworker programs.  
 Sec. 168. Veterans' workforce investment programs.  
 Sec. 169. Youth opportunity grants.  
 Sec. 170. Technical assistance.  
 Sec. 171. Demonstration, pilot, multiservice, research, and multistate projects.  
 Sec. 172. Evaluations.  
 Sec. 173. National emergency grants.  
 Sec. 174. Authorization of appropriations.

## Subtitle E—Administration

- Sec. 181. Requirements and restrictions.  
 Sec. 182. Prompt allocation of funds.  
 Sec. 183. Monitoring.  
 Sec. 184. Fiscal controls; sanctions.  
 Sec. 185. Reports; recordkeeping; investigations.  
 Sec. 186. Administrative adjudication.  
 Sec. 187. Judicial review.  
 Sec. 188. Nondiscrimination.  
 Sec. 189. Administrative provisions.  
 Sec. 190. Reference.  
 Sec. 191. State legislative authority.  
 Sec. 192. Workforce flexibility plans.  
 Sec. 193. Use of certain real property.  
 Sec. 194. Continuation of State activities and policies.

- Sec. 195. General program requirements.

## Subtitle F—Repeals and Conforming Amendments

- Sec. 199. Repeals.  
 Sec. 199A. Conforming amendments.

## TITLE II—ADULT EDUCATION AND LITERACY

- Sec. 201. Short title.  
 Sec. 202. Purpose.  
 Sec. 203. Definitions.  
 Sec. 204. Home schools.  
 Sec. 205. Authorization of appropriations.

## Subtitle A—Adult Education and Literacy Programs

## CHAPTER 1—FEDERAL PROVISIONS

- Sec. 211. Reservation; grants to eligible agencies; allotments.  
 Sec. 212. Performance accountability system.

## CHAPTER 2—STATE PROVISIONS

- Sec. 221. State administration.  
 Sec. 222. State distribution of funds; matching requirement.  
 Sec. 223. State leadership activities.  
 Sec. 224. State plan.  
 Sec. 225. Programs for corrections education and other institutionalized individuals.

## CHAPTER 3—LOCAL PROVISIONS

- Sec. 231. Grants and contracts for eligible providers.  
 Sec. 232. Local application.  
 Sec. 233. Local administrative cost limits.

## CHAPTER 4—GENERAL PROVISIONS

- Sec. 241. Administrative provisions.  
 Sec. 242. National institute for literacy.  
 Sec. 243. National leadership activities.

## Subtitle B—Repeals

- Sec. 251. Repeals.

## TITLE III—WORKFORCE INVESTMENT-RELATED ACTIVITIES

## Subtitle A—Wagner-Peyser Act

- Sec. 301. Definitions.  
 Sec. 302. Functions.  
 Sec. 303. Designation of State agencies.  
 Sec. 304. Appropriations.  
 Sec. 305. Disposition of allotted funds.  
 Sec. 306. State plans.  
 Sec. 307. Repeal of Federal advisory council.  
 Sec. 308. Regulations.  
 Sec. 309. Employment statistics.  
 Sec. 310. Technical amendments.  
 Sec. 311. Effective date.

## Subtitle B—Linkages With Other Programs

- Sec. 321. Trade act of 1974.  
 Sec. 322. Veterans' employment programs.  
 Sec. 323. Older americans act of 1965.

## Subtitle C—Twenty-First Century Workforce Commission

- Sec. 331. Short title.  
 Sec. 332. Findings.  
 Sec. 333. Definitions.  
 Sec. 334. Establishment of twenty-first century workforce commission.  
 Sec. 335. Duties of the commission.  
 Sec. 336. Powers of the commission.  
 Sec. 337. Commission personnel matters.  
 Sec. 338. Termination of the commission.  
 Sec. 339. Authorization of appropriations.

## Subtitle D—Application of Civil Rights and Labor-Management Laws to the Smithsonian Institution

- Sec. 341. Application of civil rights and labor-management laws to the Smithsonian Institution.

## TITLE IV—REHABILITATION ACT AMENDMENTS OF 1998

- Sec. 401. Short title.  
 Sec. 402. Title.  
 Sec. 403. General provisions.  
 Sec. 404. Vocational rehabilitation services.  
 Sec. 405. Research and training.  
 Sec. 406. Professional development and special projects and demonstrations.  
 Sec. 407. National Council on Disability.  
 Sec. 408. Rights and advocacy.  
 Sec. 409. Employment opportunities for individuals with disabilities.

- Sec. 410. Independent living services and centers for independent living.

- Sec. 411. Repeal.  
 Sec. 412. Helen Keller National Center Act.  
 Sec. 413. President's Committee on Employment of People With Disabilities.  
 Sec. 414. Conforming amendments.

## TITLE V—GENERAL PROVISIONS

- Sec. 501. State unified plan.  
 Sec. 502. Definitions for indicators of performance.  
 Sec. 503. Incentive grants.  
 Sec. 504. Privacy.  
 Sec. 505. Buy-american requirements.  
 Sec. 506. Transition provisions.  
 Sec. 507. Effective date.

## TITLE I—WORKFORCE INVESTMENT SYSTEMS

## Subtitle A—Workforce Investment Definitions

## SEC. 101. DEFINITIONS.

In this title:

(1) ADULT.—Except in sections 127 and 132, the term "adult" means an individual who is age 18 or older.

(2) ADULT EDUCATION; ADULT EDUCATION AND LITERACY ACTIVITIES.—The terms "adult education" and "adult education and literacy activities" have the meanings given the terms in section 203.

(3) AREA VOCATIONAL EDUCATION SCHOOL.—The term "area vocational education school" has the meaning given the term in section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471).

(4) BASIC SKILLS DEFICIENT.—The term "basic skills deficient" means, with respect to an individual, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

(5) CASE MANAGEMENT.—The term "case management" means the provision of a client-centered approach in the delivery of services, designed—

(A) to prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment activities and supportive services, using, where feasible, computer-based technologies; and

(B) to provide job and career counseling during program participation and after job placement.

(6) CHIEF ELECTED OFFICIAL.—The term "chief elected official" means—

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than 1 unit of general local government, the individuals designated under the agreement described in section 117(c)(1)(B).

(7) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment.

(8) CUSTOMIZED TRAINING.—The term "customized training" means training—

(A) that is designed to meet the special requirements of an employer (including a group of employers);

(B) that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and

(C) for which the employer pays for not less than 50 percent of the cost of the training.

(9) DISLOCATED WORKER.—The term "dislocated worker" means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(B)(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services other than training services described in section 134(d)(4), intensive services described in section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; or

(D) is a displaced homemaker.

(10) **DISPLACED HOME MAKER.**—The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent on the income of another family member but is no longer supported by that income; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(11) **ECONOMIC DEVELOPMENT AGENCIES.**—The term “economic development agencies” includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(12) **ELIGIBLE PROVIDER.**—The term “eligible provider”, used with respect to—

(A) training services, means a provider who is identified in accordance with section 122(e)(3);

(B) intensive services, means a provider who is identified or awarded a contract as described in section 134(d)(3)(B);

(C) youth activities, means a provider who is awarded a grant or contract in accordance with section 123; or

(D) other workforce investment activities, means a public or private entity selected to be responsible for such activities, such as a one-stop operator designated or certified under section 121(d).

(13) **ELIGIBLE YOUTH.**—Except as provided in subtitles C and D, the term “eligible youth” means an individual who—

(A) is not less than age 14 and not more than age 21;

(B) is a low-income individual; and

(C) is an individual who is 1 or more of the following:

(i) Deficient in basic literacy skills.

(ii) A school dropout.

(iii) Homeless, a runaway, or a foster child.

(iv) Pregnant or a parent.

(v) An offender.

(vi) An individual who requires additional assistance to complete an educational program, or to secure and hold employment.

(14) **EMPLOYMENT AND TRAINING ACTIVITY.**—The term “employment and training activity” means an activity described in section 134 that is carried out for an adult or dislocated worker.

(15) **FAMILY.**—The term “family” means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

(A) A husband, wife, and dependent children.  
(B) A parent or guardian and dependent children.

(C) A husband and wife.

(16) **GOVERNOR.**—The term “Governor” means the chief executive of a State.

(17) **INDIVIDUAL WITH A DISABILITY.**—

(A) **IN GENERAL.**—The term “individual with a disability” means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) **INDIVIDUALS WITH DISABILITIES.**—The term “individuals with disabilities” means more than 1 individual with a disability.

(18) **LABOR MARKET AREA.**—The term “labor market area” means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

(19) **LITERACY.**—The term “literacy” has the meaning given the term in section 203.

(20) **LOCAL AREA.**—The term “local area” means a local workforce investment area designated under section 116.

(21) **LOCAL BOARD.**—The term “local board” means a local workforce investment board established under section 117.

(22) **LOCAL PERFORMANCE MEASURE.**—The term “local performance measure” means a performance measure established under section 136(c).

(23) **LOCAL EDUCATIONAL AGENCY.**—The term “local educational agency” has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(24) **LOWER LIVING STANDARD INCOME LEVEL.**—The term “lower living standard income level” means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent lower living family budget issued by the Secretary.

(25) **LOW-INCOME INDIVIDUAL.**—The term “low-income individual” means an individual who—

(A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line, for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

(26) **NONTRADITIONAL EMPLOYMENT.**—The term “nontraditional employment” refers to occupa-

tions or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(27) **OFFENDER.**—The term “offender” means any adult or juvenile—

(A) who is or has been subject to any stage of the criminal justice process, for whom services under this Act may be beneficial; or

(B) who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(28) **OLDER INDIVIDUAL.**—The term “older individual” means an individual age 55 or older.

(29) **ONE-STOP OPERATOR.**—The term “one-stop operator” means 1 or more entities designated or certified under section 121(d).

(30) **ONE-STOP PARTNER.**—The term “one-stop partner” means—

(A) an entity described in section 121(b)(1); and

(B) an entity described in section 121(b)(2) that is participating, with the approval of the local board and chief elected official, in the operation of a one-stop delivery system.

(31) **ON-THE-JOB TRAINING.**—The term “on-the-job training” means training by an employer that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

(32) **OUTLYING AREA.**—The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(33) **OUT-OF-SCHOOL YOUTH.**—The term “out-of-school youth” means—

(A) an eligible youth who is a school dropout; or

(B) an eligible youth who has received a secondary school diploma or its equivalent but is basic skills deficient, unemployed, or underemployed.

(34) **PARTICIPANT.**—The term “participant” means an individual who has been determined to be eligible to participate in and who is receiving services (except followup services authorized under this title) under a program authorized by this title. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the individual began receiving subsidized employment, training, or other services provided under this title.

(35) **POSTSECONDARY EDUCATIONAL INSTITUTION.**—The term “postsecondary educational institution” means an institution of higher education, as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088).

(36) **POVERTY LINE.**—The term “poverty line” means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(37) **PUBLIC ASSISTANCE.**—The term “public assistance” means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(38) **RAPID RESPONSE ACTIVITY.**—The term “rapid response activity” means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 134(a)(1)(A), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist

dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information and access to available employment and training activities;

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

(D) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(E) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

(39) SCHOOL DROPOUT.—The term “school dropout” means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(40) SECONDARY SCHOOL.—The term “secondary school” has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(41) SECRETARY.—The term “Secretary” means the Secretary of Labor, and the term means such Secretary for purposes of section 503.

(42) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(43) STATE ADJUSTED LEVEL OF PERFORMANCE.—The term “State adjusted level of performance” means a level described in clause (iii) or (v) of section 136(b)(3)(A).

(44) STATE BOARD.—The term “State board” means a State workforce investment board established under section 111.

(45) STATE PERFORMANCE MEASURE.—The term “State performance measure” means a performance measure established under section 136(b).

(46) SUPPORTIVE SERVICES.—The term “supportive services” means services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this title, consistent with the provisions of this title.

(47) UNEMPLOYED INDIVIDUAL.—The term “unemployed individual” means an individual who is without a job and who wants and is available for work. The determination of whether an individual is without a job shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

(48) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(49) VETERAN; RELATED DEFINITION.—

(A) VETERAN.—The term “veteran” means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) RECENTLY SEPARATED VETERAN.—The term “recently separated veteran” means any veteran who applies for participation under this title within 48 months after the discharge or release from active military, naval, or air service.

(50) VOCATIONAL EDUCATION.—The term “vocational education” has the meaning given the term in section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471).

(51) WORKFORCE INVESTMENT ACTIVITY.—The term “workforce investment activity” means an employment and training activity, and a youth activity.

(52) YOUTH ACTIVITY.—The term “youth activity” means an activity described in section 129 that is carried out for eligible youth (or as described in section 129(c)(5)).

(53) YOUTH COUNCIL.—The term “youth council” means a council established under section 117(h).

#### **Subtitle B—Statewide and Local Workforce Investment Systems**

##### **SEC. 106. PURPOSE.**

The purpose of this subtitle is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation.

#### **CHAPTER 1—STATE PROVISIONS**

##### **SEC. 111. STATE WORKFORCE INVESTMENT BOARDS.**

(a) IN GENERAL.—The Governor of a State shall establish a State workforce investment board to assist in the development of the State plan described in section 112 and to carry out the other functions described in subsection (d).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The State Board shall include—

(A) the Governor;

(B) 2 members of each chamber of the State legislature, appointed by the appropriate presiding officers of each such chamber; and

(C) representatives appointed by the Governor, who are—

(i) representatives of business in the State, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local boards described in section 117(b)(2)(A)(i);

(II) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(III) are appointed from among individuals nominated by State business organizations and business trade associations;

(ii) chief elected officials (representing both cities and counties, where appropriate);

(iii) representatives of labor organizations, who have been nominated by State labor federations;

(iv) representatives of individuals and organizations that have experience with respect to youth activities;

(v) representatives of individuals and organizations that have experience and expertise in the delivery of workforce investment activities, including chief executive officers of community colleges and community-based organizations within the State;

(vi)(I) the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners; and

(II) in any case in which no lead State agency official has responsibility for such a program, service, or activity, a representative in the State with expertise relating to such program, service, or activity; and

(vii) such other representatives and State agency officials as the Governor may designate, such as the State agency officials responsible for economic development and juvenile justice programs in the State.

(2) AUTHORITY AND REGIONAL REPRESENTATION OF BOARD MEMBERS.—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations,

agencies, or entities. The members of the board shall represent diverse regions of the State, including urban, rural, and suburban areas.

(3) MAJORITY.—A majority of the members of the State Board shall be representatives described in paragraph (1)(C)(i).

(c) CHAIRMAN.—The Governor shall select a chairperson for the State Board from among the representatives described in subsection (b)(1)(C)(i).

(d) FUNCTIONS.—The State Board shall assist the Governor in—

(1) development of the State plan;

(2) development and continuous improvement of a statewide system of activities that are funded under this subtitle or carried out through a one-stop delivery system described in section 134(c) that receives funds under this subtitle (referred to in this title as a “statewide workforce investment system”), including—

(A) development of linkages in order to assure coordination and nonduplication among the programs and activities described in section 121(b); and

(B) review of local plans;

(3) commenting at least once annually on the measures taken pursuant to section 113(b)(14) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14));

(4) designation of local areas as required in section 116;

(5) development of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas as permitted under sections 128(b)(3)(B) and 133(b)(3)(B);

(6) development and continuous improvement of comprehensive State performance measures, including State adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the State as required under section 136(b);

(7) preparation of the annual report to the Secretary described in section 136(d);

(8) development of the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act; and

(9) development of an application for an incentive grant under section 503.

(e) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board, combination of regional workforce development boards, or similar entity) that—

(A) was in existence on December 31, 1997;

(B)(i) was established pursuant to section 122 or title VII of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) is substantially similar to the State board described in subsections (a), (b), and (c); and

(C) includes representatives of business in the State and representatives of labor organizations in the State.

(2) REFERENCES.—References in this Act to a State board shall be considered to include such an entity.

(f) CONFLICT OF INTEREST.—A member of a State board may not—

(1) vote on a matter under consideration by the State board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(g) SUNSHINE PROVISION.—The State board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the State board, including information regarding the State plan prior to submission of the plan, information regarding

membership, and, on request, minutes of formal meetings of the State board.

**SEC. 112. STATE PLAN.**

(a) *IN GENERAL.*—For a State to be eligible to receive an allotment under section 127 or 132, or to receive financial assistance under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Governor of the State shall submit to the Secretary for consideration by the Secretary, a single State plan (referred to in this title as the "State plan") that outlines a 5-year strategy for the statewide workforce investment system of the State and that meets the requirements of section 111 and this section.

(b) *CONTENTS.*—The State plan shall include—

(1) a description of the State board, including a description of the manner in which such board collaborated in the development of the State plan and a description of how the board will continue to collaborate in carrying out the functions described in section 111(d);

(2) a description of State-imposed requirements for the statewide workforce investment system;

(3) a description of the State performance accountability system developed for the workforce investment activities to be carried out through the statewide workforce investment system, that includes information identifying State performance measures as described in section 136(b)(3)(A)(ii);

(4) information describing—

(A) the needs of the State with regard to current and projected employment opportunities, by occupation;

(B) the job skills necessary to obtain such employment opportunities;

(C) the skills and economic development needs of the State; and

(D) the type and availability of workforce investment activities in the State;

(5) an identification of local areas designated in the State, including a description of the process used for the designation of such areas;

(6) an identification of criteria to be used by chief elected officials for the appointment of members of local boards based on the requirements of section 117;

(7) the detailed plans required under section 8 of the Wagner-Peyser Act (29 U.S.C. 49g);

(8)(A) a description of the procedures that will be taken by the State to assure coordination of and avoid duplication among—

(i) workforce investment activities authorized under this title;

(ii) other activities authorized under this title;

(iii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title II of this Act, title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)), activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.), and postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(iv) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(v) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(vi) activities authorized under chapter 41 of title 38, United States Code;

(vii) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(viii) activities authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(ix) employment and training activities carried out by the Department of Housing and Urban Development; and

(x) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law); and

(B) a description of the common data collection and reporting processes used for the programs and activities described in subparagraph (A);

(9) a description of the process used by the State, consistent with section 111(g), to provide an opportunity for public comment, including comment by representatives of businesses and representatives of labor organizations, and input into development of the plan, prior to submission of the plan;

(10) information identifying how the State will use funds the State receives under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, and to expand the participation of business, employees, and individuals in the statewide workforce investment system;

(11) assurances that the State will provide, in accordance with section 184 for fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotments made under sections 127 and 132;

(12)(A) a description of the methods and factors the State will use in distributing funds to local areas for youth activities and adult employment and training activities under sections 128(b)(3)(B) and 133(b)(3)(B), including—

(i) a description of how the individuals and entities represented on the State board were involved in determining such methods and factors of distribution; and

(ii) a description of how the State consulted with chief elected officials in local areas throughout the State in determining such distribution;

(B) assurances that the funds will be distributed equitably throughout the State, and that no local areas will suffer significant shifts in funding from year to year; and

(C) a description of the formula prescribed by the Governor pursuant to section 133(b)(2)(B) for the allocation of funds to local areas for dislocated worker employment and training activities;

(13) information specifying the actions that constitute a conflict of interest prohibited in the State for purposes of sections 111(f) and 117(g);

(14) with respect to the one-stop delivery systems described in section 134(c) (referred to individually in this title as a "one-stop delivery system"), a description of the strategy of the State for assisting local areas in development and implementation of fully operational one-stop delivery systems in the State;

(15) a description of the appeals process referred to in section 116(a)(5);

(16) a description of the competitive process to be used by the State to award grants and contracts in the State for activities carried out under this title;

(17) with respect to the employment and training activities authorized in section 134—

(A) a description of—

(i) the employment and training activities that will be carried out with the funds received by the State through the allotment made under section 132;

(ii) how the State will provide rapid response activities to dislocated workers from funds reserved under section 133(a)(2) for such purposes, including the designation of an identifiable State rapid response dislocated worker unit to carry out statewide rapid response activities;

(iii) the procedures the local boards in the State will use to identify eligible providers of training services described in section 134(d)(4) (other than on-the-job training or customized training), as required under section 122; and

(iv) how the State will serve the employment and training needs of dislocated workers (including displaced homemakers), low-income individuals (including recipients of public assistance), individuals training for nontraditional employment, and other individuals with mul-

iple barriers to employment (including older individuals and individuals with disabilities); and

(B) an assurance that veterans will be afforded the employment and training activities by the State, to the extent practicable; and

(18) with respect to youth activities authorized in section 129, information—

(A) describing the State strategy for providing comprehensive services to eligible youth, particularly those eligible youth who are recognized as having significant barriers to employment;

(B) identifying the criteria to be used by local boards in awarding grants for youth activities, including criteria that the Governor and local boards will use to identify effective and ineffective youth activities and providers of such activities;

(C) describing how the State will coordinate the youth activities carried out in the State under section 129 with the services provided by Job Corps centers in the State (where such centers exist); and

(D) describing how the State will coordinate youth activities described in subparagraph (C) with activities carried out through the youth opportunity grants under section 169.

(c) *PLAN SUBMISSION AND APPROVAL.*—A State plan submitted to the Secretary under this section by a Governor shall be considered to be approved by the Secretary at the end of the 90-day period beginning on the day the Secretary receives the plan, unless the Secretary makes a written determination, during the 90-day period, that—

(1) the plan is inconsistent with the provisions of this title; and

(2) in the case of the portion of the plan described in section 8(a) of the Wagner-Peyser Act (29 U.S.C. 49g(a)), the portion does not satisfy the criteria for approval provided in section 8(d) of such Act.

(d) *MODIFICATIONS TO PLAN.*—A State may submit modifications to a State plan in accordance with the requirements of this section and section 111 as necessary during the 5-year period covered by the plan.

**CHAPTER 2—LOCAL PROVISIONS**

**SEC. 116. LOCAL WORKFORCE INVESTMENT AREAS.**

(a) *DESIGNATION OF AREAS.*—

(1) *IN GENERAL.*—

(A) *PROCESS.*—Except as provided in subsection (b), and consistent with paragraphs (2), (3), and (4), in order for a State to receive an allotment under section 127 or 132, the Governor of the State shall designate local workforce investment areas within the State—

(i) through consultation with the State board; and

(ii) after consultation with chief elected officials and after consideration of comments received through the public comment process as described in section 112(b)(9).

(B) *CONSIDERATIONS.*—In making the designation of local areas, the Governor shall take into consideration the following:

(i) Geographic areas served by local educational agencies and intermediate educational agencies.

(ii) Geographic areas served by postsecondary educational institutions and area vocational education schools.

(iii) The extent to which such local areas are consistent with labor market areas.

(iv) The distance that individuals will need to travel to receive services provided in such local areas.

(v) The resources of such local areas that are available to effectively administer the activities carried out under this subtitle.

(2) *AUTOMATIC DESIGNATION.*—The Governor shall approve any request for designation as a local area—

(A) from any unit of general local government with a population of 500,000 or more;

(B) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service

delivery area or substate area under the Job Training Partnership Act, if the grant recipient has submitted the request; and

(C) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of not more than 1,100,000 and a population density greater than 900 persons per square mile.

(3) TEMPORARY AND SUBSEQUENT DESIGNATION.—

(A) CRITERIA.—Notwithstanding paragraph (2)(A), the Governor shall approve any request, made not later than the date of submission of the initial State plan under this subtitle, for temporary designation as a local area from any unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before the date of enactment of this Act if the Governor determines that the area—

(i) performed successfully, in each of the last 2 years prior to the request for which data are available, in the delivery of services to participants under part A of title II and title III of the Job Training Partnership Act (as in effect on such day); and

(ii) has sustained the fiscal integrity of the funds used by the area to carry out activities under such part and title.

(B) DURATION AND SUBSEQUENT DESIGNATION.—A temporary designation under this paragraph shall be for a period of not more than 2 years, after which the designation shall be extended until the end of the period covered by the State plan if the Governor determines that, during the temporary designation period, the area substantially met (as defined by the State board) the local performance measures for the local area and sustained the fiscal integrity of the funds used by the area to carry out activities under this subtitle.

(C) TECHNICAL ASSISTANCE.—The Secretary shall provide the States with technical assistance in making the determinations required by this paragraph. The Secretary shall not issue regulations governing determinations to be made under this paragraph.

(D) PERFORMED SUCCESSFULLY.—In this paragraph, the term “performed successfully” means that the area involved met or exceeded the performance standards for activities administered in the area that—

(i) are established by the Secretary for each year and modified by the adjustment methodology of the State (used to account for differences in economic conditions, participant characteristics, and combination of services provided from the combination assumed for purposes of the established standards of the Secretary); and

(ii)(I) if the area was designated as both a service delivery area and a substate area under the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act)—

(aa) relate to job retention and earnings, with respect to activities carried out under part A of title II of such Act (as in effect on such day); or

(bb) relate to entry into employment, with respect to activities carried out under title III of such Act (as in effect on such day);

(II) if the area was designated only as a service delivery area under such Act (as in effect on such day), relate to the standards described in subclause (I)(aa); or

(III) if the area was only designated as a substate area under such Act (as in effect on such day), relate to the standards described in subclause (I)(bb).

(E) SUSTAINED THE FISCAL INTEGRITY.—In this paragraph, the term “sustained the fiscal integrity”, used with respect to funds used by a service delivery area or local area, means that the Secretary has not made a final determination during any of the last 3 years for which data are available, prior to the date of the designa-

tion request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Act involved, gross negligence, or failure to observe accepted standards of administration.

(4) DESIGNATION ON RECOMMENDATION OF STATE BOARD.—The Governor may approve a request from any unit of general local government (including a combination of such units) for designation (including temporary designation) as a local area if the State board determines, taking into account the factors described in clauses (i) through (v) of paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

(5) APPEALS.—A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area under paragraph (2) or (3) may submit an appeal to the State board under an appeal process established in the State plan. If the appeal does not result in such a designation, the Secretary, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeal process established in the State plan or that the area meets the requirements of paragraph (2) or (3), as appropriate, may require that the area be designated as a local area under such paragraph.

(b) SMALL STATES.—The Governor of any State that was a single State service delivery area under the Job Training Partnership Act as of July 1, 1998, may designate the State as a single State local area for the purposes of this title. In the case of such a designation, the Governor shall identify the State as a local area under section 112(b)(5).

(c) REGIONAL PLANNING AND COOPERATION.—

(1) PLANNING.—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures.

(2) INFORMATION SHARING.—The State may require the local boards for a designated region to share, in feasible cases, employment statistics, information about employment opportunities and trends, and other types of information that would assist in improving the performance of all local areas in the designated region on local performance measures.

(3) COORDINATION OF SERVICES.—The State may require the local boards for a designated region to coordinate the provision of workforce investment activities authorized under this subtitle, including the provision of transportation and other supportive services, so that services provided through the activities may be provided across the boundaries of local areas within the designated region.

(4) INTERSTATE REGIONS.—Two or more States that contain an interstate region that is a labor market area, economic development region, or other appropriate contiguous subarea of the States may designate the area as a designated region for purposes of this subsection, and jointly exercise the State functions described in paragraphs (1) through (3).

(5) DEFINITIONS.—In this subsection:

(A) DESIGNATED REGION.—The term “designated region” means a combination of local areas that are partly or completely in a single labor market area, economic development region, or other appropriate contiguous subarea of a State, that is designated by the State, except as provided in paragraph (4).

(B) LOCAL BOARD FOR A DESIGNATED REGION.—The term “local board for a designated

region” means a local board for a local area in a designated region.

SEC. 117. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) ESTABLISHMENT.—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in this title as a “local workforce investment system”).

(b) MEMBERSHIP.—

(1) STATE CRITERIA.—The Governor of the State, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such local areas in accordance with the requirements of paragraph (2).

(2) COMPOSITION.—Such criteria shall require, at a minimum, that the membership of each local board—

(A) shall include—

(i) representatives of business in the local area, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(II) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(III) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;

(iii) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;

(iv) representatives of community-based organizations (including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present);

(v) representatives of economic development agencies, including private sector economic development entities; and

(vi) representatives of each of the one-stop partners; and

(B) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) AUTHORITY OF BOARD MEMBERS.—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(4) MAJORITY.—A majority of the members of the local board shall be representatives described in paragraph (2)(A)(i).

(5) CHAIRPERSON.—The local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A)(i).

(c) APPOINTMENT AND CERTIFICATION OF BOARD.—

(1) APPOINTMENT OF BOARD MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.—

(A) IN GENERAL.—The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established under subsection (b).

(B) MULTIPLE UNITS OF LOCAL GOVERNMENT IN AREA.—

(i) *IN GENERAL.*—In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (b); and

(II) in carrying out any other responsibilities assigned to such officials under this subtitle.

(ii) *LACK OF AGREEMENT.*—If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local board from individuals so nominated or recommended.

(C) *CONCENTRATED EMPLOYMENT PROGRAMS.*—In the case of a local area designated in accordance with section 116(a)(2)(B), the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local board, in accordance with the State criteria established under subsection (b), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

(2) *CERTIFICATION.*—

(A) *IN GENERAL.*—The Governor shall, once every 2 years, certify 1 local board for each local area in the State.

(B) *CRITERIA.*—Such certification shall be based on criteria established under subsection (b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

(C) *FAILURE TO ACHIEVE CERTIFICATION.*—Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in paragraph (1) and this paragraph.

(3) *DECERTIFICATION.*—

(A) *FRAUD, ABUSE, FAILURE TO CARRY OUT FUNCTIONS.*—Notwithstanding paragraph (2), the Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for—

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local board in any of paragraphs (1) through (7) of subsection (d).

(B) *NONPERFORMANCE.*—Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years (in accordance with section 136(h)).

(C) *PLAN.*—If the Governor decertifies a local board for a local area under subparagraph (A) or (B), the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area, and in accordance with the criteria established under subsection (b).

(4) *SINGLE STATE AREA.*—Notwithstanding subsection (b) and paragraphs (1) and (2), if a State described in section 116(b) indicates in the State plan that the State will be treated as a local area for purposes of the application of this title, the Governor may designate the State board to carry out any of the functions described in subsection (d).

(d) *FUNCTIONS OF LOCAL BOARD.*—The functions of the local board shall include the following:

(1) *LOCAL PLAN.*—Consistent with section 118, each local board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor.

(2) *SELECTION OF OPERATORS AND PROVIDERS.*—

(A) *SELECTION OF ONE-STOP OPERATORS.*—Consistent with section 121(d), the local board, with the agreement of the chief elected official—

(i) shall designate or certify one-stop operators as described in section 121(d)(2)(A); and

(ii) may terminate for cause the eligibility of such operators.

(B) *SELECTION OF YOUTH PROVIDERS.*—Consistent with section 123, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council.

(C) *IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.*—Consistent with section 122, the local board shall identify eligible providers of training services described in section 134(d)(4) in the local area.

(D) *IDENTIFICATION OF ELIGIBLE PROVIDERS OF INTENSIVE SERVICES.*—If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services described in section 134(d)(3) in the local area by awarding contracts.

(3) *BUDGET AND ADMINISTRATION.*—

(A) *BUDGET.*—The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official.

(B) *ADMINISTRATION.*—

(i) *GRANT RECIPIENT.*—

(I) *IN GENERAL.*—The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under sections 128 and 133, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.

(II) *DESIGNATION.*—In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in subclause (I).

(III) *DISBURSAL.*—The local grant recipient or an entity designated under subclause (II) shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The local grant recipient or entity designated under subclause (II) shall disburse the funds immediately on receiving such direction from the local board.

(ii) *STAFF.*—The local board may employ staff.

(iii) *GRANTS AND DONATIONS.*—The local board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.

(4) *PROGRAM OVERSIGHT.*—The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under section 129, local employment and training activities authorized under section 134, and the one-stop delivery system in the local area.

(5) *NEGOTIATION OF LOCAL PERFORMANCE MEASURES.*—The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in section 136(c).

(6) *EMPLOYMENT STATISTICS SYSTEM.*—The local board shall assist the Governor in developing the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act.

(7) *EMPLOYER LINKAGES.*—The local board shall coordinate the workforce investment activities authorized under this subtitle and carried out in the local area with economic develop-

ment strategies and develop other employer linkages with such activities.

(8) *CONNECTING, BROKERING, AND COACHING.*—The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs.

(e) *SUNSHINE PROVISION.*—The local board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local board, including information regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth activities, and on request, minutes of formal meetings of the local board.

(f) *LIMITATIONS.*—

(1) *TRAINING SERVICES.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), no local board may provide training services described in section 134(d)(4).

(B) *WAIVERS OF TRAINING PROHIBITION.*—The Governor of the State in which a local board is located may, pursuant to a request from the local board, grant a written waiver of the prohibition set forth in subparagraph (A) (relating to the provision of training services) for a program of training services, if the local board—

(i) submits to the Governor a proposed request for the waiver that includes—

(I) satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;

(II) information demonstrating that the board meets the requirements for an eligible provider of training services under section 122; and

(III) information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area;

(ii) makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days; and

(iii) includes, in the final request for the waiver, the evidence and information described in clause (i) and the comments received pursuant to clause (ii).

(C) *DURATION.*—A waiver granted to a local board under subparagraph (B) shall apply for a period of not to exceed 1 year. The waiver may be renewed for additional periods of not to exceed 1 year, pursuant to requests from the local board, if the board meets the requirements of subparagraph (B) in making the requests.

(D) *REVOCATION.*—The Governor may revoke a waiver granted under this paragraph during the appropriate period described in subparagraph (C) if the State determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

(2) *CORE SERVICES; INTENSIVE SERVICES; DESIGNATION OR CERTIFICATION AS ONE-STOP OPERATORS.*—A local board may provide core services described in section 134(d)(2) or intensive services described in section 134(d)(3) through a one-stop delivery system described in section 134(c) or be designated or certified as a one-stop operator only with the agreement of the chief elected official and the Governor.

(3) *LIMITATION ON AUTHORITY.*—Nothing in this Act shall be construed to provide a local board with the authority to mandate curricula for schools.

(g) *CONFLICT OF INTEREST.*—A member of a local board may not—

(1) vote on a matter under consideration by the local board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(h) YOUTH COUNCIL.—

(1) ESTABLISHMENT.—There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

(2) MEMBERSHIP.—The membership of each youth council—

(A) shall include—

(i) members of the local board described in subparagraph (A) or (B) of subsection (b)(2) with special interest or expertise in youth policy;

(ii) representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(iii) representatives of local public housing authorities;

(iv) parents of eligible youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and

(vi) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate.

(3) RELATIONSHIP TO LOCAL BOARD.—Members of the youth council who are not members of the local board described in subparagraphs (A) and (B) of subsection (b)(2) shall be voting members of the youth council and nonvoting members of the board.

(4) DUTIES.—The duties of the youth council include—

(A) developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board;

(B) subject to the approval of the local board and consistent with section 123—

(i) recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

(ii) conducting oversight with respect to the eligible providers of youth activities, in the local area;

(C) coordinating youth activities authorized under section 129 in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local board.

(i) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h), a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C) (i) is established pursuant to section 102 of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) is substantially similar to the local board described in subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h);

(D) includes—

(i) representatives of business in the local area; and

(ii) (I) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations; or

(II) (for a local area in which no employees are represented by such organizations), other representatives of employees in the local area.

(2) REFERENCES.—References in this Act to a local board or a youth council shall be consid-

ered to include such an entity or a subgroup of such an entity, respectively.

#### SEC. 118. LOCAL PLAN.

(a) IN GENERAL.—Each local board shall develop and submit to the Governor a comprehensive 5-year local plan (referred to in this title as the "local plan"), in partnership with the appropriate chief elected official. The plan shall be consistent with the State plan.

(b) CONTENTS.—The local plan shall include—

(1) an identification of—

(A) the workforce investment needs of businesses, jobseekers, and workers in the local area;

(B) the current and projected employment opportunities in the local area; and

(C) the job skills necessary to obtain such employment opportunities;

(2) a description of the one-stop delivery system to be established or designated in the local area, including—

(A) a description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of local employers and participants; and

(B) a copy of each memorandum of understanding described in section 121(c) (between the local board and each of the one-stop partners) concerning the operation of the one-stop delivery system in the local area;

(3) a description of the local levels of performance negotiated with the Governor and chief elected official pursuant to section 136(c), to be used to measure the performance of the local area and to be used by the local board for measuring the performance of the local fiscal agent (where appropriate), eligible providers, and the one-stop delivery system, in the local area;

(4) a description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(5) a description of how the local board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities, as appropriate;

(6) a description and assessment of the type and availability of youth activities in the local area, including an identification of successful providers of such activities;

(7) a description of the process used by the local board, consistent with subsection (c), to provide an opportunity for public comment, including comment by representatives of businesses and comment by representatives of labor organizations, and input into the development of the local plan, prior to submission of the plan;

(8) an identification of the entity responsible for the disbursement of grant funds described in section 117(d)(3)(B)(i)(III), as determined by the chief elected official or the Governor under section 117(d)(3)(B)(i);

(9) a description of the competitive process to be used to award the grants and contracts in the local area for activities carried out under this subtitle; and

(10) such other information as the Governor may require.

(c) PROCESS.—Prior to the date on which the local board submits a local plan under this section, the local board shall—

(1) make available copies of a proposed local plan to the public through such means as public hearings and local news media;

(2) allow members of the local board and members of the public, including representatives of business and representatives of labor organizations, to submit comments on the proposed local plan to the local board, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and

(3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

(d) PLAN SUBMISSION AND APPROVAL.—A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 90-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 90-day period that—

(1) deficiencies in activities carried out under this subtitle have been identified, through audits conducted under section 184 or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) the plan does not comply with this title.

### CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

#### SEC. 121. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) IN GENERAL.—Consistent with the State plan, the local board for a local area, with the agreement of the chief elected official for the local area, shall—

(1) develop and enter into the memorandum of understanding described in subsection (c) with one-stop partners;

(2) designate or certify one-stop operators under subsection (d); and

(3) conduct oversight with respect to the one-stop delivery system in the local area.

(b) ONE-STOP PARTNERS.—

(1) REQUIRED PARTNERS.—

(A) IN GENERAL.—Each entity that carries out a program or activities described in subparagraph (B) shall—

(i) make available to participants, through a one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program or activities; and

(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program or activities are authorized.

(B) PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subparagraph (A) consist of—

(i) programs authorized under this title;

(ii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(iii) adult education and literacy activities authorized under title II;

(iv) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(v) programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

(vi) activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(vii) postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(viii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(ix) activities authorized under chapter 41 of title 38, United States Code;

(x) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(xi) employment and training activities carried out by the Department of Housing and Urban Development; and

(xii) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—In addition to the entities described in paragraph (1), other entities that carry out a human resource program described in subparagraph (B) may—

(i) make available to participants, through the one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program; and

(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program is authorized;

if the local board and chief elected official involved approve such participation.

(B) PROGRAMS.—The programs referred to in subparagraph (A) may include—

(i) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(iii) work programs authorized under section 6(a) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(iv) programs authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

(v) other appropriate Federal, State, or local programs, including programs in the private sector.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) DEVELOPMENT.—The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding (between the local board and the one-stop partners), consistent with paragraph (2), concerning the operation of the one-stop delivery system in the local area.

(2) CONTENTS.—Each memorandum of understanding shall contain—

(A) provisions describing—

(i) the services to be provided through the one-stop delivery system;

(ii) how the costs of such services and the operating costs of the system will be funded;

(iii) methods for referral of individuals between the one-stop operator and the one-stop partners, for the appropriate services and activities; and

(iv) the duration of the memorandum and the procedures for amending the memorandum during the term of the memorandum; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) ONE-STOP OPERATORS.—

(1) DESIGNATION AND CERTIFICATION.—Consistent with paragraphs (2) and (3), the local board, with the agreement of the chief elected official, is authorized to designate or certify one-stop operators and to terminate for cause the eligibility of such operators.

(2) ELIGIBILITY.—To be eligible to receive funds made available under this subtitle to operate a one-stop center referred to in section 134(c), an entity (which may be a consortium of entities)—

(A) shall be designated or certified as a one-stop operator—

(i) through a competitive process; or

(ii) in accordance with an agreement reached between the local board and a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection (b)(1); and

(B) may be a public or private entity, or consortium of entities, of demonstrated effectiveness, located in the local area, which may include—

(i) a postsecondary educational institution;

(ii) an employment service agency established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), on behalf of the local office of the agency;

(iii) a private, nonprofit organization (including a community-based organization);

(iv) a private for-profit entity;

(v) a government agency; and

(vi) another interested organization or entity, which may include a local chamber of commerce or other business organization.

(3) EXCEPTION.—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop operators, ex-

cept that nontraditional public secondary schools and area vocational education schools shall be eligible for such designation or certification.

(e) ESTABLISHED ONE-STOP DELIVERY SYSTEM.—If a one-stop delivery system has been established in a local area prior to the date of enactment of this Act, the local board, the chief elected official, and the Governor involved may agree to certify an entity carrying out activities through the system as a one-stop operator for purposes of subsection (d), consistent with the requirements of subsection (b), of the memorandum of understanding, and of section 134(c).

#### SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (h), to be identified as an eligible provider of training services described in section 134(d)(4) (referred to in this section as “training services”) in a local area and to be eligible to receive funds made available under section 133(b) for the provision of training services, a provider of such services shall meet the requirements of this section.

(2) PROVIDERS.—Subject to the provisions of this section, to be eligible to receive the funds, the provider shall be—

(A) a postsecondary educational institution that—

(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate;

(B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or

(C) another public or private provider of a program of training services.

(b) INITIAL ELIGIBILITY DETERMINATION.—

(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS AND ENTITIES CARRYING OUT APPRENTICESHIP PROGRAMS.—To be initially eligible to receive funds as described in subsection (a) to carry out a program described in subparagraph (A) or (B) of subsection (a)(2), a provider described in subparagraph (A) or (B), respectively, of subsection (a)(2) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time, in such manner, and containing such information as the local board may require.

(2) OTHER ELIGIBLE PROVIDERS.—

(A) PROCEDURE.—Each Governor of a State shall establish a procedure for use by local boards in the State in determining the initial eligibility of a provider described in subsection (a)(2)(C) to receive funds as described in subsection (a) for a program of training services, including the initial eligibility of—

(i) a postsecondary educational institution to receive such funds for a program not described in subsection (a)(2)(A); and

(ii) a provider described in subsection (a)(2)(B) to receive such funds for a program not described in subsection (a)(2)(B).

(B) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

(C) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

(D) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be initially eligible to receive funds as described in subsection (a) for a program, a provider described in subsection (a)(2)(C)—

(i) shall submit an application, to the local board for the local area in which the provider

desires to provide training services, at such time and in such manner as may be required, and containing a description of the program;

(ii) if the provider provides training services through a program on the date of application, shall include in the application an appropriate portion of the performance information and program cost information described in subsection (d) for the program, as specified in the procedure, and shall meet appropriate levels of performance for the program, as specified in the procedure; and

(iii) if the provider does not provide training services on such date, shall meet appropriate requirements, as specified in the procedure.

(c) SUBSEQUENT ELIGIBILITY DETERMINATION.—

(1) PROCEDURE.—Each Governor of a State shall establish a procedure for use by local boards in the State in determining the eligibility of a provider described in subsection (a)(2) to continue to receive funds as described in subsection (a) for a program after an initial period of eligibility under subsection (b) (referred to in this section as “subsequent eligibility”).

(2) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

(3) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

(4) CONSIDERATIONS.—In developing such procedure, the Governor shall ensure that the procedure requires the local boards to take into consideration, in making the determinations of subsequent eligibility—

(A) the specific economic, geographic, and demographic factors in the local areas in which providers seeking eligibility are located; and

(B) the characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable.

(5) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be eligible to continue to receive funds as described in subsection (a) for a program after the initial period of eligibility, a provider described in subsection (a)(2) shall—

(A) submit the performance information and program cost information described in subsection (d)(1) for the program and any additional information required to be submitted in accordance with subsection (d)(2) for the program annually to the appropriate local board at such time and in such manner as may be required; and

(B) annually meet the performance levels described in paragraph (6) for the program, as demonstrated utilizing quarterly records described in section 136, in a manner consistent with section 136.

(6) LEVELS OF PERFORMANCE.—

(A) IN GENERAL.—At a minimum, the procedure described in paragraph (1) shall require the provider to meet minimum acceptable levels of performance based on the performance information referred to in paragraph (5)(A).

(B) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local board may require higher levels of performance than the levels referred to in subparagraph (A) for subsequent eligibility to receive funds as described in subsection (a).

(d) PERFORMANCE AND COST INFORMATION.—

(1) REQUIRED INFORMATION.—For a provider of training services to be determined to be subsequently eligible under subsection (c) to receive funds as described in subsection (a), such provider shall, under subsection (c), submit—

(A) verifiable program-specific performance information consisting of—

(i) program information, including—

(I) the program completion rates for all individuals participating in the applicable program conducted by the provider;

(II) the percentage of all individuals participating in the applicable program who obtain unsubsidized employment, which may also include information specifying the percentage of the individuals who obtain unsubsidized employment in an occupation related to the program conducted; and

(III) the wages at placement in employment of all individuals participating in the applicable program; and

(ii) training services information for all participants who received assistance under section 134 to participate in the applicable program, including—

(I) the percentage of participants who have completed the applicable program and who are placed in unsubsidized employment;

(II) the retention rates in unsubsidized employment of participants who have completed the applicable program, 6 months after the first day of the employment;

(III) the wages received by participants who have completed the applicable program, 6 months after the first day of the employment involved; and

(IV) where appropriate, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skills, of the graduates of the applicable program; and

(B) information on program costs (such as tuition and fees) for participants in the applicable program.

(2) ADDITIONAL INFORMATION.—Subject to paragraph (3), in addition to the performance information described in paragraph (1)—

(A) the Governor may require that a provider submit, under subsection (c), such other verifiable program-specific performance information as the Governor determines to be appropriate to obtain such subsequent eligibility, which may include information relating to—

(i) retention rates in employment and the subsequent wages of all individuals who complete the applicable program;

(ii) where appropriate, the rates of licensure or certification of all individuals who complete the program; and

(iii) the percentage of individuals who complete the program who attain industry-recognized occupational skills in the subject, occupation, or industry for which training is provided through the program, where applicable; and

(B) the Governor, or the local board, may require a provider to submit, under subsection (c), other verifiable program-specific performance information to obtain such subsequent eligibility.

(3) CONDITIONS.—

(A) IN GENERAL.—If the Governor or a local board requests additional information under paragraph (2) that imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information required under paragraph (1)(A)(ii), the Governor or the local board shall provide access to cost-effective methods for the collection of the information involved, or the Governor shall provide additional resources to assist providers in the collection of such information from funds made available as described in sections 128(a) and 133(a)(1), as appropriate.

(B) HIGHER EDUCATION ELIGIBILITY REQUIREMENTS.—The local board and the designated State agency described in subsection (i) may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) from a provider for purposes of enabling the provider to fulfill the applicable requirements of this subsection, if such information is substantially similar to the information otherwise required under this subsection.

(e) LOCAL IDENTIFICATION.—

(1) IN GENERAL.—The local board shall place on a list providers submitting an application under subsection (b)(1) and providers deter-

mined to be initially eligible under subsection (b)(2), and retain on the list providers determined to be subsequently eligible under subsection (c), to receive funds as described in subsection (a) for the provision of training services in the local area served by the local board. The list of providers shall be accompanied by any performance information and program cost information submitted under subsection (b) or (c) by the provider.

(2) SUBMISSION TO STATE AGENCY.—On placing or retaining a provider on the list, the local board shall submit, to the designated State agency described in subsection (i), the list and the performance information and program cost information referred to in paragraph (1). If the agency determines, within 30 days after the date of the submission, that the provider does not meet the performance levels described in subsection (c)(6) for the program (where applicable), the agency may remove the provider from the list for the program. The agency may not remove from the list an agency submitting an application under subsection (b)(1).

(3) IDENTIFICATION OF ELIGIBLE PROVIDERS.—A provider who is placed or retained on the list under paragraph (1), and is not removed by the designated State agency under paragraph (2), for a program, shall be considered to be identified as an eligible provider of training services for the program.

(4) AVAILABILITY.—

(A) STATE LIST.—The designated State agency shall compile a single list of the providers identified under paragraph (3) from all local areas in the State and disseminate such list, and the performance information and program cost information described in paragraph (1), to the one-stop delivery systems within the State. Such list and information shall be made widely available to participants in employment and training activities authorized under section 134 and others through the one-stop delivery system.

(B) SELECTION FROM STATE LIST.—Individuals eligible to receive training services under section 134(d)(4) shall have the opportunity to select any of the eligible providers, from any of the local areas in the State, that are included on the list described in subparagraph (A) to provide the services, consistent with the requirements of section 134.

(5) ACCEPTANCE OF INDIVIDUAL TRAINING ACCOUNTS BY OTHER STATES.—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services in a State to accept individual training accounts provided in another State.

(f) ENFORCEMENT.—

(1) ACCURACY OF INFORMATION.—If the designated State agency, after consultation with the local board involved, determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) for any program for a period of time, but not less than 2 years.

(2) NONCOMPLIANCE.—If the designated State agency, or the local board working with the State agency, determines that an eligible provider described in subsection (a) substantially violates any requirement under this Act, the agency, or the local board working with the State agency, may terminate the eligibility of such provider to receive funds described in subsection (a) for the program involved or take such other action as the agency or local board determines to be appropriate.

(3) REPAYMENT.—A provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

(4) CONSTRUCTION.—This subsection and subsection (g) shall be construed to provide remedies and penalties that supplement, but do not

supplant, other civil and criminal remedies and penalties.

(g) APPEAL.—The Governor shall establish procedures for providers of training services to appeal a denial of eligibility by the local board or the designated State agency under subsection (b), (c), or (e), a termination of eligibility or other action by the board or agency under subsection (f), or a denial of eligibility by a one-stop operator under subsection (h). Such procedures shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(h) ON-THE-JOB TRAINING OR CUSTOMIZED TRAINING EXCEPTION.—

(1) IN GENERAL.—Providers of on-the-job training or customized training shall not be subject to the requirements of subsections (a) through (e).

(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.

(i) ADMINISTRATION.—The Governor shall designate a State agency to make the determinations described in subsection (e)(2), take the enforcement actions described in subsection (f), and carry out other duties described in this section.

#### SEC. 123. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

From funds allocated under paragraph (2)(A) or (3) of section 128(b) to a local area, the local board for such area shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers, in the local area.

### CHAPTER 4—YOUTH ACTIVITIES

#### SEC. 126. GENERAL AUTHORIZATION.

The Secretary shall make an allotment under section 127(b)(1)(C) to each State that meets the requirements of section 112 and a grant to each outlying area that complies with the requirements of this title, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for eligible youth in the State or outlying area and in the local areas.

#### SEC. 127. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) for each fiscal year in which the amount appropriated under section 137(a) exceeds \$1,000,000,000, reserve a portion determined under subsection (b)(1)(A) of the amount appropriated under section 137(a) for use under sections 167 (relating to migrant and seasonal farmworker programs) and 169 (relating to youth opportunity grants); and

(2) use the remainder of the amount appropriated under section 137(a) for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(1) and make funds available for use under section 166 (relating to Native American programs).

(b) ALLOTMENT AMONG STATES.—

(1) YOUTH ACTIVITIES.—

(A) YOUTH OPPORTUNITY GRANTS.—

(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 137(a) exceeds \$1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 169 (relating to youth opportunity

grants) and provide youth activities under section 167 (relating to migrant and seasonal farm-worker programs).

(ii) PORTION.—The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting \$1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

(II) for any fiscal year in which the amount is \$1,250,000,000 or greater, \$250,000,000.

(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—From the portion described in clause (i) for a fiscal year, the Secretary shall make available 4 percent of such portion to provide youth activities under section 167.

(iv) ROLE MODEL ACADEMY PROJECT.—From the portion described in clause (i) for fiscal year 1999, the Secretary shall make available such sums as the Secretary determines to be appropriate to carry out section 169(g).

(B) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent of the amount appropriated under section 137(a) for the fiscal year—

(I) to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities; and

(II) for each of fiscal years 1999, 2000, and 2001, to carry out the competition described in clause (ii), except that the funds reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1997, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(ii) LIMITATION FOR FREELY ASSOCIATED STATES.—

(I) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

(II) AWARD BASIS.—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(III) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

(cc) such other information and assurances as the Secretary may require.

(IV) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any assistance under this subparagraph for any program year that begins after September 30, 2001.

(V) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

(iii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

(C) STATES.—

(i) IN GENERAL.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(2) for a fiscal year, make available not more than 1.5 percent to provide youth activities under section 166 (relating to Native Americans); and

(II) allot the remainder of the amount referred to in subsection (a)(2) for a fiscal year to the States pursuant to clause (ii) for youth activities and statewide workforce investment activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 116(a)(2)(B) (relating to the area served by a rural concentrated employment program grant recipient), the allotment shall be based on the higher of—

(I) the number of individuals who are age 16 through 21 in families with an income below the low-income level in such area; or

(II) the number of disadvantaged youth in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE AND ALLOTMENT.—Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

(bb) 100 percent of the total of the allotments of the State under sections 252 and 262 of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

(aa) ⅓ of 1 percent of \$1,000,000,000 of the remainder described in clause (i)(II) for the fiscal year; and

(bb) if the remainder described in clause (i)(II) for the fiscal year exceeds \$1,000,000,000, ⅔ of 1 percent of the excess.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(IV) MINIMUM FUNDING.—In any fiscal year in which the remainder described in clause (i)(II) does not exceed \$1,000,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under parts B and C of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

(2) DEFINITIONS.—For the purpose of the formula specified in paragraph (1)(C):

(A) ALLOTMENT PERCENTAGE.—The term “allotment percentage”, used with respect to fiscal

year 2000 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i)(II) that is received through an allotment made under paragraph (1)(C) for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) that is received under such sections by the State involved for fiscal year 1998 or 1999.

(B) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subparagraph, determinations of areas of substantial unemployment shall be made once each fiscal year.

(C) DISADVANTAGED YOUTH.—Subject to paragraph (3), the term “disadvantaged youth” means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(i) the poverty line; or

(ii) 70 percent of the lower living standard income level.

(D) EXCESS NUMBER.—The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(E) LOW-INCOME LEVEL.—The term “low-income level” means \$7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

(3) SPECIAL RULE.—For the purpose of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.

(4) DEFINITION.—In this subsection, the term “Freely Associated State” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(c) REALLOTMENT.—

(1) IN GENERAL.—The Secretary shall, in accordance with this subsection, reallocate to eligible States amounts that are allotted under this section for youth activities and statewide workforce investment activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the State allotment under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotment for the prior program year.

(3) REALLOTMENT.—In making reallocations to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities for the prior program year, as compared to the total amount allotted to all eligible States under this section for such activities for such prior program year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that has

obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.

(5) PROCEDURES.—The Governor of each State shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for reallocation under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallocation under this subsection.

#### SEC. 128. WITHIN STATE ALLOCATIONS.

##### (a) RESERVATIONS FOR STATE ACTIVITIES.—

(1) IN GENERAL.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

(2) USE OF FUNDS.—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide youth activities described in section 129(b) or statewide employment and training activities, for adults or for dislocated workers, described in paragraph (2)(B) or (3) of section 134(a).

##### (b) WITHIN STATE ALLOCATION.—

(1) METHODS.—The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate the funds that are allotted to the State for youth activities and statewide workforce investment activities under section 127(b)(1)(C) and are not reserved under subsection (a), in accordance with paragraph (2) or (3).

##### (2) FORMULA ALLOCATION.—

###### (A) YOUTH ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (1) to local areas, a State may allocate—

(I) 33 $\frac{1}{3}$  percent of the funds on the basis described in section 127(b)(1)(C)(ii)(I);

(II) 33 $\frac{1}{3}$  percent of the funds on the basis described in section 127(b)(1)(C)(ii)(II); and

(III) 33 $\frac{1}{3}$  percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 127(b)(1)(C).

(ii) MINIMUM PERCENTAGE.—Effective at the end of the second full fiscal year after the date on which a local area is designated under section 116, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term "allocation percentage", used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

(B) APPLICATION.—For purposes of carrying out subparagraph (A)—

(i) references in section 127(b) to a State shall be deemed to be references to a local area;

(ii) references in section 127(b) to all States shall be deemed to be references to all local areas in the State involved; and

(iii) except as described in clause (i), references in section 127(b)(1) to the term "excess number" shall be considered to be references to the term as defined in section 127(b)(2).

(3) YOUTH DISCRETIONARY ALLOCATION.—In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1) to local areas, a State may distribute—

(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

(B) the remaining portion of the funds on the basis of a formula that—

(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

(I) excess youth poverty in urban, rural, and suburban local areas; and

(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

(ii) was developed by the State board and approved by the Secretary as part of the State plan.

##### (4) LIMITATION.—

(A) IN GENERAL.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board for the administrative cost of carrying out local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c).

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c), regardless of whether the funds were allocated under this subsection or section 133(b).

(C) REGULATIONS.—The Secretary, after consulting with the Governors, shall develop and issue regulations that define the term "administrative cost" for purposes of this title. Such definition shall be consistent with generally accepted accounting principles.

##### (c) REALLOCATION AMONG LOCAL AREAS.—

(1) IN GENERAL.—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under paragraph (2)(A) or (3) of subsection (b) for youth activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.

(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under subsection (b)(3) for such activities for the prior program year, as compared to the total amount allocated to all eligible local areas in the State under subsection (b)(3) for such activities for such prior program year. For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.

#### SEC. 129. USE OF FUNDS FOR YOUTH ACTIVITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to provide, to eligible youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers;

(2) to ensure on-going mentoring opportunities for eligible youth with adults committed to providing such opportunities;

(3) to provide opportunities for training to eligible youth;

(4) to provide continued supportive services for eligible youth;

(5) to provide incentives for recognition and achievement to eligible youth; and

(6) to provide opportunities for eligible youth in activities related to leadership, development, decisionmaking, citizenship, and community service.

##### (b) STATEWIDE YOUTH ACTIVITIES.—

(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1)—

(A) shall be used to carry out the statewide youth activities described in paragraph (2); and

(B) may be used to carry out any of the statewide youth activities described in paragraph (3), regardless of whether the funds were allotted to the State under section 127(b)(1) or under paragraph (1) or (2) of section 132(b).

##### (2) REQUIRED STATEWIDE YOUTH ACTIVITIES.—

A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out statewide youth activities, which shall include—

(A) disseminating a list of eligible providers of youth activities described in section 123;

(B) carrying out activities described in clauses (ii) through (vi) of section 134(a)(2)(B), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

(C) providing additional assistance to local areas that have high concentrations of eligible youth to carry out the activities described in subsection (c).

(3) ALLOWABLE STATEWIDE YOUTH ACTIVITIES.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide youth activities, which may include—

(A) carrying out activities described in clauses (i), (ii), (iii), (iv)(II), and (vi)(II) of section 134(a)(3)(A), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

(B) carrying out, on a statewide basis, activities described in subsection (c).

(4) PROHIBITION.—No funds described in this subsection or section 134(a) shall be used to develop or implement education curricula for school systems in the State.

##### (c) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Funds allocated to a local area for eligible youth under paragraph (2)(A) or (3), as appropriate, of section 128(b) shall be used to carry out, for eligible youth, programs that—

(A) provide an objective assessment of the academic levels, skill levels, and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs, and developmental needs of such participant, except that a new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program;

(B) develop service strategies for each participant that shall identify an employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for the participant taking into account the assessment conducted pursuant to subparagraph (A), except

that a new service strategy for a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program; and

(C) provide—

(i) preparation for postsecondary educational opportunities, in appropriate cases;

(ii) strong linkages between academic and occupational learning;

(iii) preparation for unsubsidized employment opportunities, in appropriate cases; and

(iv) effective connections to intermediaries with strong links to—

(I) the job market; and

(II) local and regional employers.

(2) PROGRAM ELEMENTS.—The programs described in paragraph (1) shall provide elements consisting of—

(A) tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(B) alternative secondary school services, as appropriate;

(C) summer employment opportunities that are directly linked to academic and occupational learning;

(D) as appropriate, paid and unpaid work experiences, including internships and job shadowing;

(E) occupational skill training, as appropriate;

(F) leadership development opportunities, which may include community service and peer-centered activities encouraging responsibility and other positive social behaviors during non-school hours, as appropriate;

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months;

(I) followup services for not less than 12 months after the completion of participation, as appropriate; and

(J) comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate.

(3) ADDITIONAL REQUIREMENTS.—

(A) INFORMATION AND REFERRALS.—Each local board shall ensure that each participant or applicant who meets the minimum income criteria to be considered an eligible youth shall be provided—

(i) information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or one-stop partners, including those receiving funds under this subtitle; and

(ii) referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—Each eligible provider of a program of youth activities shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

(C) INVOLVEMENT IN DESIGN AND IMPLEMENTATION.—The local board shall ensure that parents, participants, and other members of the community with experience relating to programs for youth are involved in the design and implementation of the programs described in paragraph (1).

(4) PRIORITY.—

(A) IN GENERAL.—At a minimum, 30 percent of the funds described in paragraph (1) shall be used to provide youth activities to out-of-school youth.

(B) EXCEPTION.—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv)(II) or

under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may reduce the percentage described in subparagraph (A) for a local area in the State, if—

(i) after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to meet the percentage described in subparagraph (A) due to a low number of out-of-school youth; and

(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed reduced percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

(II) the request is approved by the Secretary.

(5) EXCEPTIONS.—Not more than 5 percent of participants assisted under this section in each local area may be individuals who do not meet the minimum income criteria to be considered eligible youth, if such individuals are within 1 or more of the following categories:

(A) Individuals who are school dropouts.

(B) Individuals who are basic skills deficient.

(C) Individuals with educational attainment that is 1 or more grade levels below the grade level appropriate to the age of the individuals.

(D) Individuals who are pregnant or parenting.

(E) Individuals with disabilities, including learning disabilities.

(F) Individuals who are homeless or runaway youth.

(G) Individuals who are offenders.

(H) Other eligible youth who face serious barriers to employment as identified by the local board.

(6) PROHIBITIONS.—

(A) PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION.—No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution, school, or school system.

(B) NONDUPLICATION.—All of the funds made available under this Act shall be used in accordance with the requirements of this Act. None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under this Act, activities that were funded under the School-to-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act.

(C) NONINTERFERENCE AND NONREPLACEMENT OF REGULAR ACADEMIC REQUIREMENTS.—No funds described in paragraph (1) shall be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

(7) LINKAGES.—In coordinating the programs authorized under this section, youth councils shall establish linkages with educational agencies responsible for services to participants as appropriate.

(8) VOLUNTEERS.—The local board shall make opportunities available for individuals who have successfully participated in programs carried out under this section to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

#### CHAPTER 5—ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES

##### SEC. 131. GENERAL AUTHORIZATION.

The Secretary shall make allotments under paragraphs (1)(B) and (2)(B) of section 132(b) to each State that meets the requirements of section 112 and a grant to each outlying area that

complies with the requirements of this title, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for adults, and dislocated workers, in the State or outlying area and in the local areas.

##### SEC. 132. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 137(b) for a fiscal year in accordance with subsection (b)(1); and

(2)(A) reserve 20 percent of the amount appropriated under section 137(c) for a fiscal year for use under subsection (b)(2)(A), and under sections 170(b) (relating to dislocated worker technical assistance), 171(d) (relating to dislocated worker projects), and 173 (relating to national emergency grants); and

(B) make allotments from 80 percent of the amount appropriated under section 137(c) for a fiscal year in accordance with subsection (b)(2)(B).

(b) ALLOTMENT AMONG STATES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) RESERVATION FOR OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than 1/4 of 1 percent to provide assistance to the outlying areas.

(ii) APPLICABILITY OF ADDITIONAL REQUIREMENTS.—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for adult employment and training activities and statewide workforce investment activities in accordance with the requirements of section 127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(d) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 202(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(B) STATES.—

(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities and statewide workforce investment activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33 1/3 percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 33 1/3 percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33 1/3 percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 116(a)(2)(B), the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE AND ALLOTMENT.—Subject to subclause (IV), the Secretary shall

ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

(bb) 100 percent of the allotment of the State under section 202 of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

(aa)  $\frac{3}{4}$  of 1 percent of \$960,000,000 of the remainder described in clause (i) for the fiscal year; and

(bb) if the remainder described in clause (i) for the fiscal year exceeds \$960,000,000,  $\frac{2}{3}$  of 1 percent of the excess.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(IV) MINIMUM FUNDING.—In any fiscal year in which the remainder described in clause (i) does not exceed \$960,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under part A of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

(v) DEFINITIONS.—For the purpose of the formula specified in this subparagraph:

(I) ADULT.—The term “adult” means an individual who is not less than age 22 and not more than age 72.

(II) ALLOTMENT PERCENTAGE.—The term “allotment percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under section 202(a) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) that is received under such section by the State involved for fiscal year 1998 or 1999.

(III) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) DISADVANTAGED ADULT.—Subject to subclause (V), the term “disadvantaged adult” means an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(V) DISADVANTAGED ADULT SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged adults.

(VI) EXCESS NUMBER.—The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(bb) the number that represents the number of unemployed individuals in excess of 4.5 percent

of the civilian labor force in areas of substantial unemployment in such State.

(2) DISLOCATED WORKER EMPLOYMENT AND TRAINING.—

(A) RESERVATION FOR OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than  $\frac{1}{4}$  of 1 percent of the amount appropriated under section 137(c) for the fiscal year to provide assistance to the outlying areas.

(ii) APPLICABILITY OF ADDITIONAL REQUIREMENTS.—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for dislocated worker employment and training activities and statewide workforce investment activities in accordance with the requirements of section 127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(a) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 302(e) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(B) STATES.—

(i) IN GENERAL.—The Secretary shall allot the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities and statewide workforce investment activities.

(ii) FORMULA.—Of the amount—

(I)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(iii) DEFINITION.—In this subparagraph, the term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) DEFINITIONS.—For the purpose of the formulas specified in this subsection:

(A) FREELY ASSOCIATED STATES.—The term “Freely Associated States” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) LOW-INCOME LEVEL.—The term “low-income level” means \$7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

(c) REALLOTMENT.—

(i) IN GENERAL.—The Secretary shall, in accordance with this subsection, reallocate to eligible States amounts that are allotted under this section for employment and training activities and statewide workforce investment activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the State allotments under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotments for the prior program year.

(3) REALLOTMENT.—In making reallocations to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such

State under this section for such activities for the prior program year, as compared to the total amount allotted to all eligible States under this section for such activities for such prior program year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.

(5) PROCEDURES.—The Governor of each State shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for reallocation under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallocation under this subsection.

SEC. 133. WITHIN STATE ALLOCATIONS.

(a) RESERVATIONS FOR STATE ACTIVITIES.—

(1) STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—The Governor of a State shall make the reservation required under section 128(a).

(2) STATEWIDE RAPID RESPONSE ACTIVITIES.—The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 132(b)(2)(B) for a fiscal year for statewide rapid response activities described in section 134(a)(2)(A).

(b) WITHIN STATE ALLOCATION.—

(1) METHODS.—The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities and statewide workforce investment activities under section 132(b)(1)(B) and are not reserved under subsection (a)(1), in accordance with paragraph (2) or (3); and

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 132(b)(2)(B) and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (2).

(2) FORMULA ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (1)(A) to local areas, a State may allocate—

(I)  $33\frac{1}{3}$  percent of the funds on the basis described in section 132(b)(1)(B)(ii)(I);

(II)  $33\frac{1}{3}$  percent of the funds on the basis described in section 132(b)(1)(B)(ii)(II); and

(III)  $33\frac{1}{3}$  percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 132(b)(1)(B).

(ii) MINIMUM PERCENTAGE.—Effective at the end of the second full fiscal year after the date on which a local area is designated under section 116, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term “allocation percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

(B) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) FORMULA.—In allocating the funds described in paragraph (1)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the

Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs.

(i) INFORMATION.—The information described in clause (i) shall include insured unemployment data, unemployment concentrations, plant closing and mass layoff data, declining industries data, farmer-rancher economic hardship data, and long-term unemployment data.

(C) APPLICATION.—For purposes of carrying out subparagraph (A)—

(i) references in section 132(b) to a State shall be deemed to be references to a local area;

(ii) references in section 132(b) to all States shall be deemed to be references to all local areas in the State involved; and

(iii) except as described in clause (i), references in section 132(b)(1) to the term "excess number" shall be considered to be references to the term as defined in section 132(b)(1).

(3) ADULT EMPLOYMENT AND TRAINING DISCRETIONARY ALLOCATIONS.—In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1)(A) to local areas, a State may distribute—

(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

(B) the remaining portion of the funds on the basis of a formula that—

(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

(I) excess poverty in urban, rural, and suburban local areas; and

(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

(ii) was developed by the State board and approved by the Secretary as part of the State plan.

(4) TRANSFER AUTHORITY.—A local board may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and 20 percent of the funds allocated to the local area under paragraph (2)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

(5) ALLOCATION.—

(A) IN GENERAL.—The Governor of the State shall allocate the funds described in paragraph (1) to local areas under paragraphs (2) and (3) for the purpose of providing a single system of employment and training activities for adults and dislocated workers in accordance with subsections (d) and (e) of section 134.

(B) ADDITIONAL REQUIREMENTS.—

(i) ADULTS.—Funds allocated under paragraph (2)(A) or (3) shall be used by a local area to contribute proportionately to the costs of the one-stop delivery system described in section 134(c) in the local area, and to pay for employment and training activities provided to adults in the local area, consistent with section 134.

(ii) DISLOCATED WORKERS.—Funds allocated under paragraph (2)(B) shall be used by a local area to contribute proportionately to the costs of the one-stop delivery system described in section 134(c) in the local area, and to pay for employment and training activities provided to dislocated workers in the local area, consistent with section 134.

(c) REALLOCATION AMONG LOCAL AREAS.—

(1) IN GENERAL.—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under paragraph (2)(A) or (3) of subsection (b) for adult employment and training activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the

amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.

(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under subsection (b)(3) for such activities for the prior program year, as compared to the total amount allocated to all eligible local areas in the State under subsection (b)(3) for such activities for such prior program year. For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.

#### SEC. 134. USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.

(a) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) IN GENERAL.—Funds reserved by a Governor for a State—

(A) as described in section 133(a)(2) shall be used to carry out the statewide rapid response activities described in paragraph (2)(A); and

(B) as described in sections 128(a) and 133(a)(1)—

(i) shall be used to carry out the statewide employment and training activities described in paragraph (2)(B); and

(ii) may be used to carry out any of the statewide employment and training activities described in paragraph (3),

regardless of whether the funds were allotted to the State under section 127(b)(1) or under paragraph (1) or (2) of section 132(b).

(2) REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall use funds reserved as described in section 133(a)(2) to carry out statewide rapid response activities, which shall include—

(i) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas; and

(ii) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas.

(B) OTHER REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out other statewide employment and training activities, which shall include—

(i) disseminating the State list of eligible providers of training services, including eligible providers of nontraditional training services, information identifying eligible providers of on-the-job training and customized training, and performance information and program cost information, as described in subsections (e) and (h) of section 122;

(ii) conducting evaluations, under section 136(e), of activities authorized in this section, in coordination with the activities carried out under section 172;

(iii) providing incentive grants to local areas for regional cooperation among local boards (including local boards for a designated region as described in section 116(c)), for local coordination of activities carried out under this Act, and for exemplary performance by local areas on the local performance measures;

(iv) providing technical assistance to local areas that fail to meet local performance measures;

(v) assisting in the establishment and operation of one-stop delivery systems described in subsection (c); and

(vi) operating a fiscal and management accountability information system under section 136(f).

(3) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) IN GENERAL.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide employment and training activities, which may include—

(i) subject to subparagraph (B), administration by the State of the activities authorized under this section;

(ii) provision of capacity building and technical assistance to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff and the development of exemplary program activities;

(iii) conduct of research and demonstrations;

(iv)(I) implementation of innovative incumbent worker training programs, which may include the establishment and implementation of an employer loan program to assist in skills upgrading; and

(II) the establishment and implementation of programs targeted to empowerment zones and enterprise communities;

(v) support for the identification of eligible providers of training services as required under section 122;

(vi)(I) implementation of innovative programs for displaced homemakers, which for purposes of this clause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

(II) implementation of programs to increase the number of individuals training for and placed in nontraditional employment; and

(vii) carrying out other activities authorized in this section that the State determines to be necessary to assist local areas in carrying out activities described in subsection (d) or (e) through the statewide workforce investment system.

(B) LIMITATION.—

(i) IN GENERAL.—Of the funds allotted to a State under sections 127(b) and 132(b) and reserved as described in sections 128(a) and 133(a)(1) for a fiscal year—

(I) not more than 5 percent of the amount allotted under section 127(b)(1);

(II) not more than 5 percent of the amount allotted under section 132(b)(1); and

(III) not more than 5 percent of the amount allotted under section 132(b)(2),

may be used by the State for the administration of youth activities carried out under section 129 and employment and training activities carried out under this section.

(ii) USE OF FUNDS.—Funds made available for administrative costs under clause (i) may be used for the administrative cost of any of the statewide youth activities or statewide employment and training activities, regardless of whether the funds were allotted to the State

under section 127(b)(1) or paragraph (1) or (2) of section 132(b).

(b) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to a local area for dislocated workers under section 133(b)(2)(B)—

(1) shall be used to carry out employment and training activities described in subsection (d) for adults or dislocated workers, respectively; and

(2) may be used to carry out employment and training activities described in subsection (e) for adults or dislocated workers, respectively.

(c) ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section 132(b) a one-stop delivery system, which—

(A) shall provide the core services described in subsection (d)(2);

(B) shall provide access to intensive services and training services as described in paragraphs (3) and (4) of subsection (d), including serving as the point of access to individual training accounts for training services to participants in accordance with subsection (d)(4)(G);

(C) shall provide access to the activities carried out under subsection (e), if any;

(D) shall provide access to programs and activities carried out by one-stop partners and described in section 121(b); and

(E) shall provide access to the information described in section 15 of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop delivery system—

(A) shall make each of the programs, services, and activities described in paragraph (1) accessible at not less than 1 physical center in each local area of the State; and

(B) may also make programs, services, and activities described in paragraph (1) available—

(i) through a network of affiliated sites that can provide 1 or more of the programs, services, and activities to individuals; and

(ii) through a network of eligible one-stop partners—

(1) in which each partner provides 1 or more of the programs, services, and activities to such individuals and is accessible at an affiliated site that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of the core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subsection (1).

(3) SPECIALIZED CENTERS.—The centers and sites described in paragraph (2) may have a specialization in addressing special needs, such as the needs of dislocated workers.

(d) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) IN GENERAL.—

(A) ALLOCATED FUNDS.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used—

(i) to establish a one-stop delivery system described in subsection (c);

(ii) to provide the core services described in paragraph (2) to adults and dislocated workers, respectively, through the one-stop delivery system in accordance with such paragraph;

(iii) to provide the intensive services described in paragraph (3) to adults and dislocated workers, respectively, described in such paragraph; and

(iv) to provide training services described in paragraph (4) to adults and dislocated workers, respectively, described in such paragraph.

(B) OTHER FUNDS.—A portion of the funds made available under Federal law authorizing the programs and activities described in section 121(b)(1)(B), including the Wagner-Peyser Act (29 U.S.C. 49 et seq.), shall be used as described in clauses (i) and (ii) of subparagraph (A), to the extent not inconsistent with the Federal law involved.

(2) CORE SERVICES.—Funds described in paragraph (1)(A) shall be used to provide core services, which shall be available to individuals who are adults or dislocated workers through the one-stop delivery system and shall, at a minimum, include—

(A) determinations of whether the individuals are eligible to receive assistance under this subtitle;

(B) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system;

(C) initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(D) job search and placement assistance, and where appropriate, career counseling;

(E) provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

(i) job vacancy listings in such labor market areas;

(ii) information on job skills necessary to obtain the jobs described in clause (i); and

(iii) information relating to local occupations in demand and the earnings and skill requirements for such occupations; and

(F) provision of performance information and program cost information on eligible providers of training services as described in section 122, provided by program, and eligible providers of youth activities described in section 123, providers of adult education described in title II, providers of postsecondary vocational education activities and vocational education activities available to school dropouts under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and providers of vocational rehabilitation program activities described in title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(G) provision of information regarding how the local area is performing on the local performance measures and any additional performance information with respect to the one-stop delivery system in the local area;

(H) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;

(I) provision of information regarding filing claims for unemployment compensation;

(J) assistance in establishing eligibility for—

(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by section 5001 of the Balanced Budget Act of 1997) available in the local area; and

(ii) programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(K) followup services, including counseling regarding the workplace, for participants in workforce investment activities authorized under this subtitle who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

(3) INTENSIVE SERVICES.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

(i) (I) who are unemployed and are unable to obtain employment through core services provided under paragraph (2); and

(II) who have been determined by a one-stop operator to be in need of more intensive services in order to obtain employment; or

(ii) who are employed, but who are determined by a one-stop operator to be in need of such intensive services in order to obtain or retain employment that allows for self-sufficiency.

(B) DELIVERY OF SERVICES.—Such intensive services shall be provided through the one-stop delivery system—

(i) directly through one-stop operators identified pursuant to section 121(d); or

(ii) through contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

(C) TYPES OF SERVICES.—Such intensive services may include the following:

(i) Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—

(I) diagnostic testing and use of other assessment tools; and

(II) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

(ii) Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals.

(iii) Group counseling.

(iv) Individual counseling and career planning.

(v) Case management for participants seeking training services under paragraph (4).

(vi) Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training.

(4) TRAINING SERVICES.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to a local area for dislocated workers under section 133(b)(2)(B) shall be used to provide training services to adults and dislocated workers, respectively—

(i) who have met the eligibility requirements for intensive services under paragraph (3)(A) and who are unable to obtain or retain employment through such services;

(ii) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications to successfully participate in the selected program of training services;

(iii) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults or dislocated workers receiving such services are willing to relocate;

(iv) who meet the requirements of subparagraph (B); and

(v) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (E).

(B) QUALIFICATION.—

(i) REQUIREMENT.—Except as provided in clause (ii), provision of such training services shall be limited to individuals who—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(II) require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

(ii) REIMBURSEMENTS.—Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such

individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

(C) PROVIDER QUALIFICATION.—Training services shall be provided through providers identified in accordance with section 122.

(D) TRAINING SERVICES.—Training services may include—

(i) occupational skills training, including training for nontraditional employment;

(ii) on-the-job training;

(iii) programs that combine workplace training with related instruction, which may include cooperative education programs;

(iv) training programs operated by the private sector;

(v) skill upgrading and retraining;

(vi) entrepreneurial training;

(vii) job readiness training;

(viii) adult education and literacy activities provided in combination with services described in any of clauses (i) through (vii); and

(ix) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(E) PRIORITY.—In the event that funds allocated to a local area for adult employment and training activities under paragraph (2)(A) or (3) of section 133(b) are limited, priority shall be given to recipients of public assistance and other low-income individuals for intensive services and training services. The appropriate local board and the Governor shall direct the one-stop operators in the local area with regard to making determinations related to such priority.

(F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local board, through one-stop centers referred to in subsection (c), shall make available—

(I) the State list of eligible providers of training services required under section 122(e), with a description of the programs through which the providers may offer the training services, and the information identifying eligible providers of on-the-job training and customized training required under section 122(h); and

(II) the performance information and performance cost information relating to eligible providers of training services described in subsections (e) and (h) of section 122.

(G) USE OF INDIVIDUAL TRAINING ACCOUNTS.—

(i) IN GENERAL.—Except as provided in clause (ii), training services provided under this paragraph shall be provided through the use of individual training accounts in accordance with this paragraph, and shall be provided to eligible individuals through the one-stop delivery system.

(ii) EXCEPTIONS.—Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of an individual training account if the requirements of subparagraph (F) are met and if—

(I) such services are on-the-job training provided by an employer or customized training;

(II) the local board determines there are an insufficient number of eligible providers of training services in the local area involved (such as in a rural area) to accomplish the purposes of a system of individual training accounts; or

(III) the local board determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve special participant populations that face multiple barriers to employment.

(iii) LINKAGE TO OCCUPATIONS IN DEMAND.—Training services provided under this paragraph shall be directly linked to occupations that are in demand in the local area, or in another area to which an adult or dislocated worker receiving such services is willing to relocate, except that a

local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.

(iv) DEFINITION.—In this subparagraph, the term "special participant population that faces multiple barriers to employment" means a population of low-income individuals that is included in 1 or more of the following categories:

(I) Individuals with substantial language or cultural barriers.

(II) Offenders.

(III) Homeless individuals.

(IV) Other hard-to-serve populations as defined by the Governor involved.

(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(I) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through one-stop delivery described in subsection (c)(2)—

(A) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment; and

(B) customized employment-related services to employers on a fee-for-service basis.

(2) SUPPORTIVE SERVICES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—

(A) who are participating in programs with activities authorized in any of paragraphs (2), (3), or (4) of subsection (d); and

(B) who are unable to obtain such supportive services through other programs providing such services.

(3) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide needs-related payments to adults and dislocated workers, respectively, who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services under subsection (d)(4).

(B) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

(ii) if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

(C) LEVEL OF PAYMENTS.—The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

#### CHAPTER 6—GENERAL PROVISIONS

##### SEC. 136. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) PURPOSE.—The purpose of this section is to establish a comprehensive performance ac-

countability system, comprised of the activities described in this section, to assess the effectiveness of States and local areas in achieving continuous improvement of workforce investment activities funded under this subtitle, in order to optimize the return on investment of Federal funds in statewide and local workforce investment activities.

(b) STATE PERFORMANCE MEASURES.—

(1) IN GENERAL.—For each State, the State performance measures shall consist of—

(A) (i) the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator of performance described in paragraph (2)(B); and

(ii) additional indicators of performance (if any) identified by the State under paragraph (2)(C); and

(B) a State adjusted level of performance for each indicator described in subparagraph (A).

(2) INDICATORS OF PERFORMANCE.—

(A) CORE INDICATORS OF PERFORMANCE.—

(i) IN GENERAL.—The core indicators of performance for employment and training activities authorized under section 134 (except for self-service and informational activities) and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129 shall consist of—

(I) entry into unsubsidized employment;

(II) retention in unsubsidized employment 6 months after entry into the employment;

(III) earnings received in unsubsidized employment 6 months after entry into the employment; and

(IV) attainment of a recognized credential relating to achievement of educational skills, which may include attainment of a secondary school diploma or its recognized equivalent, or occupational skills, by participants who enter unsubsidized employment, or by participants who are eligible youth age 19 through 21 who enter postsecondary education, advanced training, or unsubsidized employment.

(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—

The core indicators of performance (for participants who are eligible youth age 14 through 18) for youth activities authorized under section 129, shall include—

(I) attainment of basic skills and, as appropriate, work readiness or occupational skills;

(II) attainment of secondary school diplomas and their recognized equivalents; and

(III) placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships.

(B) CUSTOMER SATISFACTION INDICATORS.—The customer satisfaction indicator of performance shall consist of customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subtitle. Customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

(C) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators for workforce investment activities authorized under this subtitle.

(3) LEVELS OF PERFORMANCE.—

(A) STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS AND CUSTOMER SATISFACTION INDICATOR.—

(i) IN GENERAL.—For each State submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator described in paragraph (2)(B) for workforce investment activities authorized under this subtitle. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the State toward continuously improving in performance.

(ii) IDENTIFICATION IN STATE PLAN.—Each State shall identify, in the State plan submitted under section 112, expected levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan.

(iii) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 3 YEARS.—In order to ensure an optimal return on the investment of Federal funds in workforce investment activities authorized under this subtitle, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

(I) the extent to which the levels involved will assist the State in attaining a high level of customer satisfaction;

(II) how the levels involved compare with the State adjusted levels of performance established for other States, taking into account factors including differences in economic conditions, the characteristics of participants when the participants entered the program, and the services to be provided; and

(III) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such State and ensure optimal return on the investment of Federal funds.

(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR 4TH AND 5TH YEARS.—Prior to the fourth program year covered by the State plan, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the fourth and fifth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

(vi) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the Governor may request that the State adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria and methods for making such revisions.

(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—The State may identify, in the State plan, State levels of performance for each of the additional indicators described in paragraph (2)(C). Such levels shall be considered to be State adjusted levels of performance for purposes of this title.

(c) LOCAL PERFORMANCE MEASURES.—

(1) IN GENERAL.—For each local area in a State, the local performance measures shall consist of—

(A)(i) the core indicators of performance described in subsection (b)(2)(A), and the customer satisfaction indicator of performance described in subsection (b)(2)(B), for activities described in such subsections, other than statewide workforce investment activities; and

(ii) additional indicators of performance (if any) identified by the State under subsection (b)(2)(C) for activities described in such subsection, other than statewide workforce investment activities; and

(B) a local level of performance for each indicator described in subparagraph (A).

(2) LOCAL LEVEL OF PERFORMANCE.—The local board, the chief elected official, and the Governor shall negotiate and reach agreement on the local levels of performance based on the State adjusted levels of performance established under subsection (b).

(3) DETERMINATIONS.—In determining such local levels of performance, the local board, the chief elected official, and the Governor shall take into account the specific economic, demographic, and other characteristics of the populations to be served in the local area.

(d) REPORT.—

(1) IN GENERAL.—Each State that receives an allotment under section 127 or 132 shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures, including information on the levels of performance achieved by the State with respect to the core indicators of performance and the customer satisfaction indicator. The annual report also shall include information regarding the progress of local areas in the State in achieving local performance measures, including information on the levels of performance achieved by the areas with respect to the core indicators of performance and the customer satisfaction indicator. The report also shall include information on the status of State evaluations of workforce investment activities described in subsection (e).

(2) ADDITIONAL INFORMATION.—In preparing such report, the State shall include, at a minimum, information on participants in workforce investment activities authorized under this subtitle relating to—

(A) entry by participants who have completed training services provided under section 134(d)(4) into unsubsidized employment related to the training received;

(B) wages at entry into employment for participants in workforce investment activities who entered unsubsidized employment, including the rate of wage replacement for such participants who are dislocated workers;

(C) cost of workforce investment activities relative to the effect of the activities on the performance of participants;

(D) retention and earnings received in unsubsidized employment 12 months after entry into the employment;

(E) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities); and

(F) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals.

(3) INFORMATION DISSEMINATION.—The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate congressional committees with copies of such reports.

(e) EVALUATION OF STATE PROGRAMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the State, in coordination with local boards in the State, shall conduct ongoing evaluation studies of workforce investment activities carried out in the State under this subtitle in order to promote, establish, implement, and utilize methods for continuously improving the activities in order to achieve high-level performance within, and high-level outcomes from, the statewide workforce investment system. To the maximum extent practicable, the State shall coordinate the evalua-

tions with the evaluations provided for by the Secretary under section 172.

(2) DESIGN.—The evaluation studies conducted under this subsection shall be designed in conjunction with the State board and local boards and shall include analysis of customer feedback and outcome and process measures in the statewide workforce investment system. The studies may include use of control groups.

(3) RESULTS.—The State shall periodically prepare and submit to the State board, and local boards in the State, reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers.

(f) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the Governor, in coordination with local boards and chief elected officials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary after consultation with the Governors, local elected officials, and one-stop partners. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available under this subtitle and for preparing the annual report described in subsection (d).

(2) WAGE RECORDS.—In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage records, consistent with State law. The Secretary shall make arrangements, consistent with State law, to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d).

(3) CONFIDENTIALITY.—In carrying out the requirements of this Act, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974).

(g) SANCTIONS FOR STATE FAILURE TO MEET STATE PERFORMANCE MEASURES.—

(1) STATES.—

(A) TECHNICAL ASSISTANCE.—If a State fails to meet State adjusted levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) for a program for any program year, the Secretary shall, upon request, provide technical assistance in accordance with section 170, including assistance in the development of a performance improvement plan.

(B) REDUCTION IN AMOUNT OF GRANT.—If such failure continues for a second consecutive year, or if a State fails to submit a report under subsection (d) for any program year, the Secretary may reduce by not more than 5 percent, the amount of the grant that would (in the absence of this paragraph) be payable to the State under such program for the immediately succeeding program year. Such penalty shall be based on the degree of failure to meet State adjusted levels of performance.

(2) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (1)(B), to provide incentive grants under section 503.

(h) SANCTIONS FOR LOCAL AREA FAILURE TO MEET LOCAL PERFORMANCE MEASURES.—

(1) TECHNICAL ASSISTANCE.—If a local area fails to meet levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) for a program for any program year, the Governor, or upon request by the Governor, the Secretary, shall provide technical assistance, which may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

## (2) CORRECTIVE ACTIONS.—

(A) IN GENERAL.—If such failure continues for a second consecutive year, the Governor shall take corrective actions, which may include development of a reorganization plan through which the Governor may—

(i) require the appointment and certification of a new local board (consistent with the criteria established under section 117(b));

(ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or

(iii) take such other actions as the Governor determines are appropriate.

## (B) APPEAL BY LOCAL AREA.—

(i) APPEAL TO GOVERNOR.—A local area that is subject to a reorganization plan under subparagraph (A) may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Governor to rescind or revise such plan. In such case, the Governor shall make a final decision not later than 30 days after the receipt of the appeal.

(ii) SUBSEQUENT ACTION.—The local area may, not later than 30 days after receiving a decision from the Governor pursuant to clause (i), appeal such decision to the Secretary. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

(C) EFFECTIVE DATE.—The decision made by the Governor under clause (i) of subparagraph (B) shall become effective at the time the Governor issues the decision pursuant to such clause. Such decision shall remain effective unless the Secretary rescinds or revises such plan pursuant to clause (ii) of subparagraph (B).

## (i) OTHER MEASURES AND TERMINOLOGY.—

(1) RESPONSIBILITIES.—In order to ensure nationwide comparability of performance data, the Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

(A) definitions for information required to be reported under subsection (d)(2);

(B) terms for a menu of additional indicators of performance described in subsection (b)(2)(C) to assist States in assessing their progress toward State workforce investment goals; and

(C) objective criteria and methods described in subsection (b)(3)(A)(vi) for making revisions to levels of performance.

(2) DEFINITIONS FOR CORE INDICATORS.—The Secretary and the representatives described in paragraph (1) shall participate in the activities described in section 502 concerning the issuance of definitions for indicators of performance described in subsection (b)(2)(A).

(3) ASSISTANCE.—The Secretary shall make the services of staff available to the representatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 502.

**SEC. 137. AUTHORIZATION OF APPROPRIATIONS.**

(a) YOUTH ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 127(a), such sums as may be necessary for each of fiscal years 1999 through 2003.

(b) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 132(a)(1), such sums as may be necessary for each of fiscal years 1999 through 2003.

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 132(a)(2), such sums as may be necessary for each of fiscal years 1999 through 2003.

**Subtitle C—Job Corps****SEC. 141. PURPOSES.**

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist eligible youth who need and can benefit from an intensive program, operated in a group setting in residential and nonresidential centers, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this subtitle; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

**SEC. 142. DEFINITIONS.**

In this subtitle:

(1) APPLICABLE LOCAL BOARD.—The term “applicable local board” means a local board—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

(2) APPLICABLE ONE-STOP CENTER.—The term “applicable one-stop center” means a one-stop customer service center that provides services, such as referral, intake, recruitment, and placement, to a Job Corps center.

(3) ENROLLEE.—The term “enrollee” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

(4) FORMER ENROLLEE.—The term “former enrollee” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program before completing the requirements of a vocational training program, or receiving a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(5) GRADUATE.—The term “graduate” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program and has completed the requirements of a vocational training program, or received a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(6) JOB CORPS.—The term “Job Corps” means the Job Corps described in section 143.

(7) JOB CORPS CENTER.—The term “Job Corps center” means a center described in section 147.

(8) OPERATOR.—The term “operator” means an entity selected under this subtitle to operate a Job Corps center.

(9) REGION.—The term “region” means an area served by a regional office of the Employment and Training Administration.

(10) SERVICE PROVIDER.—The term “service provider” means an entity selected under this subtitle to provide services described in this subtitle to a Job Corps center.

**SEC. 143. ESTABLISHMENT.**

There shall be within the Department of Labor a “Job Corps”.

**SEC. 144. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.**

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability;

(2) a low-income individual; and

(3) an individual who is 1 or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless, a runaway, or a foster child.

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

**SEC. 145. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.**

## (a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from the Governors, local boards, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and vocational needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants; and

(E) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop centers;

(B) community action agencies, business organizations, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(5) REIMBURSEMENT.—The Secretary is authorized to enter into contracts with and make payments to individuals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

## (b) SPECIAL LIMITATIONS ON SELECTION.—

(1) IN GENERAL.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures described in subsection (a) determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary.

(2) INDIVIDUALS ON PROBATION, PAROLE, OR SUPERVISED RELEASE.—An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system.

(c) ASSIGNMENT PLAN.—

(1) IN GENERAL.—Every 2 years, the Secretary shall develop and implement an assignment plan for assigning enrollees to Job Corps centers. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

(2) ANALYSIS.—In order to develop the plan described in paragraph (1), the Secretary shall, every 2 years, analyze, for the Job Corps center—

(A) the size of the population of individuals eligible to participate in Job Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions; and

(C) the capacity and utilization of the Job Corps center, including services provided through the center.

(d) ASSIGNMENT OF INDIVIDUAL ENROLLEES.—

(1) IN GENERAL.—After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the Job Corps center that is closest to the home of the enrollee, except that the Secretary may waive this requirement if—

(A) the enrollee chooses a vocational training program, or requires an English literacy program, that is not available at such center;

(B) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(C) the parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps program.

(2) ENROLLEES WHO ARE YOUNGER THAN 18.—An enrollee who is younger than 18 shall not be assigned to a Job Corps center other than the center closest to the home of the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment.

**SEC. 146. ENROLLMENT.**

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 148(c) would require an individual to participate in the Job Corps for not more than 1 additional year; or

(2) as the Secretary may authorize in a special case.

**SEC. 147. JOB CORPS CENTERS.**

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—

(A) OPERATORS.—The Secretary shall enter into an agreement with a Federal, State, or local agency, an area vocational education school or residential vocational school, or a private organization, for the operation of each Job Corps center.

(B) PROVIDERS.—The Secretary may enter into an agreement with a local entity to provide activities described in this subtitle to the Job Corps center.

(2) SELECTION PROCESS.—

(A) COMPETITIVE BASIS.—Except as provided in subsections (c) and (d) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary shall select on a competitive basis an entity to operate a Job Corps center and entities to provide activities described in this subtitle to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the industry council for the Job Corps center (if established), and the applicable local board regarding the contents of such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

(B) RECOMMENDATIONS AND CONSIDERATIONS.—

(i) OPERATORS.—In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the degree to which the vocational training that the entity proposes for the center reflects local employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) the degree to which the entity is familiar with the surrounding communities, applicable one-stop centers, and the State and region in which the center is located; and

(IV) the past performance of the entity, if any, relating to operating or providing activities described in this subtitle to a Job Corps center.

(ii) PROVIDERS.—In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in subclauses (I) through (IV) of clause (i), as appropriate.

(b) CHARACTER AND ACTIVITIES.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in this subtitle. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) CIVILIAN CONSERVATION CENTERS.—

(1) IN GENERAL.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture or the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other vocational training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) SELECTION PROCESS.—The Secretary may select an entity to operate a Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) INDIAN TRIBES.—

(1) GENERAL AUTHORITY.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) DEFINITIONS.—In this subsection, the terms "Indian" and "Indian tribe", have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

**SEC. 148. PROGRAM ACTIVITIES.**

(a) ACTIVITIES PROVIDED BY JOB CORPS CENTERS.—

(1) IN GENERAL.—Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, vocational training, work experience, recreational activities, physical rehabilitation and development, and counseling. Each Job Corps center shall provide enrollees assigned to the center with access to core services described in section 134(d)(2) and the intensive services described in section 134(d)(3).

(2) RELATIONSHIP TO OPPORTUNITIES.—

(A) IN GENERAL.—The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating in secondary education or postsecondary education programs, enrolling in other suitable vocational training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(B) LINK TO EMPLOYMENT OPPORTUNITIES.—The vocational training provided shall be linked to the employment opportunities in the local area in which the enrollee intends to seek employment after graduation.

(b) EDUCATION AND VOCATIONAL TRAINING.—The Secretary may arrange for education and vocational training of enrollees through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such entities provide education and training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

(c) ADVANCED CAREER TRAINING PROGRAMS.—

(1) IN GENERAL.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified under section 122.

(2) BENEFITS.—

(A) IN GENERAL.—During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) CALCULATION.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(3) DEMONSTRATION.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a satisfactory rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

(d) CONTINUED SERVICES.—The Secretary shall also provide continued services to graduates, including providing counseling regarding the workplace for 12 months after the date of graduation of the graduates. In selecting a provider for such services, the Secretary shall give priority to one-stop partners.

(e) CHILD CARE.—The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps.

**SEC. 149. COUNSELING AND JOB PLACEMENT.**

(a) **COUNSELING AND TESTING.**—The Secretary shall arrange for counseling and testing for each enrollee at regular intervals to measure progress in the education and vocational training programs carried out through the Job Corps.

(b) **PLACEMENT.**—The Secretary shall arrange for counseling and testing for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall make every effort to arrange to place the enrollees in jobs in the vocations for which the enrollees are trained or to assist the enrollees in obtaining further activities described in this subtitle. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop delivery system to the fullest extent possible.

(c) **STATUS AND PROGRESS.**—The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this subtitle are met.

(d) **SERVICES TO FORMER ENROLLEES.**—The Secretary may provide such services as the Secretary determines to be appropriate under this subtitle to former enrollees.

**SEC. 150. SUPPORT.**

(a) **PERSONAL ALLOWANCES.**—The Secretary may provide enrollees assigned to Job Corps centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

(b) **READJUSTMENT ALLOWANCES.**—

(1) **GRADUATES.**—The Secretary shall arrange for a readjustment allowance to be paid to graduates. The Secretary shall arrange for the allowance to be paid at the one-stop center nearest to the home of the graduate who is returning home, or at the one-stop center nearest to the location where the graduate has indicated an intent to seek employment. If the Secretary uses any organization, in lieu of a one-stop center, to provide placement services under this Act, the Secretary shall arrange for that organization to pay the readjustment allowance.

(2) **FORMER ENROLLEES.**—The Secretary may provide for a readjustment allowance to be paid to former enrollees. The provision of the readjustment allowance shall be subject to the same requirements as are applicable to the provision of the readjustment allowance paid to graduates under paragraph (1).

**SEC. 151. OPERATING PLAN.**

(a) **IN GENERAL.**—The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

(b) **ADDITIONAL INFORMATION.**—The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

(c) **AVAILABILITY.**—The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

**SEC. 152. STANDARDS OF CONDUCT.**

(a) **PROVISION AND ENFORCEMENT.**—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) **DISCIPLINARY MEASURES.**—

(1) **IN GENERAL.**—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of

such standards or diminish the opportunities of other enrollees.

(2) **ZERO TOLERANCE POLICY AND DRUG TESTING.**—

(A) **GUIDELINES.**—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) **DRUG TESTING.**—The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 145(a).

(C) **DEFINITIONS.**—In this paragraph:

(i) **CONTROLLED SUBSTANCE.**—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) **ZERO TOLERANCE POLICY.**—The term "zero tolerance policy" means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) **APPEAL.**—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

**SEC. 153. COMMUNITY PARTICIPATION.**

(a) **BUSINESS AND COMMUNITY LIAISON.**—Each Job Corps center shall have a Business and Community Liaison (referred to in this Act as a "Liaison"), designated by the director of the center.

(b) **RESPONSIBILITIES.**—The responsibilities of the Liaison shall include—

(1) establishing and developing relationships and networks with—

(A) local and distant employers; and

(B) applicable one-stop centers and applicable local boards,

for the purpose of providing job opportunities for Job Corps graduates; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules, procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

(c) **NEW CENTERS.**—The Liaison for a Job Corps center that is not yet operating shall establish and develop the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

**SEC. 154. INDUSTRY COUNCILS.**

(a) **IN GENERAL.**—Each Job Corps center shall have an industry council, appointed by the director of the center after consultation with the Liaison, in accordance with procedures established by the Secretary.

(b) **INDUSTRY COUNCIL COMPOSITION.**—

(1) **IN GENERAL.**—An industry council shall be comprised of—

(A) a majority of members who shall be local and distant owners of business concerns, chief executives or chief operating officers of non-governmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local area;

(B) representatives of labor organizations (where present) and representatives of employees; and

(C) enrollees and graduates of the Job Corps.

(2) **LOCAL BOARD.**—The industry council may include members of the applicable local boards who meet the requirements described in paragraph (1).

(c) **RESPONSIBILITIES.**—The responsibilities of the industry council shall be—

(1) to work closely with all applicable local boards in order to determine, and recommend to the Secretary, appropriate vocational training for the center;

(2) to review all the relevant labor market information to—

(A) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(B) determine the skills and education that are necessary to obtain the employment opportunities; and

(C) recommend to the Secretary the type of vocational training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to re-evaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the vocational training provided at the center.

(d) **NEW CENTERS.**—The industry council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

**SEC. 155. ADVISORY COMMITTEES.**

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

**SEC. 156. EXPERIMENTAL, RESEARCH, AND DEMONSTRATION PROJECTS.**

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program and may waive any provisions of this subtitle that the Secretary finds would prevent the Secretary from carrying out the projects.

**SEC. 157. APPLICATION OF PROVISIONS OF FEDERAL LAW.**

(a) **ENROLLEES NOT CONSIDERED TO BE FEDERAL EMPLOYEES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) **PROVISIONS RELATING TO TAXES AND SOCIAL SECURITY BENEFITS.**—For purposes of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(3) **PROVISIONS RELATING TO COMPENSATION TO FEDERAL EMPLOYEES FOR WORK INJURIES.**—For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5, United States Code.

(4) **FEDERAL TORT CLAIMS PROVISIONS.**—For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered to be employees of the Government.

(b) **ADJUSTMENTS AND SETTLEMENTS.**—Whenever the Secretary finds a claim for damages to

a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle the claim in an amount not exceeding \$1,500.

(c) **PERSONNEL OF THE UNIFORMED SERVICES.**—Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

**SEC. 158. SPECIAL PROVISIONS.**

(a) **ENROLLMENT.**—The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 145.

(b) **STUDIES, EVALUATIONS, PROPOSALS, AND DATA.**—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

(c) **TRANSFER OF PROPERTY.**—

(1) **IN GENERAL.**—Notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act or under any other Act.

(2) **PROPERTY.**—The property described in this paragraph is real and personal property under the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

(d) **GROSS RECEIPTS.**—Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

(e) **MANAGEMENT FEE.**—The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 147.

(f) **DONATIONS.**—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

(g) **SALE OF PROPERTY.**—Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

**SEC. 159. MANAGEMENT INFORMATION.**

(a) **FINANCIAL MANAGEMENT INFORMATION SYSTEM.**—

(1) **IN GENERAL.**—The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

(2) **ACCOUNTS.**—Each operator and service provider shall maintain funds received under this subtitle in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

(3) **FISCAL RESPONSIBILITY.**—Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

(b) **AUDIT.**—

(1) **ACCESS.**—The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

(2) **SURVEYS, AUDITS, AND EVALUATIONS.**—The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operators and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

(c) **INFORMATION ON INDICATORS OF PERFORMANCE.**—

(1) **ESTABLISHMENT.**—The Secretary shall, with continuity and consistency from year to year, establish indicators of performance, and expected levels of performance for Job Corps centers and the Job Corps program, relating to—

(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

(C) the average wage received by graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

(i) on the first day of the employment;

(ii) 6 months after the first day of the employment; and

(iii) 12 months after the first day of the employment,

analyzed by type of vocational training received through the Job Corps program;

(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

(i) 6 months after the first day of the employment; and

(ii) 12 months after the first day of the employment;

(F) the number of graduates who entered unsubsidized employment—

(i) for 32 hours per week or more;

(ii) for not less than 20 but less than 32 hours per week; and

(iii) for less than 20 hours per week;

(G) the number of graduates who entered postsecondary education or advanced training programs, including apprenticeship programs, as appropriate; and

(H) the number of graduates who attained job readiness and employment skills.

(2) **PERFORMANCE OF RECRUITERS.**—The Secretary shall also establish performance measures, and expected performance levels on the performance measures, for local and national recruitment service providers serving the Job Corps program. The performance measures shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) **REPORT.**—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing, information on the performance of each Job Corps center, and the Job Corps program, on the core performance measures, as compared to the expected performance level for each performance measure. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance measures established under such paragraph, as compared to the expected performance levels for the performance measures.

(d) **ADDITIONAL INFORMATION.**—The Secretary shall also collect, and submit in the report described in subsection (c), information on the performance of each Job Corps center, and the Job Corps program, regarding—

(1) the number of enrollees served;

(2) the average level of learning gains for graduates and former enrollees;

(3) the number of former enrollees and graduates who entered the Armed Forces;

(4) the number of former enrollees who entered postsecondary education;

(5) the number of former enrollees who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received;

(6) the number of former enrollees and graduates who obtained a secondary school diploma or its recognized equivalent;

(7) the number and percentage of dropouts from the Job Corps program including the number dismissed under the zero tolerance policy described in section 152(b); and

(8) any additional information required by the Secretary.

(e) **METHODS.**—The Secretary may collect the information described in subsections (c) and (d) using methods described in section 136(f)(2) consistent with State law.

(f) **PERFORMANCE ASSESSMENTS AND IMPROVEMENTS.**—

(1) **ASSESSMENTS.**—The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

(2) **PERFORMANCE IMPROVEMENT PLANS.**—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the core performance measures specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

(A) providing technical assistance to the center;

(B) changing the vocational training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

(3) **ADDITIONAL PERFORMANCE IMPROVEMENT PLANS.**—In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in paragraph (2), for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in paragraph (2).

(g) **CLOSURE OF JOB CORPS CENTER.**—Prior to the closure of any Job Corps center, the Secretary shall ensure—

(1) that the proposed decision to close the center is announced in advance to the general public through publication in the Federal Register or other appropriate means;

(2) the establishment of a reasonable comment period, not to exceed 30 days, for interested individuals to submit written comments to the Secretary; and

(3) that the Member of Congress who represents the district in which such center is located is notified within a reasonable period of time in advance of any final decision to close the center.

#### SEC. 160. GENERAL PROVISIONS.

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 157(b), collect or compromise all obligations to or held by the Secretary and exercise all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this subtitle—

(A) for printing and binding, in accordance with applicable law (including regulation); and  
(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper administration of this subtitle, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

#### SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2003.

##### Subtitle D—National Programs

#### SEC. 166. NATIVE AMERICAN PROGRAMS.

(a) **PURPOSE.**—

(1) **IN GENERAL.**—The purpose of this section is to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) **INDIAN POLICY.**—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) **DEFINITIONS.**—As used in this section:

(1) **ALASKA NATIVE.**—The term “Alaska Native” means a Native as such term is defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) **INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.**—The terms “Indian”, “Indian tribe”, and “tribal organization” have the meanings given such terms in subsections (d), (e), and (f), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) **NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.**—The terms “Native Hawaiian” and “Native Hawaiian organization” have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(c) **PROGRAM AUTHORIZED.**—

(1) **IN GENERAL.**—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) **EXCEPTION.**—The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirements for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

(d) **AUTHORIZED ACTIVITIES.**—

(1) **IN GENERAL.**—Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) **WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.**—

(A) **IN GENERAL.**—Funds made available under subsection (c) shall be used for—

(i) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(ii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) **SPECIAL RULE.**—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under this section.

(e) **PROGRAM PLAN.**—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 2-year strategy for meeting the needs of Indian, Alaska Native, or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

(1) be consistent with the purpose of this section;

(2) identify the population to be served;

(3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;

(4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and

(5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) **CONSOLIDATION OF FUNDS.**—Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) **NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.**—Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) **ADMINISTRATIVE PROVISIONS.**—

(1) **ORGANIZATIONAL UNIT ESTABLISHED.**—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) **REGULATIONS.**—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) **WAIVERS.**—

(A) **IN GENERAL.**—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under paragraph (2), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of workers and participants, grievance procedures, and judicial review.

(B) **REQUEST AND APPROVAL.**—An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 189(i)(4)(B).

(4) **ADVISORY COUNCIL.**—

(A) **IN GENERAL.**—Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) **COMPOSITION.**—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) **DUTIES.**—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) **PERSONNEL MATTERS.**—

(i) **COMPENSATION OF MEMBERS.**—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under subsection (c) to enable such entities to improve the activities authorized under this section that are provided by such entities.

(6) AGREEMENT FOR CERTAIN FEDERALLY-RECOGNIZED INDIAN TRIBES TO TRANSFER FUNDS TO THE PROGRAM.—A federally-recognized Indian tribe that administers funds provided under this section and funds provided by more than 1 State under other sections of this title may enter into an agreement with the Secretary and the Governors of the affected States to transfer the funds provided by the States to the program administered by the tribe under this section.

(j) COMPLIANCE WITH SINGLE AUDIT REQUIREMENTS; RELATED REQUIREMENT.—Grants, contracts, and cooperative agreements entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, United States Code (enacted by the Single Audit Act of 1984) and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(j) ASSISTANCE TO AMERICAN SAMOANS IN HAWAII.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to American Samoans who reside in Hawaii for the co-location of federally-funded and State-funded workforce investment activities.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1999 such sums as may be necessary to carry out this subsection.

**SEC. 167. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.**

(a) IN GENERAL.—Every 2 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce investment activities (including youth activities) and related assistance for eligible migrant and seasonal farmworkers.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

(2) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the population to be served and the

manner in which the services to be provided will strengthen the ability of the eligible migrant and seasonal farmworkers and dependents to obtain or retain unsubsidized employment or stabilize their unsubsidized employment;

(B) describe the related assistance and supportive services to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services; and

(C) describe the indicators of performance to be used to assess the performance of such entity in carrying out the activities assisted under this section.

(3) ADMINISTRATION.—Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

(4) COMPETITION.—

(A) IN GENERAL.—The competition for grants made and contracts entered into under this section shall be conducted every 2 years.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a recipient of such a grant or contract has performed satisfactorily under the terms of the grant agreement or contract, the Secretary may waive the requirement for such competition for such recipient upon receipt from the recipient of a satisfactory 2-year plan described in paragraph (1) for the succeeding 2-year grant or contract period. The Secretary may exercise the waiver authority of the preceding sentence not more than once during any 4-year period with respect any single recipient.

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section shall be used to carry out workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, housing, supportive services, dropout prevention activities, follow-up services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to capacity enhancement in such areas as management information technology.

(e) CONSULTATION WITH GOVERNORS AND LOCAL BOARDS.—In making grants and entering into contracts under this section, the Secretary shall consult with the Governors and local boards of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to carry out this section, including performance measures for eligible entities that take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

(g) COMPLIANCE WITH SINGLE AUDIT REQUIREMENTS; RELATED REQUIREMENT.—Grants and contracts entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, United States Code (enacted by the Single Audit Act of 1984) and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(h) DEFINITIONS.—In this section:

(1) DISADVANTAGED.—The term “disadvantaged”, used with respect to a farmworker, means a farmworker whose income, for 12 consecutive months out of the 24 months prior to application for the program involved, does not exceed the higher of—

(A) the poverty line (as defined in section 334(a)(2)(B)) for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(2) ELIGIBLE MIGRANT AND SEASONAL FARMWORKERS.—The term “eligible migrant and seasonal farmworkers” means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

(3) ELIGIBLE MIGRANT FARMWORKER.—The term “eligible migrant farmworker” means—

(A) an eligible seasonal farmworker described in paragraph (4)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

(4) ELIGIBLE SEASONAL FARMWORKER.—The term “eligible seasonal farmworker” means—

(A) a disadvantaged person who, for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment; and

(B) a dependent of the person described in subparagraph (A).

**SEC. 168. VETERANS' WORKFORCE INVESTMENT PROGRAMS.**

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall conduct, directly or through grants or contracts, programs to meet the needs for workforce investment activities of veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans.

(2) CONDUCT OF PROGRAMS.—Programs supported under this section may be conducted through grants and contracts with public agencies and private nonprofit organizations, including recipients of Federal assistance under other provisions of this title, that the Secretary determines have an understanding of the unemployment problems of veterans described in paragraph (1), familiarity with the area to be served, and the capability to administer effectively a program of workforce investment activities for such veterans.

(3) REQUIRED ACTIVITIES.—Programs supported under this section shall include—

(A) activities to enhance services provided to veterans by other providers of workforce investment activities funded by Federal, State, or local government;

(B) activities to provide workforce investment activities to such veterans that are not adequately provided by other public providers of workforce investment activities; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop centers described in section 134(c).

(b) ADMINISTRATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall administer programs supported under this section through the Assistant Secretary for Veterans' Employment and Training.

(2) ADDITIONAL RESPONSIBILITIES.—In carrying out responsibilities under this section, the Assistant Secretary for Veterans' Employment and Training shall—

(A) be responsible for the awarding of grants and contracts and the distribution of funds under this section and for the establishment of appropriate fiscal controls, accountability, and program performance measures for recipients of grants and contracts under this section; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this section are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38,

United States Code, including programs and activities conducted under subchapter II of chapter 77 of such title, chapters 30, 31, 32, and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

**SEC. 169. YOUTH OPPORTUNITY GRANTS.**

(a) GRANTS.—

(1) IN GENERAL.—Using funds made available under section 127(b)(1)(A), the Secretary shall make grants to eligible local boards and eligible entities described in subsection (b) to provide activities described in subsection (b) for youth to increase the long-term employment of youth who live in empowerment zones, enterprise communities, and high poverty areas and who seek assistance.

(2) DEFINITION.—In this section, the term "youth" means an individual who is not less than age 14 and not more than age 21.

(3) GRANT PERIOD.—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

(4) GRANT AWARDS.—In making grants under this section, the Secretary shall ensure that grants are distributed equitably among local boards and entities serving urban areas and local boards and entities serving rural areas, taking into consideration the poverty rate in such urban and rural areas, as described in subsection (c)(3)(B).

(b) USE OF FUNDS.—

(1) IN GENERAL.—A local board or entity that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 129, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

(2) INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.—In providing activities under this section, a local board or entity shall provide—

(A) intensive placement services; and

(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

(c) ELIGIBLE LOCAL BOARDS.—To be eligible to receive a grant under this section, a local board shall serve a community that—

(1) has been designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986;

(2)(A) is a State without a zone or community described in paragraph (1); and

(B) has been designated as a high poverty area by the Governor of the State; or

(3) is 1 of 2 areas in a State that—

(A) have been designated by the Governor as areas for which a local board may apply for a grant under this section; and

(B) meet the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity (other than a local board) shall—

(1) be a recipient of financial assistance under section 166; and

(2) serve a community that—

(A) meets the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986; and

(B) is located on an Indian reservation or serves Oklahoma Indians or Alaska Native villages or Native groups (as such terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(e) APPLICATION.—To be eligible to receive a grant under this section, a local board or entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the local board or entity will provide under this section to

youth in the community described in subsection (c);

(2) a description of the performance measures negotiated under subsection (f), and the manner in which the local boards or entities will carry out the activities to meet the performance measures;

(3) a description of the manner in which the activities will be linked to activities described in section 129; and

(4) a description of the community support, including financial support through leveraging additional public and private resources, for the activities.

(f) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local board or entity on performance measures for the indicators of performance referred to in subparagraphs (A) and (B) of section 136(b)(2) that will be used to evaluate the performance of the local board or entity in carrying out the activities described in subsection (b). Each local performance measure shall consist of such an indicator of performance, and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local board or entity regarding the levels of performance expected to be achieved by the local board or entity on the indicators of performance.

(g) ROLE MODEL ACADEMY PROJECT.—

(1) IN GENERAL.—Using the funds made available pursuant to section 127(b)(1)(A)(iv) for fiscal year 1999, the Secretary shall provide assistance to an entity to carry out a project establishing a role model academy for out-of-school youth.

(2) RESIDENTIAL CENTER.—The entity shall use the assistance to establish an academy that consists of a residential center located on the site of a military installation closed or realigned pursuant to a law providing for closures and realignments of such installations.

(3) SERVICES.—The academy established pursuant to this subsection shall provide services that—

(A) utilize a military style model that emphasizes leadership skills and discipline, or another model of demonstrated effectiveness; and

(B) include vocational training, secondary school course work leading to a secondary school diploma or recognized equivalent, and the use of mentors who serve as role models and who provide academic training and career counseling to the youth.

**SEC. 170. TECHNICAL ASSISTANCE.**

(a) GENERAL TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities, including assistance in replicating programs of demonstrated effectiveness, to States and localities, and, in particular, to assist States in making transitions from carrying out activities under the provisions of law repealed under section 199 to carrying out activities under this title.

(2) FORM OF ASSISTANCE.—In carrying out paragraph (1) on behalf of a State, or recipient of financial assistance under any of sections 166 through 169, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements.

(3) LIMITATION.—Grants or contracts awarded under paragraph (1) to entities other than States or local units of government that are for amounts in excess of \$100,000 shall only be awarded on a competitive basis.

(b) DISLOCATED WORKER TECHNICAL ASSISTANCE.—

(1) AUTHORITY.—Of the amounts available pursuant to section 132(a)(2), the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do

not meet the State performance measures described in section 136 with respect to employment and training activities for dislocated workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this title.

(2) TRAINING.—Amounts reserved under this subsection may be used to provide for the training of staff, including specialists, who provide rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. Such projects shall be administered through the dislocated worker office described in section 174(b).

**SEC. 171. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.**

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the demonstration and pilot (including dislocated worker demonstration and pilot), multiservice, research, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. Copies of the plan shall be transmitted to the appropriate committees of Congress.

(2) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(b) DEMONSTRATION AND PILOT PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component and may include—

(A) the establishment of advanced manufacturing technology skill centers developed through local partnerships of industry, labor, education, community-based organizations, and economic development organizations to meet unmet, high-tech skill needs of local communities;

(B) projects that provide training to upgrade the skills of employed workers who reside and are employed in enterprise communities or empowerment zones;

(C) programs conducted jointly with the Department of Defense to develop training programs utilizing computer-based and other innovative learning technologies;

(D) projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet;

(E) projects that assist in providing comprehensive services to increase the employment rates of out-of-school youth residing in targeted high poverty areas within empowerment zones and enterprise communities;

(F) the establishment of partnerships with national organizations with special expertise in developing, organizing, and administering employment and training services, for individuals with

disabilities, at the national, State, and local levels;

(G) projects to assist public housing authorities that provide, to public housing residents, job training programs that demonstrate success in upgrading the job skills and promoting employment of the residents; and

(H) projects that assist local areas to develop and implement local self-sufficiency standards to evaluate the degree to which participants in programs under this title are achieving self-sufficiency.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

(i) entities with recognized expertise in—

(I) conducting national demonstration projects;

(II) utilizing state-of-the-art demonstration methods; or

(III) conducting evaluations of workforce investment projects; or

(ii) State and local entities with expertise in operating or overseeing workforce investment programs.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

(c) MULTISERVICE PROJECTS, RESEARCH PROJECTS, AND MULTISTATE PROJECTS.—

(1) MULTISERVICE PROJECTS.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out multiservice projects—

(A) that will test an array of approaches to the provision of employment and training services to a variety of targeted populations;

(B) in which the entity carrying out the project, in conjunction with employers, organized labor, and other groups such as the disability community, will design, develop, and test various training approaches in order to determine effective practices; and

(C) that will assist in the development and replication of effective service delivery strategies for targeted populations for the national employment and training system as a whole.

(2) RESEARCH PROJECTS.—

(A) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States.

(B) FORMULA IMPROVEMENT STUDY AND REPORT.—

(i) STUDY.—The Secretary shall conduct a 2-year study concerning improvements in the formulas described in section 132(b)(1)(B) and paragraphs (2)(A) and (3) of section 133(b) (regarding distributing funds under subtitle B to States and local areas for adult employment and training activities). In conducting the study, the Secretary shall examine means of improving the formulas by—

(I) developing formulas based on statistically reliable data;

(II) developing formulas that are consistent with the goals and objectives of this title; and

(III) developing formulas based on organizational and financial stability of State boards and local boards.

(ii) REPORT.—The Secretary shall prepare and submit to Congress a report containing the results of the study, including recommendations for improved formulas.

(3) MULTISTATE PROJECTS.—

(A) IN GENERAL.—

(i) AUTHORITY.—Under a plan published under subsection (a), the Secretary may,

through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industry-wide skill shortages.

(ii) DESIGN OF GRANTS.—Grants or contracts awarded under this subsection shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(4) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out projects under this subsection in amounts that exceed \$100,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of assistance under the grant or contract for the project.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(C) PEER REVIEW.—

(i) IN GENERAL.—The Secretary shall utilize a peer review process—

(I) to review and evaluate all applications for grants in amounts that exceed \$500,000 that are submitted under this section; and

(II) to review and designate exemplary and promising programs under this section.

(ii) AVAILABILITY OF FUNDS.—The Secretary is authorized to use funds provided under this section to carry out peer review activities under this subparagraph.

(D) PRIORITY.—In awarding grants or contracts under this subsection, priority shall be provided to entities with nationally recognized expertise in the methods, techniques, and knowledge of workforce investment activities and shall include appropriate time limits, established by the Secretary, for the duration of such projects.

(d) DISLOCATED WORKER PROJECTS.—Of the amount made available pursuant to section 132(a)(2)(A) for any program year, the Secretary shall use not more than 10 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects, relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (c)(4)(C). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered through the dislocated worker office described in section 173(b).

**SEC. 172. EVALUATIONS.**

(a) PROGRAMS AND ACTIVITIES CARRIED OUT UNDER THIS TITLE.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title, the Secretary shall provide for the continuing evaluation of the programs and activities, including those programs and activities carried out under section 171. Such evaluations shall address—

(1) the general effectiveness of such programs and activities in relation to their cost, including the extent to which the programs and activities—

(A) improve the employment competencies of participants in comparison to comparably-situated individuals who did not participate in such programs and activities; and

(B) to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs and activities;

(2) the effectiveness of the performance measures relating to such programs and activities;

(3) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities;

(4) the impact of the programs and activities on the community and participants involved;

(5) the impact of such programs and activities on related programs and activities;

(6) the extent to which such programs and activities meet the needs of various demographic groups; and

(7) such other factors as may be appropriate.

(b) OTHER PROGRAMS AND ACTIVITIES.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities under other provisions of law.

(c) TECHNIQUES.—Evaluations conducted under this section shall utilize appropriate methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct at least 1 multisite control group evaluation under this section by the end of fiscal year 2005.

(d) REPORTS.—The entity carrying out an evaluation described in subsection (a) or (b) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(e) REPORTS TO CONGRESS.—Not later than 30 days after the completion of such a draft report, the Secretary shall transmit the draft report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Not later than 60 days after the completion of such a final report, the Secretary shall transmit the final report to such committees of the Congress.

(f) COORDINATION.—The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 136(e) with the evaluations carried out under this section.

**SEC. 173. NATIONAL EMERGENCY GRANTS.**

(a) IN GENERAL.—The Secretary is authorized to award national emergency grants in a timely manner—

(1) to an entity described in subsection (c) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)) (referred to in this section as the "disaster area") to provide disaster relief employment in the area; and

(3) to provide additional assistance to a State or local board for eligible dislocated workers in a case in which the State or local board has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary.

(b) ADMINISTRATION.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants.

(c) EMPLOYMENT AND TRAINING ASSISTANCE REQUIREMENTS.—

(1) GRANT RECIPIENT ELIGIBILITY.—

(A) APPLICATION.—To be eligible to receive a grant under subsection (a)(1), an entity shall

submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) **ELIGIBLE ENTITY.**—In this paragraph, the term "entity" means a State, a local board, an entity described in section 166(c), entities determined to be eligible by the Governor of the State involved, and other entities that demonstrate to the Secretary the capability to effectively respond to the circumstances relating to particular dislocations.

(2) **PARTICIPANT ELIGIBILITY.**—

(A) **IN GENERAL.**—In order to be eligible to receive employment and training assistance under a national emergency grant awarded pursuant to subsection (a)(1), an individual shall be—

(i) a dislocated worker;

(ii) a civilian employee of the Department of Defense or the Department of Energy employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;

(iii) an individual who is employed in a non-managerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at-risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to nondefense applications in order to prevent worker layoffs; or

(iv) a member of the Armed Forces who—

(I) was on active duty or full-time National Guard duty;

(II)(aa) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

(bb) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title;

(III) is not entitled to retired or retained pay incident to the separation described in subclause (II); and

(IV) applies for such employment and training assistance before the end of the 180-day period beginning on the date of that separation.

(B) **RETRAINING ASSISTANCE.**—The individuals described in subparagraph (A)(iii) shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion described in subparagraph (A)(iii).

(C) **ADDITIONAL REQUIREMENTS.**—The Secretary shall establish and publish additional requirements related to eligibility for employment and training assistance under the national emergency grants to ensure effective use of the funds available for this purpose.

(D) **DEFINITIONS.**—In this paragraph, the terms 'military institution' and 'realignment' have the meanings given the terms in section 2910 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note).

(d) **DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.**—

(1) **IN GENERAL.**—Funds made available under subsection (a)(2)—

(A) shall be used to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide employment and training activities.

(2) **ELIGIBILITY.**—An individual shall be eligible to be offered disaster relief employment

under subsection (a)(2) if such individual is a dislocated worker, is a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster.

(3) **LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.**—No individual shall be employed under subsection (a)(2) for more than 6 months for work related to recovery from a single natural disaster.

**SEC. 174. AUTHORIZATION OF APPROPRIATIONS.**

(a) **NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' WORKFORCE INVESTMENT PROGRAMS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 166 through 168 such sums as may be necessary for each of the fiscal years 1999 through 2003.

(2) **RESERVATIONS.**—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall—

(A) reserve not less than \$55,000,000 for carrying out section 166;

(B) reserve not less than \$70,000,000 for carrying out section 167; and

(C) reserve not less than \$7,300,000 for carrying out section 168.

(b) **TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS; INCENTIVE GRANTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172 and section 503 such sums as may be necessary for each of the fiscal years 1999 through 2003.

(2) **RESERVATIONS.**—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall—

(A)(i) for fiscal year 1999, reserve up to 40 percent for carrying out section 170 (other than subsection (b) of such section);

(ii) for fiscal year 2000, reserve up to 25 percent for carrying out section 170 (other than subsection (b) of such section); and

(iii) for each of the fiscal years 2001 through 2003, reserve up to 20 percent for carrying out section 170 (other than subsection (b) of such section);

(B)(i) for fiscal year 1999, reserve not less than 50 percent for carrying out section 171; and

(ii) for each of the fiscal years 2000 through 2003, reserve not less than 45 percent for carrying out section 171;

(C)(i) for fiscal year 1999, reserve not less than 10 percent for carrying out section 172; and

(ii) for each of the fiscal years 2000 through 2003, reserve not less than 10 percent for carrying out section 172; and

(D)(i) for fiscal year 1999, reserve no funds for carrying out section 503;

(ii) for fiscal year 2000, reserve up to 20 percent for carrying out section 503; and

(iii) for each of the fiscal years 2001 through 2003, reserve up to 25 percent for carrying out section 503.

#### Subtitle E—Administration

**SEC. 181. REQUIREMENTS AND RESTRICTIONS.**

(a) **BENEFITS.**—

(1) **WAGES.**—

(A) **IN GENERAL.**—Individuals in on-the-job training or individuals employed in activities under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(B) **RULE OF CONSTRUCTION.**—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1))—

(i) shall be deemed to be a reference to section 6(a)(3) of that Act for individuals in American Samoa; and

(ii) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 does not apply.

(2) **TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.**—Allowances, earnings and payments to individuals participating in programs under this title shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(b) **LABOR STANDARDS.**—

(1) **LIMITATIONS ON ACTIVITIES THAT IMPACT WAGES OF EMPLOYEES.**—No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.

(2) **DISPLACEMENT.**—

(A) **PROHIBITION.**—A participant in a program or activity authorized under this title (referred to in this section as a "specified activity") shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) **PROHIBITION ON IMPAIRMENT OF CONTRACTS.**—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) **OTHER PROHIBITIONS.**—A participant in a specified activity shall not be employed in a job if—

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) the job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

(4) **HEALTH AND SAFETY.**—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(5) **EMPLOYMENT CONDITIONS.**—Individuals in on-the-job training or individuals employed in programs and activities under this title, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(6) **OPPORTUNITY TO SUBMIT COMMENTS.**—Interested members of the public, including representatives of businesses and of labor organizations, shall be provided an opportunity to submit comments to the Secretary with respect to programs and activities proposed to be funded under subtitle B.

(7) **NO IMPACT ON UNION ORGANIZING.**—Each recipient of funds under this title shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(c) **GRIEVANCE PROCEDURE.**—

(1) *IN GENERAL.*—Each State and local area receiving an allotment under this title shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.

(2) *INVESTIGATION.*—

(A) *IN GENERAL.*—The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals to the Secretary; or

(ii) a decision relating to such violation has been reached within such 60 days and the party to which such decision is adverse appeals such decision to the Secretary.

(B) *ADDITIONAL REQUIREMENT.*—The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after receiving such appeal.

(3) *REMEDIES.*—Remedies that may be imposed under this section for a violation of any requirement of this title shall be limited—

(A) to suspension or termination of payments under this title;

(B) to prohibition of placement of a participant with an employer that has violated any requirement under this title;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) *RULE OF CONSTRUCTION.*—Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this title.

(d) *RELOCATION.*—

(1) *PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION.*—No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) *PROHIBITION ON USE OF FUNDS FOR CUSTOMIZED OR SKILL TRAINING AND RELATED ACTIVITIES AFTER RELOCATION.*—No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(3) *REPAYMENT.*—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) *LIMITATION ON USE OF FUNDS.*—No funds available under this title shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities that are not directly related to training for eligible individuals under this title. No funds available under subtitle B shall be used for foreign travel.

(f) *TESTING AND SANCTIONING FOR USE OF CONTROLLED SUBSTANCES.*—

(1) *IN GENERAL.*—Notwithstanding any other provision of law, a State shall not be prohibited by the Federal Government from—

(A) testing participants in programs under subtitle B for the use of controlled substances; and

(B) sanctioning such participants who test positive for the use of such controlled substances.

(2) *ADDITIONAL REQUIREMENTS.*—

(A) *PERIOD OF SANCTION.*—In sanctioning participants in programs under subtitle B who test positive for the use of controlled substances—

(i) with respect to the first occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed 6 months; and

(ii) with respect to the second occurrence and each subsequent occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed not to exceed 2 years.

(B) *APPEAL.*—The testing of participants and the imposition of sanctions under this subsection shall be subject to expeditious appeal in accordance with due process procedures established by the State.

(C) *PRIVACY.*—A State shall establish procedures for testing participants for the use of controlled substances that ensure a maximum degree of privacy for the participants.

(4) *FUNDING REQUIREMENT.*—In testing and sanctioning of participants for the use of controlled substances in accordance with this subsection, the only Federal funds that a State may use are the amounts made available for the administration of statewide workforce investment activities under section 134(a)(3)(B).

**SEC. 182. PROMPT ALLOCATION OF FUNDS.**

(a) *ALLOTMENTS BASED ON LATEST AVAILABLE DATA.*—All allotments to States and grants to outlying areas under this title shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults and disadvantaged youth shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) *PUBLICATION IN FEDERAL REGISTER RELATING TO FORMULA FUNDS.*—Whenever the Secretary allots funds required to be allotted under this title, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient of the funds.

(c) *REQUIREMENT FOR FUNDS DISTRIBUTED BY FORMULA.*—All funds required to be allotted under section 127 or 132 shall be allotted within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 189(g), such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) *PUBLICATION IN FEDERAL REGISTER RELATING TO DISCRETIONARY FUNDS.*—Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary's discretion under this title, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish such formula in the Federal Register for comments along with the rationale for the formula and the proposed amounts to be distributed to each State and local area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

(e) *AVAILABILITY OF FUNDS.*—Funds shall be made available under sections 128 and 133 for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 127 or 132 (as the case may be), or 7 days after the date the local plan for the area is approved, whichever is later.

**SEC. 183. MONITORING.**

(a) *IN GENERAL.*—The Secretary is authorized to monitor all recipients of financial assistance

under this title to determine whether the recipients are complying with the provisions of this title, including the regulations issued under this title.

(b) *INVESTIGATIONS.*—The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this title, including the regulations issued under this title. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

(c) *ADDITIONAL REQUIREMENT.*—For the purpose of any investigation or hearing conducted under this title by the Secretary, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

**SEC. 184. FISCAL CONTROLS; SANCTIONS.**

(a) *ESTABLISHMENT OF FISCAL CONTROLS BY STATES.*—

(1) *IN GENERAL.*—Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds allocated to local areas under subtitle B. Such procedures shall ensure that all financial transactions carried out under subtitle B are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

(2) *COST PRINCIPLES.*—

(A) *IN GENERAL.*—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the applicable uniform cost principles included in the appropriate circulars of the Office of Management and Budget for the type of entity receiving the funds.

(B) *EXCEPTION.*—The funds made available to a State for administration of statewide workforce investment activities in accordance with section 134(a)(3)(B) shall be allocable to the overall administration of workforce investment activities, but need not be specifically allocable to—

(i) the administration of adult employment and training activities;

(ii) the administration of dislocated worker employment and training activities; or

(iii) the administration of youth activities.

(3) *UNIFORM ADMINISTRATIVE REQUIREMENTS.*—

(A) *IN GENERAL.*—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget.

(B) *ADDITIONAL REQUIREMENT.*—Procurement transactions under this title between local boards and units of State or local governments shall be conducted only on a cost-reimbursable basis.

(4) *MONITORING.*—Each Governor of a State shall conduct on an annual basis onsite monitoring of each local area within the State to ensure compliance with the uniform administrative requirements referred to in paragraph (3).

(5) *ACTION BY GOVERNOR.*—If the Governor determines that a local area is not in compliance with the uniform administrative requirements referred to in paragraph (3), the Governor shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

(6) CERTIFICATION.—The Governor shall, every 2 years, certify to the Secretary that—

(A) the State has implemented the uniform administrative requirements referred to in paragraph (3);

(B) the State has monitored local areas to ensure compliance with the uniform administrative requirements as required under paragraph (4); and

(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

(7) ACTION BY THE SECRETARY.—If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (e) in the event of failure of the Governor to take the required appropriate action to secure compliance.

(b) SUBSTANTIAL VIOLATION.—

(1) ACTION BY GOVERNOR.—If, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this title, and corrective action has not been taken, the Governor shall—

(A) issue a notice of intent to revoke approval of all or part of the local plan affected; or

(B) impose a reorganization plan, which may include—

(i) decertifying the local board involved;

(ii) prohibiting the use of eligible providers;

(iii) selecting an alternative entity to administer the program for the local area involved;

(iv) merging the local area into 1 or more other local areas; or

(v) making other such changes as the Secretary or Governor determines necessary to secure compliance.

(2) APPEAL.—

(A) IN GENERAL.—The actions taken by the Governor pursuant to subparagraphs (A) and (B) of paragraph (1) may be appealed to the Secretary and shall not become effective until—

(i) the time for appeal has expired; or

(ii) the Secretary has issued a decision.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final decision under subparagraph (A) not later than 45 days after the receipt of the appeal.

(3) ACTION BY THE SECRETARY.—If the Governor fails to promptly take the actions required under paragraph (1), the Secretary shall take such actions.

(c) REPAYMENT OF CERTAIN AMOUNTS TO THE UNITED STATES.—

(1) IN GENERAL.—Every recipient of funds under this title shall repay to the United States amounts found not to have been expended in accordance with this title.

(2) OFFSET OF REPAYMENT.—If the Secretary determines that a State has expended funds made available under this title in a manner contrary to the requirements of this title, the Secretary may offset repayment of such expenditures against any other amount to which the State is or may be entitled, except as provided under subsection (d)(1).

(3) REPAYMENT FROM DEDUCTION BY STATE.—If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds contrary to the requirements of this title, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e)(1).

(4) DEDUCTION BY STATE.—The Governor may deduct an amount equal to the misexpenditure described in paragraph (3) from subsequent program year allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

(5) LIMITATIONS.—A deduction made by a State as described in paragraph (4) shall not be

made until such time as the Governor has taken appropriate corrective action to ensure full compliance within such local area with regard to appropriate expenditures of funds under this title.

(d) REPAYMENT OF AMOUNTS.—

(1) IN GENERAL.—Each recipient of funds under this title shall be liable to repay the amounts described in subsection (c)(1), from funds other than funds received under this title, upon a determination by the Secretary that the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure as described in paragraphs (2) and (3) of subsection (c). No such determination shall be made under this subsection or subsection (c) until notice and opportunity for a fair hearing has been given to the recipient.

(2) FACTORS IN IMPOSING SANCTIONS.—In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee or contractor of such recipient under this title (including the regulations issued under this title), the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contractors that contains acceptable standards for ensuring accountability;

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this title, including regulations issued under this title, by such subgrantee or contractor.

(3) WAIVER.—If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this title and any applicable Federal or State law directly against any subgrantee or contractor for violation of this title, including regulations issued under this title.

(e) IMMEDIATE TERMINATION OR SUSPENSION OF ASSISTANCE IN EMERGENCY SITUATIONS.—In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(f) DISCRIMINATION AGAINST PARTICIPANTS.—If the Secretary determines that any recipient under this title has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title, or has testified or is about to testify in any such proceeding or investigation under or related to this title, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of

this title or the Secretary's regulations, the Secretary shall, within thirty days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(g) REMEDIES.—The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

#### SEC. 185. REPORTS; RECORDKEEPING; INVESTIGATIONS.

(a) REPORTS.—

(1) IN GENERAL.—Recipients of funds under this title shall keep records that are sufficient to permit the preparation of reports required by this title and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) SUBMISSION TO THE SECRETARY.—Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress, in which case an estimate may be provided.

(3) MAINTENANCE OF STANDARDIZED RECORDS.—In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

(4) AVAILABILITY TO THE PUBLIC.—

(A) IN GENERAL.—Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) EXCEPTION.—Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) FEES TO RECOVER COSTS.—Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

(b) INVESTIGATIONS OF USE OF FUNDS.—

(1) IN GENERAL.—

(A) SECRETARY.—In order to evaluate compliance with the provisions of this title, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this title.

(B) COMPTROLLER GENERAL OF THE UNITED STATES.—In order to ensure compliance with the provisions of this title, the Comptroller General of the United States may conduct investigations of the use of funds received under this title by any recipient.

(2) PROHIBITION.—In conducting any investigation under this title, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

(3) AUDITS.—

(A) IN GENERAL.—In carrying out any audit under this title (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as

soon as practicable), prior to the commencement of the audit.

(B) **NOTIFICATION REQUIREMENT.**—If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) **ADDITIONAL REQUIREMENT.**—The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) **RULE OF CONSTRUCTION.**—Nothing contained in this title shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) **ACCESSIBILITY OF REPORTS.**—Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title—

(1) shall make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) shall prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 188; and

(3) shall monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title.

(d) **INFORMATION TO BE INCLUDED IN REPORTS.**—

(1) **IN GENERAL.**—The reports required in subsection (c) shall include information regarding programs and activities carried out under this title pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 188.

(2) **ADDITIONAL REQUIREMENT.**—The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) **QUARTERLY FINANCIAL REPORTS.**—

(1) **IN GENERAL.**—Each local board in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this title. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) **ADDITIONAL REQUIREMENT.**—Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(f) **MAINTENANCE OF ADDITIONAL RECORDS.**—Each State and local board shall maintain records with respect to programs and activities carried out under this title that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(g) **COST CATEGORIES.**—In requiring entities to maintain records of costs by category under this

title, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

**SEC. 186. ADMINISTRATIVE ADJUDICATION.**

(a) **IN GENERAL.**—Whenever any applicant for financial assistance under this title is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 184.

(b) **APPEAL.**—The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) **TIME LIMIT.**—Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) **ADDITIONAL REQUIREMENT.**—The provisions of section 187 shall apply to any final action of the Secretary under this section.

**SEC. 187. JUDICIAL REVIEW.**

(a) **REVIEW.**—

(1) **PETITION.**—With respect to any final order by the Secretary under section 186 by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under his title, or any final order of the Secretary under section 186 with respect to a corrective action or sanction imposed under section 184, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) **ACTION ON PETITION.**—The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28, United States Code. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) **STANDARD AND SCOPE OF REVIEW.**—No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) **JUDGMENT.**—The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28, United States Code.

**SEC. 188. NONDISCRIMINATION.**

(a) **IN GENERAL.**—

(1) **FEDERAL FINANCIAL ASSISTANCE.**—For the purpose of applying the prohibitions against

discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) **PROHIBITION OF DISCRIMINATION REGARDING PARTICIPATION, BENEFITS, AND EMPLOYMENT.**—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

(3) **PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP.**—Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) **PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.**—No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

(5) **PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS.**—Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

(b) **ACTION OF SECRETARY.**—Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(2) take such other action as may be provided by law.

(c) **ACTION OF ATTORNEY GENERAL.**—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) **JOB CORPS.**—For the purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

(e) REGULATIONS.—The Secretary shall issue regulations necessary to implement this section not later than one year after the date of the enactment of the Workforce Investment Act of 1998. Such regulations shall adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in a subsection (a)(1), as well as procedures to ensure that complaints filed under this section and such Acts are processed in a manner that avoids duplication of effort.

#### SEC. 189. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe rules and regulations to carry out this title only to the extent necessary to administer and ensure compliance with the requirements of this title. Such rules and regulations may include provisions making adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

(b) ACQUISITION OF CERTAIN PROPERTY AND SERVICES.—The Secretary is authorized, in carrying out this title, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

(c) AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS AND TO MAKE CERTAIN EXPENDITURES.—The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this title, as may be necessary to carry out this title, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of overpayments or underpayments.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) UTILIZATION OF SERVICES AND FACILITIES.—The Secretary is authorized, in carrying out this title, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this title, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this title, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

(f) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary shall have no authority to enter into con-

tracts, grant agreements, or other financial assistance agreements under this title except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) PROGRAM YEAR.—

(1) IN GENERAL.—

(A) PROGRAM YEAR.—Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(B) YOUTH ACTIVITIES.—The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth activities under subtitle B.

(2) AVAILABILITY.—Funds obligated for any program year for a program or activity carried out under this title may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 171 or 172 shall remain available until expended. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 151, or a plan, grant agreement, contract, application, or other agreement described in subtitle D, as appropriate.

(h) ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT.—The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

(i) WAIVERS AND SPECIAL RULES.—

(1) EXISTING WAIVERS.—With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-234), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subtitle B and this subtitle, for the duration of the initial waiver.

(2) SPECIAL RULE REGARDING DESIGNATED AREAS.—A State that has enacted, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this title, notwithstanding section 116.

(3) SPECIAL RULE REGARDING SANCTIONS.—A State that enacts, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance measures under this title.

(4) GENERAL WAIVERS OF STATUTORY OR REGULATORY REQUIREMENTS.—

(A) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subtitle B or this subtitle (except for requirements relating to wage and labor stand-

ards, including nondisplacement protections, worker rights, participation and protection of workers and participants, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local boards, and procedures for review and approval of plans); and

(ii) any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(B) REQUESTS.—A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the local board.

(C) CONDITIONS.—Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this paragraph if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

#### SEC. 190. REFERENCE.

Effective on the date of the enactment of the Workforce Investment Act of 1998, all references in any other provision of law (other than section 665 of title 18, United States Code) to the Comprehensive Employment and Training Act, or to the Job Training Partnership Act, as the case may be, shall be deemed to refer to Workforce Investment Act of 1998."

#### SEC. 191. STATE LEGISLATIVE AUTHORITY.

(a) AUTHORITY OF STATE LEGISLATURE.—Nothing in this title shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities assisted under this title. Any funds received by a State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this title.

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

#### SEC. 192. WORKFORCE FLEXIBILITY PLANS.

(a) PLANS.—A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this title to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this title, wage and labor standards, grievance procedures and judicial review, nondiscrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local boards, review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) to the State, except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to jobseekers; and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to State agencies on aging with respect to activities carried out using funds allotted under section 506(a)(3) of such Act (42 U.S.C. 3056d(a)(3)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for agreements.

(b) **CONTENT OF PLANS.**—A workforce flexibility plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this title; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 8 through 10 of the Wagner-Peyser Act that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(c) **PERIODS.**—The Secretary may approve a workforce flexibility plan for a period of not more than 5 years.

(d) **OPPORTUNITY FOR PUBLIC COMMENTS.**—Prior to submitting a workforce flexibility plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

### SEC. 193. USE OF CERTAIN REAL PROPERTY.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Governor may authorize a public agency to make available, for the use of a one-stop service delivery system within the State which is carried out by a consortium of entities that includes the public agency, real property in which, as of the date of the enactment of the Workforce Investment Act of 1998, the Federal Government has acquired equity through the use of funds provided under title III of the Social Security Act (42 U.S.C. 501 et seq.), section 903(c) of such Act (42 U.S.C. 1103(c)), or the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(b) **USE OF FUNDS.**—Subsequent to the commencement of the use of the property described in subsection (a) for the functions of a one-stop service delivery system, funds provided under the provisions of law described in subsection (a) may only be used to acquire further equity in such property, or to pay operating and maintenance expenses relating to such property in proportion to the extent of the use of such property attributable to the activities authorized under such provisions of law.

### SEC. 194. CONTINUATION OF STATE ACTIVITIES AND POLICIES.

(a) **IN GENERAL.**—Notwithstanding any other provision of this title, the Secretary may not deny approval of a State plan for a covered State, or an application of a covered State for financial assistance, under this title or find a covered State (including a State board or Governor), or a local area (including a local board or chief elected official) in a covered State, in violation of a provision of this title, on the basis that—

(1)(A) the State proposes to allocate or disburse, allocates, or disburses, within the State, funds made available to the State under section 127 or 132 in accordance with the allocation formula for the type of activities involved, or in accordance with a disbursement procedure or process, used by the State under prior consistent State laws; or

(B) a local board in the State proposes to disburse, or disburses, within the local area, funds made available to a State under section 127 or 132 in accordance with a disbursement procedure or process used by a private industry council under prior consistent State law;

(2) the State proposes to carry out or carries out a State procedure through which local areas use, as fiscal agents for funds made available to the State under section 127 or 132 and allocated within the State, fiscal agents selected in accordance with a process established under prior consistent State laws;

(3) the State proposes to carry out or carries out a State procedure through which the local board in the State (or the local boards, the chief elected officials in the State, and the Governor) designate or select the one-stop partners and one-stop operators of the statewide system in the State under prior consistent State laws, in lieu of making the designation, or certification described in section 121 (regardless of the date the one-stop delivery systems involved have been established);

(4) the State proposes to carry out or carries out a State procedure through which the persons responsible for selecting eligible providers for purposes of subtitle B are permitted to determine that a provider shall not be selected to provide both intake services under section 134(d)(2) and training services under section 134(d)(4), under prior consistent State laws;

(5) the State proposes to designate or designates a State board, or proposes to assign or assigns functions and roles of the State board (including determining the time periods for development and submission of a State plan required under section 112), for purposes of subtitle B in accordance with prior consistent State laws; or

(6) a local board in the State proposes to use or carry out, uses, or carries out a local plan (including assigning functions and roles of the local board) for purposes of subtitle B in accordance with the authorities and requirements applicable to local plans and private industry councils under prior consistent State laws.

(b) **DEFINITION.**—In this section:

(1) **COVERED STATE.**—The term “covered State” means a State that enacted State laws described in paragraph (2).

(2) **PRIOR CONSISTENT STATE LAWS.**—The term “prior consistent State laws” means State laws, not inconsistent with the Job Training Partnership Act or any other applicable Federal law, that took effect on September 1, 1993, September 1, 1995, and September 1, 1997.

### SEC. 195. GENERAL PROGRAM REQUIREMENTS.

Except as otherwise provided in this title, the following conditions are applicable to all programs under this title:

(1) Each program under this title shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities. In addition, efforts shall be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment.

(2) Funds provided under this title shall only be used for activities that are in addition to those that would otherwise be available in the local area in the absence of such funds.

(3)(A) Any local area may enter into an agreement with another local area (including a local area that is a city or county within the same labor market) to pay or share the cost of educating, training, or placing individuals participating in programs assisted under this title, including the provision of supportive services.

(B) Such agreement shall be approved by each local board providing guidance to the local area and shall be described in the local plan under section 118.

(4) On-the-job training contracts under this title shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title.

(7) The Secretary shall not provide financial assistance for any program under this title that involves political activities.

(8)(A) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if such income is used to continue to carry out the program.

(B) Income subject to the requirements of subparagraph (A) shall include—

(i) receipts from goods or services (including conferences) provided as a result of activities funded under this title;

(ii) funds provided to a service provider under this title that are in excess of the costs associated with the services provided; and

(iii) interest income earned on funds received under this title.

(C) For purposes of this paragraph, each entity receiving financial assistance under this title shall maintain records sufficient to determine the amount of such income received and the purposes for which such income is expended.

(9)(A) The Secretary shall notify the Governor and the appropriate local board and chief elected official of, and consult with the Governor and such board and official concerning, any activity to be funded by the Secretary under this title within the corresponding State or local area.

(B) The Governor shall notify the appropriate local board and chief elected official of, and consult with such board and official concerning, any activity to be funded by the Governor under this title within the corresponding local area.

(10)(A) All education programs for youth supported with funds provided under chapter 4 of subtitle B shall be consistent with applicable State and local educational standards.

(B) Standards and procedures with respect to awarding academic credit and certifying educational attainment in programs conducted under such chapter shall be consistent with the requirements of applicable State and local law, including regulation.

(11) No funds available under this title may be used for public service employment except as specifically authorized under this title.

(12) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this title shall be the Federal requirements generally applicable to Federal grants to States and local governments.

(13) Nothing in this title shall be construed to provide an individual with an entitlement to a service under this title.

(14) Services, facilities, or equipment funded under this title may be used, as appropriate, on

a fee-for-service basis, by employers in a local area in order to provide employment and training activities to incumbent workers—

(A) when such services, facilities, or equipment are not in use for the provision of services for eligible participants under this title;

(B) if such use for incumbent workers would not have an adverse affect on the provision of services to eligible participants under this title; and

(C) if the income derived from such fees is used to carry out the programs authorized under this title.

#### Subtitle F—Repeals and Conforming Amendments

##### SEC. 199. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(4) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

(6) Subchapter I of chapter 421 of title 49, United States Code.

(b) SUBSEQUENT REPEALS.—The following provisions are repealed:

(1) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

(2) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) EFFECTIVE DATES.—

(1) IMMEDIATE REPEALS.—The repeals made by subsection (a) shall take effect on the date of enactment of this Act.

(2) SUBSEQUENT REPEALS.—

(A) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—The repeal made by subsection (b)(1) shall take effect on July 1, 1999.

(B) JOB TRAINING PARTNERSHIP ACT.—The repeal made by subsection (b)(2) shall take effect on July 1, 2000.

##### SEC. 199A. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress the recommended legislation referred to under subsection (a).

(c) REFERENCES.—All references in any other provision of law to a provision of the Comprehensive Employment and Training Act, or of the Job Training Partnership Act, as the case may be, shall be deemed to refer to the corresponding provision of this title.

#### TITLE II—ADULT EDUCATION AND LITERACY

##### SEC. 201. SHORT TITLE.

This title may be cited as the “Adult Education and Family Literacy Act”.

##### SEC. 202. PURPOSE.

It is the purpose of this title to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy services, in order to—

(1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency;

(2) assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children; and

(3) assist adults in the completion of a secondary school education.

##### SEC. 203. DEFINITIONS.

In this subtitle:

(1) ADULT EDUCATION.—The term “adult education” means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age;

(B) who are not enrolled or required to be enrolled in secondary school under State law; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or

(iii) are unable to speak, read, or write the English language.

(2) ADULT EDUCATION AND LITERACY ACTIVITIES.—The term “adult education and literacy activities” means activities described in section 231(b).

(3) EDUCATIONAL SERVICE AGENCY.—The term “educational service agency” means a regional public multiservice agency authorized by State statute to develop and manage a service or program, and to provide the service or program to a local educational agency.

(4) ELIGIBLE AGENCY.—The term “eligible agency” means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education and literacy in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(5) ELIGIBLE PROVIDER.—The term “eligible provider” means—

(A) a local educational agency;

(B) a community-based organization of demonstrated effectiveness;

(C) a volunteer literacy organization of demonstrated effectiveness;

(D) an institution of higher education;

(E) a public or private nonprofit agency;

(F) a library;

(G) a public housing authority;

(H) a nonprofit institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide literacy services to adults and families; and

(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H).

(6) ENGLISH LITERACY PROGRAM.—The term “English literacy program” means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(7) FAMILY LITERACY SERVICES.—The term “family literacy services” means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(8) GOVERNOR.—The term “Governor” means the chief executive officer of a State or outlying area.

(9) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term “individual with a disability” means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term “individuals with disabilities” means more than 1 individual with a disability.

(10) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term “individual of limited English proficiency” means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(11) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

(12) LITERACY.—The term “literacy” means an individual’s ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

(13) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(14) OUTLYING AREA.—The term “outlying area” has the meaning given the term in section 101.

(15) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term “postsecondary educational institution” means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor’s degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(16) SECRETARY.—The term “Secretary” means the Secretary of Education.

(17) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(18) WORKPLACE LITERACY SERVICES.—The term “workplace literacy services” means literacy services that are offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

##### SEC. 204. HOME SCHOOLS.

Nothing in this subtitle shall be construed to affect home schools, or to compel a parent engaged in home schooling to participate in an English literacy program, family literacy services, or adult education.

##### SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2003.

#### Subtitle A—Adult Education and Literacy Programs

##### CHAPTER 1—FEDERAL PROVISIONS

##### SEC. 211. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.

(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed \$8,000,000;

(2) shall reserve 1.5 percent to carry out section 243, except that the amount so reserved shall not exceed \$8,000,000; and

(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 503.

(b) GRANTS TO ELIGIBLE AGENCIES.—

(1) IN GENERAL.—From the sum appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible

agency for the fiscal year, subject to subsections (f) and (g), to enable the eligible agency to carry out the activities assisted under this subtitle.

(2) **PURPOSE OF GRANTS.**—The Secretary may award a grant under paragraph (1) only if the eligible entity involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this subtitle.

(c) **ALLOTMENTS.**—

(1) **INITIAL ALLOTMENTS.**—From the sum appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall allot to each eligible agency having a State plan approved under section 224(f)—

(A) \$100,000, in the case of an eligible agency serving an outlying area.

(B) \$250,000, in the case of any other eligible agency.

(2) **ADDITIONAL ALLOTMENTS.**—From the sum appropriated under section 205, not reserved under subsection (a), and not allotted under paragraph (1), for a fiscal year, the Secretary shall allot to each eligible agency that receives an initial allotment under paragraph (1) an additional amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) **QUALIFYING ADULT.**—For the purpose of subsection (c)(2), the term “qualifying adult” means an adult who—

(1) is at least 16 years of age, but less than 61 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not have a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) **SPECIAL RULE.**—

(1) **IN GENERAL.**—From amounts made available under subsection (c) for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Secretary determines are not inconsistent with this subsection.

(2) **AWARD BASIS.**—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) **TERMINATION OF ELIGIBILITY.**—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

(4) **ADMINISTRATIVE COSTS.**—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) **HOLD-HARMLESS.**—

(1) **IN GENERAL.**—Notwithstanding subsection (c)—

(A) for fiscal year 1999, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the payments made to the State or outlying area of the eligible agency for fiscal year 1998 for programs for which funds were authorized to be appropriated under section 313 of the Adult Education Act (as such Act was in effect on the day before the date of the enactment of the Workforce Investment Act of 1998); and

(B) for fiscal year 2000 and each succeeding fiscal year, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the allotment the eligible agency re-

ceived for the preceding fiscal year under this subtitle.

(2) **RATABLE REDUCTION.**—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

(g) **REALLOTMENT.**—The portion of any eligible agency's allotment under this subtitle for a fiscal year that the Secretary determines will not be required for the period such allotment is available for carrying out activities under this subtitle, shall be available for reallocation from time to time, on such dates during such period as the Secretary shall fix, to other eligible agencies in proportion to the original allotments to such agencies under this subtitle for such year.

#### **SEC. 212. PERFORMANCE ACCOUNTABILITY SYSTEM.**

(a) **PURPOSE.**—The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of eligible agencies in achieving continuous improvement of adult education and literacy activities funded under this subtitle, in order to optimize the return on investment of Federal funds in adult education and literacy activities.

(b) **ELIGIBLE AGENCY PERFORMANCE MEASURES.**—

(1) **IN GENERAL.**—For each eligible agency, the eligible agency performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A); and

(ii) additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

(B) an eligible agency adjusted level of performance for each indicator described in subparagraph (A).

(2) **INDICATORS OF PERFORMANCE.**—

(A) **CORE INDICATORS OF PERFORMANCE.**—The core indicators of performance shall include the following:

(i) Demonstrated improvements in literacy skill levels in reading, writing and speaking the English language, numeracy, problem-solving, English language acquisition, and other literacy skills.

(ii) Placement in, retention in, or completion of, postsecondary education, training, unsubsidized employment or career advancement.

(iii) Receipt of a secondary school diploma or its recognized equivalent.

(B) **ADDITIONAL INDICATORS.**—An eligible agency may identify in the State plan additional indicators for adult education and literacy activities authorized under this subtitle.

(3) **LEVELS OF PERFORMANCE.**—

(A) **ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS.**—

(i) **IN GENERAL.**—For each eligible agency submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for adult education and literacy activities authorized under this subtitle. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the eligible agency toward continuously improving in performance.

(ii) **IDENTIFICATION IN STATE PLAN.**—Each eligible agency shall identify, in the State plan submitted under section 224, expected levels of performance for each of the core indicators of performance for the first 3 program years covered by the State plan.

(iii) **AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 3 YEARS.**—In order to ensure an optimal return on the investment of Federal funds in adult education and literacy activities authorized under this subtitle, the Secretary and each eligible

agency shall reach agreement on levels of performance for each of the core indicators of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) **FACTORS.**—The agreement described in clause (iii) or (v) shall take into account—

(I) how the levels involved compare with the eligible agency adjusted levels of performance established for other eligible agencies, taking into account factors including the characteristics of participants when the participants entered the program, and the services or instruction to be provided; and

(II) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such eligible agency and ensure optimal return on the investment of Federal funds.

(v) **AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR 4TH AND 5TH YEARS.**—Prior to the fourth program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance for the fourth and fifth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan.

(vi) **REVISIONS.**—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the eligible agency may request that the eligible agency adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in section 136(j), shall issue objective criteria and methods for making such revisions.

(B) **LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.**—The eligible agency may identify, in the State plan, eligible agency levels of performance for each of the additional indicators described in paragraph (2)(B). Such levels shall be considered to be eligible agency adjusted levels of performance for purposes of this subtitle.

(c) **REPORT.**—

(1) **IN GENERAL.**—Each eligible agency that receives a grant under section 211(b) shall annually prepare and submit to the Secretary a report on the progress of the eligible agency in achieving eligible agency performance measures, including information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance.

(2) **INFORMATION DISSEMINATION.**—The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate committees of Congress with copies of such reports.

#### **CHAPTER 2—STATE PROVISIONS**

##### **SEC. 221. STATE ADMINISTRATION.**

Each eligible agency shall be responsible for the State or outlying area administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subtitle; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

**SEC. 222. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.**

(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than 82.5 percent of the grant funds to award grants and contracts under section 231 and to carry out section 225, of which not more than 10 percent of the 82.5 percent shall be available to carry out section 225;

(2) shall use not more than 12.5 percent of the grant funds to carry out State leadership activities under section 223; and

(3) shall use not more than 5 percent of the grant funds, or \$65,000, whichever is greater, for the administrative expenses of the eligible agency.

(b) MATCHING REQUIREMENT.—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide, for the costs to be incurred by the eligible agency in carrying out the adult education and literacy activities for which the grant is awarded, a non-Federal contribution in an amount equal to—

(A) in the case of an eligible agency serving an outlying area, 12 percent of the total amount of funds expended for adult education and literacy activities in the outlying area, except that the Secretary may decrease the amount of funds required under this subparagraph for an eligible agency; and

(B) in the case of an eligible agency serving a State, 25 percent of the total amount of funds expended for adult education and literacy activities in the State.

(2) NON-FEDERAL CONTRIBUTION.—An eligible agency's non-Federal contribution required under paragraph (1) may be provided in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subtitle.

**SEC. 223. STATE LEADERSHIP ACTIVITIES.**

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for 1 or more of the following adult education and literacy activities:

(1) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 231(b), including instruction incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension, and instruction provided by volunteers or by personnel of a State or outlying area.

(2) The provision of technical assistance to eligible providers of adult education and literacy activities.

(3) The provision of technology assistance, including staff training, to eligible providers of adult education and literacy activities to enable the eligible providers to improve the quality of such activities.

(4) The support of State or regional networks of literacy resource centers.

(5) The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities.

(6) Incentives for—

(A) program coordination and integration; and

(B) performance awards.

(7) Developing and disseminating curricula, including curricula incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension.

(8) Other activities of statewide significance that promote the purpose of this title.

(9) Coordination with existing support services, such as transportation, child care, and

other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, to adults enrolled in such activities.

(10) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(11) Linkages with postsecondary educational institutions.

(b) COLLABORATION.—In carrying out this section, eligible agencies shall collaborate where possible, and avoid duplicating efforts, in order to maximize the impact of the activities described in subsection (a).

(c) STATE-IMPOSED REQUIREMENTS.—Whenever a State or outlying area implements any rule or policy relating to the administration or operation of a program authorized under this subtitle that has the effect of imposing a requirement that is not imposed under Federal law (including any rule or policy based on a State or outlying area interpretation of a Federal statute, regulation, or guideline), the State or outlying area shall identify, to eligible providers, the rule or policy as being State- or outlying area-imposed.

**SEC. 224. STATE PLAN.**

(a) 5-YEAR PLANS.—

(1) IN GENERAL.—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a 5-year State plan.

(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) PLAN CONTENTS.—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State or outlying area for adult education and literacy activities, including individuals most in need or hardest to serve;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 212;

(4) a description of the performance measures described in section 212 and how such performance measures will ensure the improvement of adult education and literacy activities in the State or outlying area;

(5) an assurance that the eligible agency will award not less than 1 grant under this subtitle to an eligible provider who offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education and literacy activities, which eligible provider shall attempt to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;

(6) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

(7) a description of how the eligible agency will fund local activities in accordance with the considerations described in section 231(e);

(8) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirements in section 241;

(9) a description of the process that will be used for public participation and comment with respect to the State plan;

(10) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(11) a description of how the adult education and literacy activities that will be carried out with any funds received under this subtitle will be integrated with other adult education, career development, and employment and training activities in the State or outlying area served by the eligible agency; and

(12) a description of the steps the eligible agency will take to ensure direct and equitable access, as required in section 231(c)(1).

(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit the revisions to the State plan to the Secretary.

(d) CONSULTATION.—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State or outlying area for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

(f) PLAN APPROVAL.—A State plan submitted to the Secretary shall be approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the plan, that the plan is inconsistent with the specific provisions of this subtitle.

**SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.**

(a) PROGRAM AUTHORIZED.—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education or education for other institutionalized individuals.

(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in correctional institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the eligible agency;

(3) English literacy programs; and

(4) secondary school credit programs.

(c) PRIORITY.—Each eligible agency that is using assistance provided under this section to carry out a program for criminal offenders in a correctional institution shall give priority to serving individuals who are likely to leave the correctional institution with 5 years of participation in the program.

(d) DEFINITION OF CRIMINAL OFFENDER.—

(1) CRIMINAL OFFENDER.—The term "criminal offender" means any individual who is charged with or convicted of any criminal offense.

(2) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any—

(A) prison;

(B) jail;

(C) reformatory;

(D) work farm;

(E) detention center; or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

**CHAPTER 3—LOCAL PROVISIONS**

**SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.**

(a) GRANTS AND CONTRACTS.—From grant funds made available under section 211(b), each eligible agency shall award multiyear grants or contracts, on a competitive basis, to eligible providers within the State or outlying area to enable the eligible providers to develop, implement,

and improve adult education and literacy activities within the State.

(b) **REQUIRED LOCAL ACTIVITIES.**—The eligible agency shall require that each eligible provider receiving a grant or contract under subsection (a) use the grant or contract to establish or operate 1 or more programs that provide services or instruction in 1 or more of the following categories:

(1) Adult education and literacy services, including workplace literacy services.

(2) Family literacy services.

(3) English literacy programs.

(c) **DIRECT AND EQUITABLE ACCESS; SAME PROCESS.**—Each eligible agency receiving funds under this subtitle shall ensure that—

(1) all eligible providers have direct and equitable access to apply for grants or contracts under this section; and

(2) the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.

(d) **SPECIAL RULE.**—Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this subtitle for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 203(I), except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services. In providing family literacy services under this subtitle, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this subtitle prior to using funds for adult education and literacy activities under this subtitle for activities other than adult education activities.

(e) **CONSIDERATIONS.**—In awarding grants or contracts under this section, the eligible agency shall consider—

(1) the degree to which the eligible provider will establish measurable goals for participant outcomes;

(2) the past effectiveness of an eligible provider in improving the literacy skills of adults and families, and, after the 1-year period beginning with the adoption of an eligible agency's performance measures under section 212, the success of an eligible provider receiving funding under this subtitle in meeting or exceeding such performance measures, especially with respect to those adults with the lowest levels of literacy;

(3) the commitment of the eligible provider to serve individuals in the community who are most in need of literacy services, including individuals who are low-income or have minimal literacy skills;

(4) whether or not the program—

(A) is of sufficient intensity and duration for participants to achieve substantial learning gains; and

(B) uses instructional practices, such as phonemic awareness, systematic phonics, fluency, and reading comprehension that research has proven to be effective in teaching individuals to read;

(5) whether the activities are built on a strong foundation of research and effective educational practice;

(6) whether the activities effectively employ advances in technology, as appropriate, including the use of computers;

(7) whether the activities provide learning in real life contexts to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;

(8) whether the activities are staffed by well-trained instructors, counselors, and administrators;

(9) whether the activities coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, post-secondary educational institutions, one-stop

centers, job training programs, and social service agencies;

(10) whether the activities offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;

(11) whether the activities maintain a high-quality information management system that has the capacity to report participant outcomes and to monitor program performance against the eligible agency performance measures; and

(12) whether the local communities have a demonstrated need for additional English literacy programs.

#### **SEC. 232. LOCAL APPLICATION.**

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent; and

(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities.

#### **SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.**

(a) **IN GENERAL.**—Subject to subsection (b), of the amount that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

(b) **SPECIAL RULE.**—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

### **CHAPTER 4—GENERAL PROVISIONS**

#### **SEC. 241. ADMINISTRATIVE PROVISIONS.**

(a) **SUPPLEMENT NOT SUPPLANT.**—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) **MAINTENANCE OF EFFORT.**—

(1) **IN GENERAL.**—

(A) **DETERMINATION.**—An eligible agency may receive funds under this subtitle for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the third preceding fiscal year.

(B) **PROPORTIONATE REDUCTION.**—Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—

(i) shall determine the percentage decreases in such effort or in such expenditures; and

(ii) shall decrease the payment made under this subtitle for such program year to the agency for adult education and literacy activities by the lesser of such percentages.

(2) **COMPUTATION.**—In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.

(3) **DECREASE IN FEDERAL SUPPORT.**—If the amount made available for adult education and

literacy activities under this subtitle for a fiscal year is less than the amount made available for adult education and literacy activities under this subtitle for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(4) **WAIVER.**—The Secretary may waive the requirements of this subsection for 1 fiscal year only, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

#### **SEC. 242. NATIONAL INSTITUTE FOR LITERACY.**

(a) **PURPOSE.**—The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) serves as a national resource for adult education and literacy programs by—

(A) providing the best and most current information available, including the work of the National Institute of Child Health and Human Development in the area of phonemic awareness, systematic phonics, fluency, and reading comprehension, to all recipients of Federal assistance that focuses on reading, including programs under titles I and VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq. and 7401 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and this Act; and

(B) supporting the creation of new ways to offer services of proven effectiveness.

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established the National Institute for Literacy (in this section referred to as the "Institute"). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the "Interagency Group"). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services the purpose of which is determined by the Interagency Group to be related to the purpose of the Institute.

(2) **OFFICES.**—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

(3) **RECOMMENDATIONS.**—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the "Board") established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board's recommendations.

(4) **DAILY OPERATIONS.**—The daily operations of the Institute shall be administered by the Director of the Institute.

## (c) DUTIES.—

(1) IN GENERAL.—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized—

(A) to establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including instruction in phonemic awareness, systematic phonics, fluency, and reading comprehension, and the integration of literacy and basic skills instruction with occupational skills training;

(ii) public and private literacy and basic skills programs, and Federal, State, and local policies, affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) to coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) to coordinate the support of reliable and replicable research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and to carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies, such as the special literacy needs of individuals with learning disabilities;

(D) to collect and disseminate information on methods of advancing literacy that show great promise, including phonemic awareness, systematic phonics, fluency, and reading comprehension based on the work of the National Institute of Child Health and Human Development;

(E) to provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) to fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services;

(ii) enhancing the capacity of State and local organizations to provide literacy services; and

(iii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

(G) to coordinate and share information with national organizations and associations that are interested in literacy and workforce investment activities;

(H) to advise Congress and Federal departments and agencies regarding the development of policy with respect to literacy and basic skills; and

(I) to undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute.

## (d) LITERACY LEADERSHIP.—

(1) IN GENERAL.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances that the Di-

rector considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

## (e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

## (1) ESTABLISHMENT.—

(A) IN GENERAL.—There shall be a National Institute for Literacy Advisory Board (in this section referred to as the "Board"), which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) COMPOSITION.—The Board shall be comprised of individuals who are not otherwise officers or employees of the Federal Government and who are representative of entities such as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English literacy programs and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) representatives of employees, including representatives of labor organizations.

## (2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute;

(B) provide independent advice on the operation of the Institute; and

(C) receive reports from the Interagency Group and the Director.

(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

## (4) APPOINTMENTS.—

(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which  $\frac{1}{3}$  of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

## (f) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) RULES.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out the responsibilities of the Institute or employee, or official duties, in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of the Institute's programs or any official involved in those programs.

(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) REPORT.—The Institute shall submit a report biennially to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

(2) a description of how plans for the operation of the Institute for the succeeding 2 fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

(3) any additional minority, or dissenting views submitted by members of the Board.

(l) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

**SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.**

The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide. Such activities may include the following:

## (1) Technical assistance, including—

(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available; and

(C) assistance in distance learning and promoting and improving the use of technology in the classroom.

(2) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using phonemic awareness, systematic phonics, fluency, and reading comprehension, based on the work of the National Institute of Child Health and Human Development;

(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

(C) carrying out research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(D) (i) carrying out demonstration programs; (ii) developing and replicating model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs; and (iii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs;

(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

(iv) the extent to which eligible agencies have distributed funds under section 231 to meet the needs of adults through community-based organizations;

(F) supporting efforts aimed at capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems; and

(H) other activities designed to enhance the quality of adult education and literacy activities nationwide.

#### Subtitle B—Repeals

##### SEC. 251. REPEALS.

(a) REPEALS.—

(1) ADULT EDUCATION ACT.—The Adult Education Act (20 U.S.C. 1201 et seq.) is repealed.

(2) NATIONAL LITERACY ACT OF 1991.—The National Literacy Act of 1991 (20 U.S.C. 1201 note) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking “Adult Education Act” and inserting “Adult Education and Family Literacy Act”.

(B) SECTION 1205 OF ESEA.—Section 1205(8)(B) of such Act (20 U.S.C. 6365(8)(B)) is amended by striking “Adult Education Act” and inserting “Adult Education and Family Literacy Act”.

(C) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of such Act (20 U.S.C. 6366(a)(1)(A)) is amended by striking “an adult basic education program under the Adult Education Act” and inserting “adult education and literacy activities under the Adult Education and Family Literacy Act”.

(D) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking “section 312 of the Adult Education Act” and inserting “section 203 of the Adult Education and Family Literacy Act”.

(E) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking “section 312(2) of the Adult Education Act” and inserting “section 203 of the Adult Education and Family Literacy Act”.

(3) OLDER AMERICANS ACT OF 1965.—Section 203(b)(8) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(8)) is amended by striking “Adult Education Act” and inserting “Adult Education and Family Literacy Act”.

#### TITLE III—WORKFORCE INVESTMENT-RELATED ACTIVITIES

##### Subtitle A—Wagner-Peyser Act

##### SEC. 301. DEFINITIONS.

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1)—

(A) by striking “or officials”; and

(B) by striking “Job Training Partnership Act” and inserting “Workforce Investment Act of 1998”;

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraph (3) as paragraph (4);

(4) by inserting after paragraph (1) the following:

“(2) the term ‘local workforce investment board’ means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998;

“(3) the term ‘one-stop delivery system’ means a one-stop delivery system described in section 134(c) of the Workforce Investment Act of 1998.”; and

(5) in paragraph (4) (as redesignated in paragraph (3)), by striking the semicolon and inserting “; and”.

##### SEC. 302. FUNCTIONS.

(a) IN GENERAL.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended—

(1) in subsection (a), by striking “United States Employment Service” and inserting “Secretary”; and

(2) by adding at the end the following:

“(c) The Secretary shall—

“(1) assist in the coordination and development of a nationwide system of public labor exchange services, provided as part of the one-stop customer service systems of the States;

“(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of jobseekers relating to the system; and

“(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the pro-

vision of reemployment services and other activities in which the individuals are required to participate to receive the compensation.”.

(b) CONFORMING AMENDMENTS.—Section 508(b)(1) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)(1)) is amended—

(1) by striking “the third sentence of section 3(a)” and inserting “section 3(b)”;

(2) by striking “49b(a)” and inserting “49b(b)”.

##### SEC. 303. DESIGNATION OF STATE AGENCIES.

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

(1) by striking “, through its legislature,” and inserting “, pursuant to State statute.”;

(2) by inserting after “the provisions of this Act and” the following: “, in accordance with such State statute, the Governor shall”; and

(3) by striking “United States Employment Service” and inserting “Secretary”.

##### SEC. 304. APPROPRIATIONS.

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

##### SEC. 305. DISPOSITION OF ALLOTTED FUNDS.

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) in subsection (b)(2), by striking “private industry council” and inserting “local workforce investment board”;

(2) in subsection (c)(2), by striking “any program under” and all that follows and inserting “any workforce investment activity carried out under the Workforce Investment Act of 1998.”;

(3) in subsection (d)—

(A) by striking “United States Employment Service” and inserting “Secretary”; and

(B) by striking “Job Training Partnership Act” and inserting “Workforce Investment Act of 1998”; and

(4) by adding at the end the following:

“(e) All job search, placement, recruitment, labor employment statistics, and other labor exchange services authorized under subsection (a) shall be provided, consistent with the other requirements of this Act, as part of the one-stop delivery system established by the State.”.

##### SEC. 306. STATE PLANS.

Section 8 of the Wagner-Peyser Act (29 U.S.C. 49g) is amended—

(1) in subsection (a) to read as follows:

“(a) Any State desiring to receive assistance under this Act shall submit to the Secretary, as part of the State plan submitted under section 112 of the Workforce Investment Act of 1998, detailed plans for carrying out the provisions of this Act within such State.”;

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b);

(4) by inserting after subsection (b) (as redesignated by paragraph (3)) the following:

“(c) The part of the State plan described in subsection (a) shall include the information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”;

(5) by redesignating subsection (e) as subsection (d); and

(6) in subsection (d) (as redesignated in paragraph (5)), by striking “such plans” and inserting “such detailed plans”.

##### SEC. 307. REPEAL OF FEDERAL ADVISORY COUNCIL.

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is amended—

(1) by striking “11.” and all that follows through “(b) In” and inserting “11. In”; and

(2) by striking “Director” and inserting “Secretary”.

##### SEC. 308. REGULATIONS.

Section 12 of the Wagner-Peyser Act (29 U.S.C. 49k) is amended by striking “The Director, with the approval of the Secretary of Labor,” and inserting “The Secretary”.

**SEC. 309. EMPLOYMENT STATISTICS.**

The Wagner-Peyser Act is amended—

(1) by redesignating section 15 (29 U.S.C. 49 note) as section 16; and

(2) by inserting after section 14 (29 U.S.C. 49l-1) the following:

**“SEC. 15. EMPLOYMENT STATISTICS.**

“(a) SYSTEM CONTENT.—

“(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a nationwide employment statistics system of employment statistics that includes—

“(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project employment opportunities and conditions at national, State, and local levels in a timely manner, including statistics on—

“(i) employment and unemployment status of national, State, and local populations, including self-employed, part-time, and seasonal workers;

“(ii) industrial distribution of occupations, as well as current and projected employment opportunities, wages, benefits (where data is available), and skill trends by occupation and industry, with particular attention paid to State and local conditions;

“(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

“(iv) employment and earnings information maintained in a longitudinal manner to be used for research and program evaluation;

“(B) information on State and local employment opportunities, and other appropriate statistical data related to labor market dynamics, which—

“(i) shall be current and comprehensive;

“(ii) shall meet the needs identified through the consultations described in subparagraphs (A) and (B) of subsection (e)(2); and

“(iii) shall meet the needs for the information identified in section 134(d);

“(C) technical standards (which the Secretary shall publish annually) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

“(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

“(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

“(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as—

“(i) national, State, and local policymaking;

“(ii) implementation of Federal policies (including allocation formulas);

“(iii) program planning and evaluation; and

“(iv) researching labor market dynamics;

“(G) wide dissemination of such data, information, and analysis in a user-friendly manner and voluntary technical standards for dissemination mechanisms; and

“(H) programs of—

“(i) training for effective data dissemination;

“(ii) research and demonstration; and

“(iii) programs and technical assistance.

“(2) INFORMATION TO BE CONFIDENTIAL.—

“(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—

“(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes of this section for which the submission is furnished;

“(ii) make any publication or media transmittal of the data contained in the submission de-

scribed in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

“(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

“(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

“(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.

“(b) SYSTEM RESPONSIBILITIES.—

“(1) IN GENERAL.—The employment statistics system described in subsection (a) shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

“(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor employment statistics for the system, shall carry out the following duties:

“(A) Assign responsibilities within the Department of Labor for elements of the employment statistics system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

“(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

“(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

“(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the employment statistics system described in subsection (a), including the development of consistent procedures and definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1).

“(E) Establish procedures for the system to ensure that—

“(i) such data and information are timely;

“(ii) paperwork and reporting for the system are reduced to a minimum; and

“(iii) States and localities are fully involved in the development and continuous improvement of the system at all levels, including ensuring the provision, to such States and localities, of budget information necessary for carrying out their responsibilities under subsection (e).

“(C) ANNUAL PLAN.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative manage-

ment of the nationwide employment statistics system described in subsection (a) and the statewide employment statistics systems that comprise the nationwide system. The plan shall—

“(1) describe the steps the Secretary has taken in the preceding year and will take in the following 5 years to carry out the duties described in subsection (b)(2);

“(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other consumers;

“(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention to the improvements needed at the State and local levels;

“(4) justify the budget request for annual appropriations by describing priorities for the fiscal year succeeding the fiscal year in which the plan is developed and priorities for the 5 subsequent fiscal years for the system;

“(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

“(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local workforce investment boards, pursuant to a process established by the Secretary in cooperation with the States.

“(d) COORDINATION WITH THE STATES.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, shall—

“(1) develop the annual plan described in subsection (c) and address other employment statistics issues by holding formal consultations, at least once each quarter (beginning with the calendar quarter in which the Workforce Investment Act of 1998 is enacted) on the products and administration of the nationwide employment statistics system; and

“(2) hold the consultations with representatives from each of the 10 Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State employment statistics directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

“(e) STATE RESPONSIBILITIES.—

“(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State shall—

“(A) designate a single State agency to be responsible for the management of the portions of the employment statistics system described in subsection (a) that comprise a statewide employment statistics system and for the State's participation in the development of the annual plan; and

“(B) establish a process for the oversight of such system.

“(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency shall—

“(A) consult with State and local employers, participants, and local workforce investment boards about the labor market relevance of the data to be collected and disseminated through the statewide employment statistics system;

“(B) consult with State educational agencies and local educational agencies concerning the provision of employment statistics in order to meet the needs of secondary school and post-secondary school students who seek such information;

“(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

“(D) maintain and continuously improve the statewide employment statistics system in accordance with this section;

“(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

“(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide employment statistics system;

“(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data;

“(H) participate in the development of the annual plan described in subsection (c); and

“(I) utilize the quarterly records described in section 136(f)(2) of the Workforce Investment Act of 1998 to assist the State and other States in measuring State progress on State performance measures.

“(3) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

“(f) **NONDUPLICATION REQUIREMENT.**—None of the functions and activities carried out pursuant to this section shall duplicate the functions and activities carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2004.

“(h) **DEFINITION.**—In this section, the term ‘local area’ means the smallest geographical area for which data can be produced with statistical reliability.”

#### **SEC. 310. TECHNICAL AMENDMENTS.**

Sections 3(b), 6(b)(1), and 7(d) of the Wagner-Peyser Act (29 U.S.C. 49b(b), 49e(b)(1), and 49f(d)) are amended by striking “Secretary of Labor” and inserting “Secretary”.

#### **SEC. 311. EFFECTIVE DATE.**

The amendments made by this subtitle shall take effect on July 1, 1999.

#### **Subtitle B—Linkages With Other Programs**

##### **SEC. 321. TRADE ACT OF 1974.**

Section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended by adding at the end the following:

“(g) In order to promote the coordination of workforce investment activities in each State with activities carried out under this chapter, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”

##### **SEC. 322. VETERANS’ EMPLOYMENT PROGRAMS.**

Chapter 41 of title 38, United States Code, is amended by adding at the end the following:

##### **“§4110B. Coordination and nonduplication**

“In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”

##### **SEC. 323. OLDER AMERICANS ACT OF 1965.**

Section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) is amended—

(1) in subparagraph (O), by striking “; and” and inserting a semicolon;

(2) in subparagraph (P), by striking the period and inserting “; and”; and

(3) by adding at the end the following subparagraph:

“(Q) will provide to the Secretary the description and information described in paragraphs

(8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”

#### **Subtitle C—Twenty-First Century Workforce Commission**

##### **SEC. 331. SHORT TITLE.**

This subtitle may be cited as the “Twenty-First Century Workforce Commission Act”.

##### **SEC. 332. FINDINGS.**

Congress finds that—

(1) information technology is one of the fastest growing areas in the United States economy;

(2) the United States is a world leader in the information technology industry;

(3) the continued growth and prosperity of the information technology industry is important to the continued prosperity of the United States economy;

(4) highly skilled employees are essential for the success of business entities in the information technology industry and other business entities that use information technology;

(5) employees in information technology jobs are highly paid;

(6) as of the date of enactment of this Act, these employees are in high demand in all industries and all regions of the United States; and

(7) through a concerted effort by business entities, the Federal Government, the governments of States and political subdivisions of States, and educational institutions, more individuals will gain the skills necessary to enter into a technology-based job market, ensuring that the United States remains the world leader in the information technology industry.

##### **SEC. 333. DEFINITIONS.**

In this subtitle:

(1) **BUSINESS ENTITY.**—The term “business entity” means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) **COMMISSION.**—The term “Commission” means the Twenty-First Century Workforce Commission established under section 334.

(3) **INFORMATION TECHNOLOGY.**—The term “information technology” has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(4) **STATE.**—The term “State” means each of the several States of the United States and the District of Columbia.

##### **SEC. 334. ESTABLISHMENT OF TWENTY-FIRST CENTURY WORKFORCE COMMISSION.**

(a) **ESTABLISHMENT.**—There is established a commission to be known as the Twenty-First Century Workforce Commission.

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—

(A) **IN GENERAL.**—The Commission shall be composed of 15 voting members, of which—

(i) 5 members shall be appointed by the President;

(ii) 5 members shall be appointed by the Majority Leader of the Senate; and

(iii) 5 members shall be appointed by the Speaker of the House of Representatives.

(B) **GOVERNMENTAL REPRESENTATIVES.**—Of the members appointed under this subsection, 3 members shall be representatives of the governments of States and political subdivisions of States, 1 of whom shall be appointed by the President, 1 of whom shall be appointed by the Majority Leader of the Senate, and 1 of whom shall be appointed by the Speaker of the House of Representatives.

(C) **EDUCATORS.**—Of the members appointed under this subsection, 3 shall be educators who are selected from among elementary, secondary, vocational, and postsecondary educators—

(i) 1 of whom shall be appointed by the President;

(ii) 1 of whom shall be appointed by the Majority Leader of the Senate; and

(iii) 1 of whom shall be appointed by the Speaker of the House of Representatives.

(D) **BUSINESS REPRESENTATIVES.**—

(i) **IN GENERAL.**—Of the members appointed under this subsection, 8 shall be representatives of business entities (at least 3 of which shall be individuals who are employed by non-information technology business entities), 2 of whom shall be appointed by the President, 3 of whom shall be appointed by the Majority Leader of the Senate, and 3 of whom shall be appointed by the Speaker of the House of Representatives.

(ii) **SIZE.**—Members appointed under this subsection in accordance with clause (i) shall, to the extent practicable, include individuals from business entities of a size that is small or average.

(E) **LABOR REPRESENTATIVE.**—Of the members appointed under this subsection, 1 shall be a representative of a labor organization who has been nominated by a national labor federation and who shall be appointed by the President.

(F) **EX-OFFICIO MEMBERS.**—The Commission shall include 2 non-voting members, of which—

(i) 1 member shall be an officer or employee of the Department of Labor, who shall be appointed by the President; and

(ii) 1 member shall be an officer or employee of the Department of Education, who shall be appointed by the President.

(2) **DATE.**—The appointments of the members of the Commission shall be made by the later of—

(A) October 31, 1998; or

(B) the date that is 45 days after the date of enactment of this Act.

(c) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) **INITIAL MEETING.**—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) **MEETINGS.**—The Commission shall meet at the call of the Chairperson.

(f) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) **CHAIRPERSON AND VICE CHAIRPERSON.**—The Commission shall select by vote a chairperson and vice chairperson from among its voting members.

##### **SEC. 335. DUTIES OF THE COMMISSION.**

(a) **STUDY.**—

(1) **IN GENERAL.**—The Commission shall conduct a thorough study of all matters relating to the information technology workforce in the United States.

(2) **MATTERS STUDIED.**—The matters studied by the Commission shall include an examination of—

(A) the skills necessary to enter the information technology workforce;

(B) ways to expand the number of skilled information technology workers; and

(C) the relative efficacy of programs in the United States and foreign countries to train information technology workers, with special emphasis on programs that provide for secondary education or postsecondary education in a program other than a 4-year baccalaureate program (including associate degree programs and graduate degree programs).

(3) **PUBLIC HEARINGS.**—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(4) **EXISTING INFORMATION.**—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(5) **CONSULTATION WITH CHIEF INFORMATION OFFICERS COUNCIL.**—In carrying out the study

under this subsection, the Commission shall consult with the Chief Information Officers Council established under Executive Order No. 13011.

(b) **REPORT.**—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and the Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations for such legislation and administrative actions as the Commission considers to be appropriate.

(c) **FACILITATION OF EXCHANGE OF INFORMATION.**—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government and the governments of States and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

#### **SEC. 336. POWERS OF THE COMMISSION.**

(a) **HEARINGS.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

#### **SEC. 337. COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) **COMPENSATION.**—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

#### **SEC. 338. TERMINATION OF THE COMMISSION.**

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 335(b).

#### **SEC. 339. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 to the Commission to carry out the purposes of this subtitle.

(b) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

#### **Subtitle D—Application of Civil Rights and Labor-Management Laws to the Smithsonian Institution**

#### **SEC. 341. APPLICATION OF CIVIL RIGHTS AND LABOR-MANAGEMENT LAWS TO THE SMITHSONIAN INSTITUTION.**

(a) **PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF RACE, COLOR, RELIGION, SEX, AND NATIONAL ORIGIN.**—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) is amended by inserting “in the Smithsonian Institution,” before “and in the Government Printing Office,”.

(b) **PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF AGE.**—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting “in the Smithsonian Institution,” before “and in the Government Printing Office,”.

(c) **PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF DISABILITY.**—Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) is amended—

(1) in the fourth sentence of subsection (a), in paragraph (1), by inserting “and the Smithsonian Institution” after “Government”;

(2) in the first sentence of subsection (b)—

(A) by inserting “and the Smithsonian Institution” after “in the executive branch”; and

(B) by striking “such department, agency, or instrumentality” and inserting “such department, agency, instrumentality, or Institution”;

and

(3) in subsection (d), by inserting “and the Smithsonian Institution” after “instrumentality”.

(d) **APPLICATION.**—The amendments made by subsections (a), (b), and (c) shall take effect on the date of enactment of this Act and shall apply to and may be raised in any administrative or judicial claim or action brought before such date of enactment but pending on such date, and any administrative or judicial claim or action brought after such date regardless of whether the claim or action arose prior to such date, if the claim or action was brought within the applicable statute of limitations.

(e) **LABOR-MANAGEMENT LAWS.**—Section 7103(a)(3) of title 5, United States Code, is amended—

(1) by striking “and” after “Library of Congress,”; and

(2) by inserting “and the Smithsonian Institution” after “Government Printing Office,”.

#### **TITLE IV—REHABILITATION ACT AMENDMENTS OF 1998**

##### **SEC. 401. SHORT TITLE.**

This title may be cited as the “Rehabilitation Act Amendments of 1998”.

##### **SEC. 402. TITLE.**

The title of the Rehabilitation Act of 1973 is amended by striking “to establish special responsibilities” and all that follows and inserting the following: “to create linkage between State

vocational rehabilitation programs and workforce investment activities carried out under title I of the Workforce Investment Act of 1998, to establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the Federal Government, and for other purposes.”.

##### **SEC. 403. GENERAL PROVISIONS.**

The Rehabilitation Act of 1973 is amended by striking the matter preceding title I and inserting the following:

##### **“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Rehabilitation Act of 1973’.

“(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

“Sec. 1. Short title; table of contents.

“Sec. 2. Findings; purpose; policy.

“Sec. 3. Rehabilitation Services Administration.

“Sec. 4. Advance funding.

“Sec. 5. Joint funding.

“Sec. 7. Definitions.

“Sec. 8. Allotment percentage.

“Sec. 10. Nonduplication.

“Sec. 11. Application of other laws.

“Sec. 12. Administration of the Act.

“Sec. 13. Reports.

“Sec. 14. Evaluation.

“Sec. 15. Information clearinghouse.

“Sec. 16. Transfer of funds.

“Sec. 17. State administration.

“Sec. 18. Review of applications.

“Sec. 19. Carryover.

“Sec. 20. Client assistance information.

“Sec. 21. Traditionally underserved populations.

##### **“TITLE I—VOCATIONAL REHABILITATION SERVICES**

###### **“PART A—GENERAL PROVISIONS**

“Sec. 100. Declaration of policy; authorization of appropriations.

“Sec. 101. State plans.

“Sec. 102. Eligibility and individualized plan for employment.

“Sec. 103. Vocational rehabilitation services.

“Sec. 104. Non-Federal share for establishment of program.

“Sec. 105. State Rehabilitation Council.

“Sec. 106. Evaluation standards and performance indicators.

“Sec. 107. Monitoring and review.

“Sec. 108. Expenditure of certain amounts.

“Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.

###### **“PART B—BASIC VOCATIONAL REHABILITATION SERVICES**

“Sec. 110. State allotments.

“Sec. 111. Payments to States.

“Sec. 112. Client assistance program.

###### **“PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES**

“Sec. 121. Vocational rehabilitation services grants.

###### **“PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION**

“Sec. 131. Data sharing.

##### **“TITLE II—RESEARCH AND TRAINING**

“Sec. 200. Declaration of purpose.

“Sec. 201. Authorization of appropriations.

“Sec. 202. National Institute on Disability and Rehabilitation Research.

“Sec. 203. Interagency Committee.

“Sec. 204. Research and other covered activities.

“Sec. 205. Rehabilitation Research Advisory Council.

##### **“TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS**

“Sec. 301. Declaration of purpose and competitive basis of grants and contracts.

"Sec. 302. Training.  
 "Sec. 303. Demonstration and training programs.  
 "Sec. 304. Migrant and seasonal farmworkers.  
 "Sec. 305. Recreational programs.  
 "Sec. 306. Measuring of project outcomes and performance.

"TITLE IV—NATIONAL COUNCIL ON DISABILITY

"Sec. 400. Establishment of National Council on Disability.  
 "Sec. 401. Duties of National Council.  
 "Sec. 402. Compensation of National Council members.  
 "Sec. 403. Staff of National Council.  
 "Sec. 404. Administrative powers of National Council.  
 "Sec. 405. Authorization of Appropriations.

"TITLE V—RIGHTS AND ADVOCACY

"Sec. 501. Employment of individuals with disabilities.  
 "Sec. 502. Architectural and Transportation Barriers Compliance Board.  
 "Sec. 503. Employment under Federal contracts.  
 "Sec. 504. Nondiscrimination under Federal grants and programs.  
 "Sec. 505. Remedies and attorneys' fees.  
 "Sec. 506. Secretarial responsibilities.  
 "Sec. 507. Interagency Disability Coordinating Council.  
 "Sec. 508. Electronic and information technology regulations.  
 "Sec. 509. Protection and advocacy of individual rights.

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

"Sec. 601. Short title.  
 "PART A—PROJECTS WITH INDUSTRY  
 "Sec. 611. Projects with industry.  
 "Sec. 612. Authorization of appropriations.  
 "PART B—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES  
 "Sec. 621. Purpose.  
 "Sec. 622. Allotments.  
 "Sec. 623. Availability of services.  
 "Sec. 624. Eligibility.  
 "Sec. 625. State plan.  
 "Sec. 626. Restriction.  
 "Sec. 627. Savings provision.  
 "Sec. 628. Authorization of appropriations.

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES  
 "PART A—GENERAL PROVISIONS  
 "Sec. 701. Purpose.  
 "Sec. 702. Definitions.  
 "Sec. 703. Eligibility for receipt of services.  
 "Sec. 704. State plan.  
 "Sec. 705. Statewide Independent Living Council.  
 "Sec. 706. Responsibilities of the Commissioner.  
 "PART B—INDEPENDENT LIVING SERVICES  
 "Sec. 711. Allotments.  
 "Sec. 712. Payments to States from allotments.  
 "Sec. 713. Authorized uses of funds.  
 "Sec. 714. Authorization of appropriations.  
 "PART C—CENTERS FOR INDEPENDENT LIVING  
 "Sec. 721. Program authorization.  
 "Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.  
 "Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.  
 "Sec. 724. Centers operated by State agencies.  
 "Sec. 725. Standards and assurances for centers for independent living.

"Sec. 726. Definitions.  
 "Sec. 727. Authorization of appropriations.  
 "CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND  
 "Sec. 751. Definition.  
 "Sec. 752. Program of grants.  
 "Sec. 753. Authorization of appropriations.  
 "FINDINGS; PURPOSE; POLICY

"SEC. 2. (a) FINDINGS.—Congress finds that—  
 "(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;  
 "(2) individuals with disabilities constitute one of the most disadvantaged groups in society;  
 "(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;  
 "(B) enjoy self-determination;  
 "(C) make choices;  
 "(D) contribute to society;  
 "(E) pursue meaningful careers; and  
 "(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(4) increased employment of individuals with disabilities can be achieved through implementation of statewide workforce investment systems under title I of the Workforce Investment Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

"(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and  
 "(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purposes of this Act are—  
 "(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

"(A) statewide workforce investment systems implemented in accordance with title I of the Workforce Investment Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(B) independent living centers and services;  
 "(C) research;  
 "(D) training;  
 "(E) demonstration projects; and  
 "(F) the guarantee of equal opportunity; and

"(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.

"REHABILITATION SERVICES ADMINISTRATION  
 "SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.

"(b) The Secretary shall take whatever action is necessary to ensure that funds appropriated pursuant to this Act are expended only for the programs, personnel, and administration of programs carried out under this Act.

"ADVANCE FUNDING

"SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"JOINT FUNDING

"SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

"SEC. 7. DEFINITIONS.

"For the purposes of this Act:

“(1) The term ‘administrative costs’ means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including expenses for—

“(A) quality assurance;

“(B) budgeting, accounting, financial management, information systems, and related data processing;

“(C) providing information about the program to the public;

“(D) technical assistance and support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 103(b)(5);

“(E) the State Rehabilitation Council and other advisory committees;

“(F) professional organization membership dues for designated State unit employees;

“(G) the removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

“(H) operating and maintaining designated State unit facilities, equipment, and grounds;

“(I) supplies;

“(J) administration of the comprehensive system of personnel development described in section 101(a)(7), including personnel administration, administration of affirmative action plans, and training and staff development;

“(K) administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;

“(L) travel costs related to carrying out the program, other than travel costs related to the provision of services;

“(M) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations under section 102(c); and

“(N) legal expenses required in the administration of the program.

“(2) ASSESSMENT FOR DETERMINING ELIGIBILITY AND VOCATIONAL REHABILITATION NEEDS.—The term ‘assessment for determining eligibility and vocational rehabilitation needs’ means, as appropriate in each case—

“(A) (i) a review of existing data—

“(I) to determine whether an individual is eligible for vocational rehabilitation services; and

“(II) to assign priority for an order of selection described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

“(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

“(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the objectives, nature, and scope of vocational rehabilitation services, to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

“(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan for employment of the eligible individual;

“(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

“(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 101(a)(5)(A) for the individual; and

“(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

“(iii) may include, to the degree needed to make such a determination, an assessment of

the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

“(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

“(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

“(D) an exploration of the individual’s abilities, capabilities, and capacity to perform in work situations, which shall be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

“(3) ASSISTIVE TECHNOLOGY DEVICE.—The term ‘assistive technology device’ has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section to the term ‘individuals with disabilities’ shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

“(4) ASSISTIVE TECHNOLOGY SERVICE.—The term ‘assistive technology service’ has the meaning given such term in section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3)), except that the reference in such section—

“(A) to the term ‘individual with a disability’ shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

“(B) to the term ‘individuals with disabilities’ shall be deemed to mean more than one such individual.

“(5) COMMUNITY REHABILITATION PROGRAM.—The term ‘community rehabilitation program’ means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

“(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

“(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

“(C) recreational therapy;

“(D) physical and occupational therapy;

“(E) speech, language, and hearing therapy;

“(F) psychiatric, psychological, and social services, including positive behavior management;

“(G) assessment for determining eligibility and vocational rehabilitation needs;

“(H) rehabilitation technology;

“(I) job development, placement, and retention services;

“(J) evaluation or control of specific disabilities;

“(K) orientation and mobility services for individuals who are blind;

“(L) extended employment;

“(M) psychosocial rehabilitation services;

“(N) supported employment services and extended services;

“(O) services to family members when necessary to the vocational rehabilitation of the individual;

“(P) personal assistance services; or

“(Q) services similar to the services described in one of subparagraphs (A) through (P).

“(6) CONSTRUCTION: COST OF CONSTRUCTION.—

“(A) CONSTRUCTION.—The term ‘construction’ means—

“(i) the construction of new buildings;

“(ii) the acquisition, expansion, remodeling, alteration, and renovation of existing buildings; and

“(iii) initial equipment of buildings described in clauses (i) and (ii).

“(B) COST OF CONSTRUCTION.—The term ‘cost of construction’ includes architects’ fees and the cost of acquisition of land in connection with construction but does not include the cost of offsite improvements.

“(7) CRIMINAL ACT.—The term ‘criminal act’ means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

“(8) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

“(A) DESIGNATED STATE AGENCY.—The term ‘designated State agency’ means an agency designated under section 101(a)(2)(A).

“(B) DESIGNATED STATE UNIT.—The term ‘designated State unit’ means—

“(i) any State agency unit required under section 101(a)(2)(B)(ii); or

“(ii) in cases in which no such unit is so required, the State agency described in section 101(a)(2)(B)(i).

“(9) DISABILITY.—The term ‘disability’ means—

“(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

“(B) for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII, a physical or mental impairment that substantially limits one or more major life activities.

“(10) DRUG AND ILLEGAL USE OF DRUGS.—

“(A) DRUG.—The term ‘drug’ means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

“(B) ILLEGAL USE OF DRUGS.—The term ‘illegal use of drugs’ means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

“(11) EMPLOYMENT OUTCOME.—The term ‘employment outcome’ means, with respect to an individual—

“(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

“(B) satisfying the vocational outcome of supported employment; or

“(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment, telecommuting, or business ownership),

in a manner consistent with this Act.

“(12) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—The term ‘establishment of a community rehabilitation program’ includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs),

and may include such additional equipment and staffing as the Commissioner considers appropriate.

“(13) EXTENDED SERVICES.—The term ‘extended services’ means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

“(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

“(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

“(C) are provided by a State agency, a non-profit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

“(14) FEDERAL SHARE.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘Federal share’ means 78.7 percent.

“(B) EXCEPTION.—The term ‘Federal share’ means the share specifically set forth in section 111(a)(3), except that with respect to payments pursuant to part B of title I to any State that are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 111(a)(3) applicable with respect to the State.

“(C) RELATIONSHIP TO EXPENDITURES BY A POLITICAL SUBDIVISION.—For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

“(15) GOVERNOR.—The term ‘Governor’ means a chief executive officer of a State.

“(16) IMPARTIAL HEARING OFFICER.—

“(A) IN GENERAL.—The term ‘impartial hearing officer’ means an individual—

“(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

“(ii) who is not a member of the State Rehabilitation Council described in section 105;

“(iii) who has not been involved previously in the vocational rehabilitation of the applicant or client;

“(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

“(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

“(B) CONSTRUCTION.—An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

“(17) INDEPENDENT LIVING CORE SERVICES.—The term ‘independent living core services’ means—

“(A) information and referral services;

“(B) independent living skills training;

“(C) peer counseling (including cross-disability peer counseling); and

“(D) individual and systems advocacy.

“(18) INDEPENDENT LIVING SERVICES.—The term ‘independent living services’ includes—

“(A) independent living core services; and

“(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

“(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate ac-

commodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

“(iii) rehabilitation technology;

“(iv) mobility training;

“(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

“(vi) personal assistance services, including attendant care and the training of personnel providing such services;

“(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

“(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

“(ix) education and training necessary for living in a community and participating in community activities;

“(x) supported living;

“(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

“(xii) physical rehabilitation;

“(xiii) therapeutic treatment;

“(xiv) provision of needed prostheses and other appliances and devices;

“(xv) individual and group social and recreational services;

“(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

“(xvii) services for children;

“(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

“(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

“(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

“(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

“(19) INDIAN; AMERICAN INDIAN; INDIAN AMERICAN; INDIAN TRIBE.—

“(A) IN GENERAL.—The terms ‘Indian’, ‘American Indian’, and ‘Indian American’ mean an individual who is a member of an Indian tribe.

“(B) INDIAN TRIBE.—The term ‘Indian tribe’ means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

“(20) INDIVIDUAL WITH A DISABILITY.—

“(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term ‘individual with a disability’ means any individual who—

“(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

“(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, III, or VI.

“(B) CERTAIN PROGRAMS; LIMITATIONS ON MAJOR LIFE ACTIVITIES.—Subject to subparagraphs (C), (D), (E), and (F), the term ‘individual with a disability’ means, for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII of this Act, any person who—

“(i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities;

“(ii) has a record of such an impairment; or

“(iii) is regarded as having such an impairment.

“(C) RIGHTS AND ADVOCACY PROVISIONS.—

“(i) IN GENERAL; EXCLUSION OF INDIVIDUALS ENGAGING IN DRUG USE.—Nothing in clause (i) of the term ‘individual with a disability’ does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

“(ii) EXCEPTION FOR INDIVIDUALS NO LONGER ENGAGING IN DRUG USE.—Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

“(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

“(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

“(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

“(iii) EXCLUSION FOR CERTAIN SERVICES.—Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II, and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

“(iv) DISCIPLINARY ACTION.—For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

“(v) EMPLOYMENT; EXCLUSION OF ALCOHOLICS.—For purposes of sections 503 and 504 as such sections relate to employment, the term ‘individual with a disability’ does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

“(D) EMPLOYMENT; EXCLUSION OF INDIVIDUALS WITH CERTAIN DISEASES OR INFECTIONS.—For the purposes of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

“(E) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF HOMOSEXUALITY OR BISEXUALITY.—For the purposes of sections 501, 503, and 504—

“(i) for purposes of the application of subparagraph (B) to such sections, the term ‘impairment’ does not include homosexuality or bisexuality; and

“(ii) therefore the term ‘individual with a disability’ does not include an individual on the basis of homosexuality or bisexuality.

“(F) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF CERTAIN DISORDERS.—For the purposes of sections 501, 503, and 504, the

term 'individual with a disability' does not include an individual on the basis of—

“(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

“(ii) compulsive gambling, kleptomania, or pyromania; or

“(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

“(G) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.

“(21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'individual with a significant disability' means an individual with a disability—

“(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

“(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

“(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

“(B) INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.—For purposes of title VII, the term 'individual with a significant disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

“(C) RESEARCH AND TRAINING.—For purposes of title II, the term 'individual with a significant disability' includes an individual described in subparagraph (A) or (B).

“(D) INDIVIDUALS WITH SIGNIFICANT DISABILITIES.—The term 'individuals with significant disabilities' means more than one individual with a significant disability.

“(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

“(i) IN GENERAL.—The term 'individual with a most significant disability', used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 101(a)(5)(C).

“(ii) INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES.—The term 'individuals with the most significant disabilities' means more than one individual with a most significant disability.

“(22) INDIVIDUAL'S REPRESENTATIVE; APPLICANT'S REPRESENTATIVE.—The terms 'individual's representative' and 'applicant's representative' mean a parent, a family member, a guardian, an advocate, or an authorized representative of an individual or applicant, respectively.

“(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has

the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

“(24) LOCAL AGENCY.—The term 'local agency' means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

“(25) LOCAL WORKFORCE INVESTMENT BOARD.—The term 'local workforce investment board' means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998.

“(26) NONPROFIT.—The term 'nonprofit', when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

“(27) ONGOING SUPPORT SERVICES.—The term 'ongoing support services' means services—

“(A) provided to individuals with the most significant disabilities;

“(B) provided, at a minimum, twice monthly—

“(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

“(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

“(C) consisting of—

“(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

“(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

“(iii) job development, job retention, and placement services;

“(iv) social skills training;

“(v) regular observation or supervision of the individual;

“(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

“(vii) facilitation of natural supports at the worksite;

“(viii) any other service identified in section 103; or

“(ix) a service similar to another service described in this subparagraph.

“(28) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

“(29) PUBLIC OR NONPROFIT.—The term 'public or nonprofit', used with respect to an agency or organization, includes an Indian tribe.

“(30) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet

the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

“(31) SECRETARY.—The term 'Secretary', except when the context otherwise requires, means the Secretary of Education.

“(32) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(33) STATE WORKFORCE INVESTMENT BOARD.—The term 'State workforce investment board' means a State workforce investment board established under section 111 of the Workforce Investment Act of 1998.

“(34) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term 'statewide workforce investment system' means a system described in section 111(d)(2) of the Workforce Investment Act of 1998.

“(35) SUPPORTED EMPLOYMENT.—

“(A) IN GENERAL.—The term 'supported employment' means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

“(i) (I) for whom competitive employment has not traditionally occurred; or

“(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

“(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (36)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

“(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

“(36) SUPPORTED EMPLOYMENT SERVICES.—The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

“(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

“(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

“(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator involved jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized plan for employment.

“(37) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of

employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

“(38) VOCATIONAL REHABILITATION SERVICES.—The term ‘vocational rehabilitation services’ means those services identified in section 103 which are provided to individuals with disabilities under this Act.

“(39) WORKFORCE INVESTMENT ACTIVITIES.—The term ‘workforce investment activities’ means workforce investment activities, as defined in section 101 of the Workforce Investment Act of 1998, that are carried out under that Act.

“ALLOTMENT PERCENTAGE

“SEC. 8. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

“(A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum; and

“(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

“(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

“(3) The term ‘United States’ means (but only for purposes of this subsection) the fifty States and the District of Columbia.

“(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

“NONDUPLICATION

“SEC. 10. In determining the amount of any State’s Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

“APPLICATION OF OTHER LAWS

“SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93-510) and of title V of the Act of October 15, 1977 (Public Law 95-134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

“ADMINISTRATION OF THE ACT

“SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

“(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

“(2) provide short-term training and technical instruction, including training for the personnel

of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

“(3) conduct special projects and demonstrations;

“(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

“(5) provide monitoring and conduct evaluations.

“(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

“(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

“(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner’s duties under this Act.

“(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

“(e) Not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998.

“(f) In promulgating regulations to carry out this Act, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this Act.

“(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

“REPORTS

“SEC. 13. (a) Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

“(b) The Commissioner shall collect information to determine whether the purposes of this Act are being met and to assess the performance of programs carried out under this Act. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

“(c) In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 101(a)(10), including information on administrative costs as required by section 101(a)(10)(D). The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 136(d) of the Workforce Investment Act of 1998 and that pertains to the employment of individuals with disabilities.

“EVALUATION

“SEC. 14. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation

to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

“(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

“(c) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this Act shall become the property of the United States.

“(d) Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

“(e)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

“(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

“(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

“(f)(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.

“(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention, providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from nonintegrated to integrated employment, and providing caseload management.

“(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

“INFORMATION CLEARINGHOUSE

“SEC. 15. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

“(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by State workforce investment boards regarding such services and programs authorized under title I of such Act;

“(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

“(3) the current numbers of individuals with disabilities and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

“(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

“(c) The office established to carry out the provisions of this section shall be known as the ‘Office of Information and Resources for Individuals with Disabilities’.

“(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

#### “TRANSFER OF FUNDS

“SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any program or activity may be used for any purpose other than that for which the funds were specifically authorized.

“(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

#### “STATE ADMINISTRATION

“SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

#### “REVIEW OF APPLICATIONS

“SEC. 18. Applications for grants in excess of \$100,000 in the aggregate authorized to be funded under this Act, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

#### “SEC. 19. CARRYOVER.

“(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

“(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, section 509 (except as provided in section 509(b)), part B of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallocated under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

“(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received, shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

“(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

#### “SEC. 20. CLIENT ASSISTANCE INFORMATION.

“All programs, including community rehabilitation programs, and projects, that provide serv-

ices to individuals with disabilities under this Act shall advise such individuals who are applicants for or recipients of the services, or the applicants’ representatives or individuals’ representatives, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

#### “SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.

“(a) FINDINGS.—With respect to the programs authorized in titles II through VII, the Congress finds as follows:

“(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

“(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

“(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

“(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

#### “(b) OUTREACH TO MINORITIES.—

“(1) IN GENERAL.—For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the ‘Director’) shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under titles II, III, VI, and VII to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out 1 or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

“(2) ACTIVITIES.—The activities carried out by the Commissioner and the Director shall include 1 or more of the following:

“(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under titles II, III, VI, and VII.

“(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this Act, especially services provided to individuals from minority backgrounds.

“(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this Act, including assistance to enhance their capacity to carry out such activities.

“(3) ELIGIBILITY.—To be eligible to receive an award under paragraph (2)(C), an entity shall

be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

“(4) REPORT.—In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

#### “(5) DEFINITIONS.—In this subsection:

“(A) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ‘historically Black college or university’ means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

“(B) MINORITY ENTITY.—The term ‘minority entity’ means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

“(c) DEMONSTRATION.—In awarding grants, or entering into contracts or cooperative agreements under titles I, II, III, VI, and VII, and section 509, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.”.

#### SEC. 404. VOCATIONAL REHABILITATION SERVICES.

Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) is amended to read as follows:

#### “TITLE I—VOCATIONAL REHABILITATION SERVICES

##### “PART A—GENERAL PROVISIONS

#### “SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

“(a) FINDINGS; PURPOSE; POLICY.—

“(1) FINDINGS.—Congress finds that—

“(A) work—

“(i) is a valued activity, both for individuals and society; and

“(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

“(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

“(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

“(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

“(i) discrimination;

“(ii) lack of accessible and available transportation;

“(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

“(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

“(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

“(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

“(G) linkages between the vocational rehabilitation programs established under this title and other components of the statewide workforce investment systems are critical to ensure effective and meaningful participation by individuals

with disabilities in workforce investment activities.

“(2) PURPOSE.—The purpose of this title is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

“(A) an integral part of a statewide workforce investment system; and

“(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

“(3) POLICY.—It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

“(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

“(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

“(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners in the vocational rehabilitation process, making meaningful and informed choices—

“(i) during assessments for determining eligibility and vocational rehabilitation needs; and

“(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

“(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

“(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 101(a)(7)(B) (referred to individually in this title as a ‘qualified vocational rehabilitation counselor’), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

“(F) Individuals with disabilities and the individuals’ representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

“(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

“(b) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

“(2) REFERENCE.—The reference in paragraph (1) to grants to States under part B shall not be considered to refer to grants under section 112.

“(c) CONSUMER PRICE INDEX.—

“(1) PERCENTAGE CHANGE.—No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall

publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

“(2) APPLICATION.—

“(A) INCREASE.—If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

“(B) NO INCREASE OR DECREASE.—If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1).

“(3) DEFINITION.—For purposes of this section, the term ‘Consumer Price Index’ means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

“(d) EXTENSION.—

“(1) IN GENERAL.—

“(A) AUTHORIZATION OR DURATION OF PROGRAM.—Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

“(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

“(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this title.

“(B) CALCULATION.—The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2003, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year, if the percentage change indicates an increase.

“(2) CONSTRUCTION.—

“(A) PASSAGE OF LEGISLATION.—For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

“(B) ACTS OR DETERMINATIONS OF COMMISSIONER.—In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

“SEC. 101. STATE PLANS.

“(a) PLAN REQUIREMENTS.—

“(1) IN GENERAL.—

“(A) SUBMISSION.—To be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 112 of the Workforce Investment Act of 1998.

“(B) NONDUPLICATION.—The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, proce-

dures, or descriptions required under this title that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this title, including any policies, procedures, or descriptions submitted under this title as in effect on the day before the effective date of the Rehabilitation Act Amendments of 1998.

“(C) DURATION.—The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this Act by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this Act, until the State submits and receives approval of a new State plan.

“(2) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

“(A) DESIGNATED STATE AGENCY.—The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

“(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

“(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

“(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

“(B) DESIGNATED STATE UNIT.—The State agency designated under subparagraph (A) shall be—

“(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

“(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

“(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

“(II) has a full-time director;

“(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

“(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

“(C) RESPONSIBILITY FOR SERVICES FOR THE BLIND.—If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility

for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

“(3) NON-FEDERAL SHARE.—The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

“(4) STATEWIDENESS.—The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that—

“(A) in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner, but only if the non-Federal share of the cost of the vocational rehabilitation services involved is met from funds made available by a local agency (including funds contributed to such agency by a private agency, organization, or individual); and

“(B) in a case in which earmarked funds are used toward the non-Federal share and such funds are earmarked for particular geographic areas within the State, the earmarked funds may be used in such areas if the State notifies the Commissioner that the State cannot provide the full non-Federal share without such funds.

“(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

“(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

“(B) provide the justification for the order of selection;

“(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

“(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

“(6) METHODS FOR ADMINISTRATION.—

“(A) IN GENERAL.—The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

“(B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

“(C) FACILITIES.—The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled ‘An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped’, approved on August 12, 1968 (commonly known as the ‘Architectural Barriers Act of 1968’), with section 504, and with the Americans with Disabilities Act of 1990.

“(7) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State plan shall—

“(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

“(i) a description of the procedures and activities the designated State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

“(I) the number and type of personnel that are employed by the designated State unit in the provision of vocational rehabilitation services, including ratios of qualified vocational rehabilitation counselors to clients; and

“(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the vocational rehabilitation field, and other relevant factors;

“(ii) where appropriate, a description of the manner in which activities will be undertaken under this section to coordinate the system of personnel development with personnel development activities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

“(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the programs of institutions of higher education within the State that are preparing rehabilitation professionals, including—

“(I) the numbers of students enrolled in such programs; and

“(II) the number of such students who graduated with certification or licensure, or with credentials to qualify for certification or licensure, as a rehabilitation professional during the past year;

“(iv) a description of the development, updating, and implementation of a plan that—

“(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

“(II) provides for the coordination and facilitation of efforts between the designated State unit, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

“(v) a description of the procedures and activities the designated State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

“(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

“(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1998;

“(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including rehabilitation professionals and paraprofessionals, needed within the designated State unit to carry out this part are appropriately and adequately prepared and trained, including—

“(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

“(ii) to the extent that such standards are not based on the highest requirements in the State

applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and

“(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual.

“(8) COMPARABLE SERVICES AND BENEFITS.—

“(A) DETERMINATION OF AVAILABILITY.—

“(i) IN GENERAL.—The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a), the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title) unless such a determination would interrupt or delay—

“(I) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment of the individual in accordance with section 102(b);

“(II) an immediate job placement; or

“(III) the provision of such service to any individual at extreme medical risk.

“(ii) AWARDS AND SCHOLARSHIPS.—For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

“(B) INTERAGENCY AGREEMENT.—The State plan shall include an assurance that the Governor of the State, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including the State entity responsible for administering the State Medicaid program, a public institution of higher education, and a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 103(a)), that are included in the individualized plan for employment of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

“(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating the financial responsibility of such public entity for providing such services.

“(ii) CONDITIONS, TERMS, AND PROCEDURES OF REIMBURSEMENT.—Information specifying the conditions, terms, and procedures under which a designated State unit shall be reimbursed by other public entities for providing such services, based on the provisions of such agreement or mechanism.

“(iii) INTERAGENCY DISPUTES.—Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism).

“(iv) COORDINATION OF SERVICES PROCEDURES.—Information specifying policies and procedures for public entities to determine and identify the interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)).

“(C) RESPONSIBILITIES OF OTHER PUBLIC ENTITIES.—

“(i) RESPONSIBILITIES UNDER OTHER LAW.—Notwithstanding subparagraph (B), if any public entity other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)), such public entity shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

“(ii) REIMBURSEMENT.—If a public entity other than the designated State unit fails to provide or pay for the services described in clause (i) for an eligible individual, the designated State unit shall provide or pay for such services to the individual. Such designated State unit may claim reimbursement for the services from the public entity that failed to provide or pay for such services. Such public entity shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism described in this paragraph according to the procedures established in such agreement or mechanism pursuant to subparagraph (B)(ii).

“(D) METHODS.—The Governor of a State may meet the requirements of subparagraph (B) through—

“(i) a State statute or regulation;

“(ii) a signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity relating to the provision of services; or

“(iii) another appropriate method, as determined by the designated State unit.

“(9) INDIVIDUALIZED PLAN FOR EMPLOYMENT.—

“(A) DEVELOPMENT AND IMPLEMENTATION.—The State plan shall include an assurance that an individualized plan for employment meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

“(B) PROVISION OF SERVICES.—The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized plan for employment.

“(10) REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this title.

“(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998 that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

“(C) ADDITIONAL DATA.—In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

“(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this title, including—

“(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 102(a); and

“(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

“(ii) the number of individuals who received vocational rehabilitation services through the program, including—

“(I) the number who received services under paragraph (5)(D), but not assistance under an individualized plan for employment;

“(II) of those recipients who are individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 102(b); and

“(III) of those recipients who are not individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 102(b);

“(iii) of those applicants and eligible recipients who are individuals with significant disabilities—

“(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

“(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

“(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

“(bb) the number who received employment benefits from an employer during such employment; and

“(iv) of those applicants and eligible recipients who are not individuals with significant disabilities—

“(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

“(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

“(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

“(bb) the number who received employment benefits from an employer during such employment.

“(D) COSTS AND RESULTS.—The Commissioner shall also require that the designated State agency include in the reports information on—

“(i) the costs under this title of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized plans for employment, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, providing other services to groups, and facilitating use of other programs under this Act and title I of the Workforce Investment Act of 1998 by eligible individuals; and

“(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

“(E) ADDITIONAL INFORMATION.—The Commissioner shall require that each designated State

unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

“(i) information on—

“(I) age, gender, race, ethnicity, education, category of impairment, severity of disability, and whether the individuals are students with disabilities;

“(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized plan for employment, and termination of participation in the program;

“(III) earnings at the time of application for the program and termination of participation in the program;

“(IV) work status and occupation;

“(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

“(VI) types of public or private programs or agencies that furnished services under the program; and

“(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

“(ii) information necessary to determine the success of the State in meeting—

“(I) the State performance measures established under section 136(b) of the Workforce Investment Act of 1998, to the extent the measures are applicable to individuals with disabilities; and

“(II) the standards and indicators established pursuant to section 106.

“(F) COMPLETENESS AND CONFIDENTIALITY.—The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

“(11) COOPERATION, COLLABORATION, AND COORDINATION.—

“(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

“(i) provision of intercomponent staff training and technical assistance with regard to—

“(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

“(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

“(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as employment statistics, and information on job vacancies, career planning, and workforce investment activities;

“(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

“(iv) establishment of cooperative efforts with employers to—

“(I) facilitate job placement; and

“(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

“(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

“(vi) specification of procedures for resolving disputes among such components.

“(B) REPLICATION OF COOPERATIVE AGREEMENTS.—The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

“(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including programs carried out by the Under Secretary for Rural Development of the Department of Agriculture and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.

“(D) COORDINATION WITH EDUCATION OFFICIALS.—The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

“(i) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

“(ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (as added by section 101 of Public Law 105-17);

“(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

“(iv) procedures for outreach to and identification of students with disabilities who need the transition services.

“(E) COORDINATION WITH STATEWIDE INDEPENDENT LIVING COUNCILS AND INDEPENDENT LIVING CENTERS.—The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 705, and the independent living centers described in part C of title VII within the State have developed working relationships and coordinate their activities.

“(F) COOPERATIVE AGREEMENT WITH RECIPIENTS OF GRANTS FOR SERVICES TO AMERICAN INDIANS.—In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

“(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized plans for employment;

“(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal serv-

ice area are provided vocational rehabilitation services; and

“(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

“(12) RESIDENCY.—The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

“(13) SERVICES TO AMERICAN INDIANS.—The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

“(14) ANNUAL REVIEW OF INDIVIDUALS IN EXTENDED EMPLOYMENT OR OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.—The State plan shall provide for—

“(A) an annual review and reevaluation of the status of each individual with a disability served under this title who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

“(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; and

“(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

“(15) ANNUAL STATE GOALS AND REPORTS OF PROGRESS.—

“(A) ASSESSMENTS AND ESTIMATES.—The State plan shall—

“(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

“(I) individuals with the most significant disabilities, including their need for supported employment services;

“(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this title; and

“(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

“(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

“(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

“(B) ANNUAL ESTIMATES.—The State plan shall include, and shall provide that the State

shall annually submit a report to the Commissioner that includes, State estimates of—

“(i) the number of individuals in the State who are eligible for services under this title;

“(ii) the number of such individuals who will receive services provided with funds provided under part B and under part B of title VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

“(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

“(C) GOALS AND PRIORITIES.—

“(i) IN GENERAL.—The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

“(ii) BASIS.—The State goals and priorities shall be based on an analysis of—

“(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

“(II) the performance of the State on the standards and indicators established under section 106; and

“(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 105(c) and the findings and recommendations from monitoring activities conducted under section 107.

“(iii) SERVICE AND OUTCOME GOALS FOR CATEGORIES IN ORDER OF SELECTION.—If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

“(D) STRATEGIES.—The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

“(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

“(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

“(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

“(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106; and

“(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

“(E) EVALUATION AND REPORTS OF PROGRESS.—The State plan shall—

“(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

“(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

“(II) a description of strategies that contributed to achieving the goals;

“(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

“(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 106; and

“(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

“(16) PUBLIC COMMENT.—The State plan shall—

“(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 112, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

“(B) provide that the designated State agency (or each designated State agency if 2 agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

“(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals’ representatives;

“(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

“(iii) providers of vocational rehabilitation services to individuals with disabilities;

“(iv) the director of the client assistance program; and

“(v) the State Rehabilitation Council, if the State has such a Council.

“(17) USE OF FUNDS FOR CONSTRUCTION OF FACILITIES.—The State plan shall provide that if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs—

“(A) the Federal share of the cost of construction for the facilities for a fiscal year will not exceed an amount equal to 10 percent of the State’s allotment under section 110 for such year;

“(B) the provisions of section 306 (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) shall be applicable to such construction and such provisions shall be deemed to apply to such construction; and

“(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of facilities for community rehabilitation programs) because the plan includes such provisions for construction.

“(18) INNOVATION AND EXPANSION ACTIVITIES.—The State plan shall—

“(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

“(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this title, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

“(ii) to support the funding of—

“(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 105(d)(1); and

“(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1);

“(B) include a description of how the reserved funds will be utilized; and

“(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

“(19) CHOICE.—The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants’ representatives or individuals’ representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d).

“(20) INFORMATION AND REFERRAL SERVICES.—

“(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the State.

“(B) REFERRALS.—An appropriate referral made through the system shall—

“(i) be to the Federal or State programs, including programs carried out by other components of the statewide workforce investment system in the State, best suited to address the specific employment needs of an individual with a disability; and

“(ii) include, for each of these programs, provision to the individual of—

“(I) a notice of the referral by the designated State agency to the agency carrying out the program;

“(II) information identifying a specific point of contact within the agency carrying out the program; and

“(III) information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

“(21) STATE INDEPENDENT CONSUMER-CONTROLLED COMMISSION; STATE REHABILITATION COUNCIL.—

“(A) COMMISSION OR COUNCIL.—The State plan shall provide that either—

“(i) the designated State agency is an independent commission that—

“(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

“(II) is consumer-controlled by persons who—

“(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

“(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

“(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

“(IV) undertakes the functions set forth in section 105(c)(4); or

“(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 105 and the designated State unit—

“(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

“(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

“(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 105(c)(5), the review and analysis of consumer satisfaction described in section 105(c)(4), and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

“(IV) transmits to the Council—

“(aa) all plans, reports, and other information required under this title to be submitted to the Secretary;

“(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this title; and

“(cc) copies of due process hearing decisions issued under this title, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

“(B) MORE THAN 1 DESIGNATED STATE AGENCY.—In the case of a State that, under section 101(a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the 2 agencies that does not meet the requirements in subparagraph (A)(i), or establish 1 State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

“(22) SUPPORTED EMPLOYMENT STATE PLAN SUPPLEMENT.—The State plan shall include an assurance that the State has an acceptable plan for carrying out part B of title VI, including the use of funds under that part to supplement funds made available under part B of this title to pay for the cost of services leading to supported employment.

“(23) ANNUAL UPDATES.—The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

“(24) CERTAIN CONTRACTS AND COOPERATIVE AGREEMENTS.—

“(A) CONTRACTS WITH FOR-PROFIT ORGANIZATIONS.—The State plan shall provide that the designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under part A of title VI, upon a determination by such agency that such for-profit organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations.

“(B) COOPERATIVE AGREEMENTS WITH PRIVATE NONPROFIT ORGANIZATIONS.—The State plan shall describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established.

“(b) APPROVAL; DISAPPROVAL OF THE STATE PLAN.—

“(1) APPROVAL.—The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

“(2) DISAPPROVAL.—Prior to disapproval of the State plan, the Commissioner shall notify the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

**“SEC. 102. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.**

“(a) ELIGIBILITY.—

“(1) CRITERION FOR ELIGIBILITY.—An individual is eligible for assistance under this title if the individual—

“(A) is an individual with a disability under section 7(20)(A); and

“(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

“(2) PRESUMPTION OF BENEFIT.—

“(A) DEMONSTRATION.—For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

“(B) METHODS.—In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual can not take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

“(3) PRESUMPTION OF ELIGIBILITY.—

“(A) IN GENERAL.—For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

“(i) considered to be an individual with a significant disability under section 7(21)(A); and

“(ii) presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

“(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create an entitlement to any vocational rehabilitation service.

“(4) USE OF EXISTING INFORMATION.—

“(A) IN GENERAL.—To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and devel-

oping the individualized plan for employment described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized plan for employment), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

“(B) DETERMINATIONS BY OFFICIALS OF OTHER AGENCIES.—Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies 1 or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

“(C) BASIS.—The determination of eligibility for vocational rehabilitation services shall be based on—

“(i) the review of existing data described in section 7(2)(A)(i); and

“(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

“(5) DETERMINATION OF INELIGIBILITY.—If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized plan for employment is determined to be no longer eligible for the services—

“(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

“(B) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

“(i) the reasons for the determination; and

“(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

“(C) the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

“(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

“(i) within 12 months; and

“(ii) thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

“(6) TIMEFRAME FOR MAKING AN ELIGIBILITY DETERMINATION.—The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

“(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

“(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity

to perform in work situations under paragraph (2)(B).

“(b) DEVELOPMENT OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—

“(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized plan for employment, including—

“(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual;

“(B) a description of the full range of components that shall be included in an individualized plan for employment;

“(C) as appropriate—

“(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized plan for employment;

“(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

“(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized plan for employment; and

“(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

“(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

“(2) MANDATORY PROCEDURES.—

“(A) WRITTEN DOCUMENT.—An individualized plan for employment shall be a written document prepared on forms provided by the designated State unit.

“(B) INFORMED CHOICE.—An individualized plan for employment shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

“(C) SIGNATORIES.—An individualized plan for employment shall be—

“(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

“(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

“(D) COPY.—A copy of the individualized plan for employment for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

“(E) REVIEW AND AMENDMENT.—The individualized plan for employment shall be—

“(i) reviewed at least annually by—

“(I) a qualified vocational rehabilitation counselor; and

“(II) the eligible individual or, as appropriate, the individual's representative; and

“(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of

the designated State agency or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit).

“(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, an individualized plan for employment shall, at a minimum, contain mandatory components consisting of—

“(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

“(B) (i) a description of the specific vocational rehabilitation services that are—

“(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

“(II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

“(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

“(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

“(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

“(E) the terms and conditions of the individualized plan for employment, including, as appropriate, information describing—

“(i) the responsibilities of the designated State unit;

“(ii) the responsibilities of the eligible individual, including—

“(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

“(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

“(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and

“(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);

“(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

“(i) the extended services needed by the eligible individual; and

“(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

“(G) as determined to be necessary, a statement of projected need for post-employment services.

“(c) PROCEDURES.—

“(1) IN GENERAL.—Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

“(2) NOTIFICATION.—

“(A) RIGHTS AND ASSISTANCE.—The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

“(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

“(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

“(iii) the availability of assistance from the client assistance program under section 112.

“(B) TIMING.—Such notification shall be provided in writing—

“(i) at the time an individual applies for vocational rehabilitation services provided under this title;

“(ii) at the time the individualized plan for employment for the individual is developed; and

“(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

“(3) EVIDENCE AND REPRESENTATION.—The procedures required under this subsection shall, at a minimum—

“(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

“(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing by a person selected by the applicant or eligible individual.

“(4) MEDIATION.—

“(A) PROCEDURES.—Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

“(B) REQUIREMENTS.—Such procedures shall ensure that the mediation process—

“(i) is voluntary on the part of the parties;

“(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and

“(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

“(C) LIST OF MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title, from which the mediators described in subparagraph (B) shall be selected.

“(D) COST.—The State shall bear the cost of the mediation process.

“(E) SCHEDULING.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

“(F) AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

“(G) CONFIDENTIALITY.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process

may be required to sign a confidentiality pledge prior to the commencement of such process.

“(H) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this title.

“(5) HEARINGS.—

“(A) OFFICER.—A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this Act (including regulations implementing this Act), and State regulations and policies that are consistent with the Federal requirements specified in this title. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit.

“(B) LIST.—The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

“(i) the designated State unit; and

“(ii) members of the Council or commission, as appropriate, described in section 101(a)(21).

“(C) SELECTION.—Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

“(i) on a random basis; or

“(ii) by agreement between—

“(I) the Director of the designated State unit and the individual with a disability; or

“(II) in appropriate cases, the Director and the individual's representative.

“(D) PROCEDURES FOR SEEKING REVIEW.—A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

“(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 101(a)(2); or

“(ii) an official from the office of the Governor.

“(E) REVIEW REQUEST.—If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

“(F) REVIEWING OFFICIAL.—The reviewing official described in subparagraph (D) shall—

“(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

“(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this Act (including regulations implementing this Act) or any State regulation or policy that is consistent with the Federal requirements specified in this title; and

“(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision.

“(G) FINALITY OF HEARING DECISION.—A decision made after a hearing under subparagraph

(A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

“(H) FINALITY OF REVIEW.—A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

“(I) IMPLEMENTATION.—If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

“(J) CIVIL ACTION.—

“(i) IN GENERAL.—Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

“(ii) PROCEDURE.—In any action brought under this subparagraph, the court—

“(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

“(II) shall hear additional evidence at the request of a party to the action; and

“(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

“(6) HEARING BOARD.—

“(A) IN GENERAL.—A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this Act, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

“(B) APPLICATION.—The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

“(7) IMPACT ON PROVISION OF SERVICES.—Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

“(8) INFORMATION COLLECTION AND REPORT.—

“(A) IN GENERAL.—The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

“(B) INFORMATION.—The information required to be collected under this subsection includes—

“(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

“(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

“(iii) information on the number of hearing decisions made under this subsection that were

not reviewed by the State reviewing officials; and

“(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

“(I) sustained in favor of an applicant or eligible individual;

“(II) sustained in favor of the designated State unit;

“(III) reversed in whole or in part in favor of the applicant or eligible individual; and

“(IV) reversed in whole or in part in favor of the designated State unit.

“(C) CONFIDENTIALITY.—The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

“(D) POLICIES AND PROCEDURES.—Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 100(a)(3)(C), develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency—

“(1) to inform each such applicant and eligible individual (including students with disabilities who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

“(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title;

“(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this title;

“(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of—

“(A) the employment outcome;

“(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

“(C) the entity that will provide the services;

“(D) the employment setting and the settings in which the services will be provided; and

“(E) the methods available for procuring the services; and

“(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this title.

**“SEC. 103. VOCATIONAL REHABILITATION SERVICES.**

“(a) VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS.—Vocational rehabilitation services provided under this title are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

“(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

“(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

“(3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this title;

“(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

“(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

“(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

“(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

“(B) necessary hospitalization in connection with surgery or treatment;

“(C) prosthetic and orthotic devices;

“(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

“(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

“(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

“(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;

“(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

“(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

“(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

“(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

“(12) occupational licenses, tools, equipment, and initial stocks and supplies;

“(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

“(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

“(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;

“(16) supported employment services;

“(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

“(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

“(b) VOCATIONAL REHABILITATION SERVICES FOR GROUPS OF INDIVIDUALS.—Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

“(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

“(2)(A) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment.

“(B) The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability.

“(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

“(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

“(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

“(C) Tactile materials for individuals who are deaf-blind.

“(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

“(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

“(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

**“SEC. 104. NON-FEDERAL SHARE FOR ESTABLISHMENT OF PROGRAM OR CONSTRUCTION.”**

“For the purpose of determining the amount of payments to States for carrying out part B (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

**“SEC. 105. STATE REHABILITATION COUNCIL.”**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Except as provided in section 101(a)(21)(A)(i), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the ‘Council’) in accordance with this section.

“(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

“(b) COMPOSITION AND APPOINTMENT.—

“(1) COMPOSITION.—

“(A) IN GENERAL.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

“(i) at least one representative of the State-wide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

“(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17);

“(iii) at least one representative of the client assistance program established under section 112;

“(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

“(v) at least one representative of community rehabilitation program service providers;

“(vi) four representatives of business, industry, and labor;

“(vii) representatives of disability advocacy groups representing a cross section of—

“(I) individuals with physical, cognitive, sensory, and mental disabilities; and

“(II) individuals’ representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

“(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

“(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

“(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

“(xi) at least one representative of the State workforce investment board.

“(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

“(i) at least one representative described in subparagraph (A)(i);

“(ii) at least one representative described in subparagraph (A)(ii);

“(iii) at least one representative described in subparagraph (A)(iii);

“(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

“(v) at least one representative described in subparagraph (A)(v);

“(vi) four representatives described in subparagraph (A)(vi);

“(vii) at least one representative of a disability advocacy group representing individuals who are blind;

“(viii) at least one individual’s representative, of an individual who—

“(I) is an individual who is blind and has multiple disabilities; and

“(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

“(ix) applicants or recipients described in subparagraph (A)(viii);

“(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

“(xi) at least one representative described in subparagraph (A)(x); and

“(xii) at least one representative described in subparagraph (A)(xi).

“(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

“(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

“(ii) includes at least—

“(I) one representative described in subparagraph (B)(vi); and

“(II) one applicant or recipient described in subparagraph (B)(ix).

“(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

“(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—A majority of Council members shall be persons who are—

“(i) individuals with disabilities described in section 7(20)(A); and

“(ii) not employed by the designated State unit.

“(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), a majority of Council members shall be persons who are—

“(i) blind; and

“(ii) not employed by the designated State unit.

“(5) CHAIRPERSON.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

“(B) DESIGNATION BY GOVERNOR.—In States in which the chief executive officer does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

“(6) TERMS OF APPOINTMENT.—

“(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

“(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

“(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

“(B) NUMBER OF TERMS.—No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

“(7) VACANCIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the

membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

“(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

“(C) FUNCTIONS OF COUNCIL.—The Council shall, after consulting with the State workforce investment board—

“(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

“(A) eligibility (including order of selection);

“(B) the extent, scope, and effectiveness of services provided; and

“(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

“(2) in partnership with the designated State unit—

“(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

“(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 101(a)(15)(E);

“(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

“(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

“(A) the functions performed by the designated State agency;

“(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

“(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

“(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

“(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17), the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x-4(a)), and the State workforce investment board;

“(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

“(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

“(d) RESOURCES.—

“(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

“(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

“(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

“(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

“(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

“(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

“(g) COMPENSATION AND EXPENSES.—The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

“(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

“**SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—The Commissioner shall, not later than July 1, 1999, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this title.

“(B) REVIEW AND REVISION.—Effective July 1, 1999, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

“(C) BASES.—Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 136(b) of the Workforce Investment Act of 1998.

“(2) MEASURES.—The standards and indicators shall include outcome and related measures

of program performance that facilitate the accomplishment of the purpose and policy of this title.

“(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

“(b) COMPLIANCE.—

“(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

“(2) PROGRAM IMPROVEMENT.—

“(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

“(B) REVIEW.—The Commissioner shall—

“(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

“(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

“(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

“(d) REPORT TO CONGRESS.—Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

“**SEC. 107. MONITORING AND REVIEW.**

“(a) IN GENERAL.—

“(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

“(A) provide for the annual review and periodic onsite monitoring of programs under this title; and

“(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

“(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

“(A) State policies and procedures;

“(B) guidance materials;

“(C) decisions resulting from hearings conducted in accordance with due process;

“(D) State goals established under section 101(a)(15) and the extent to which the State has achieved such goals;

“(E) plans and reports prepared under section 106(b);

“(F) consumer satisfaction reviews and analyses described in section 105(c)(4);

“(G) information provided by the State Rehabilitation Council established under section 105, if the State has such a Council, or by the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

“(H) reports; and

“(I) budget and financial management data.

“(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

“(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

“(B) public hearings and other strategies for collecting information from the public;

“(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

“(D) reviews of individual case files, including individualized plans for employment and ineligibility determinations; and

“(E) meetings with qualified vocational rehabilitation counselors and other personnel.

“(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

“(A) the eligibility process;

“(B) the provision of services, including, if applicable, the order of selection;

“(C) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission; and

“(D) such other areas of inquiry as the Commissioner may consider appropriate.

“(5) REPORTS.—If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council, for use in the development and modification of the State plan described in section 101.

“(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

“(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

“(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

“(c) FAILURE TO COMPLY WITH PLAN.—

“(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

“(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

“(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

“(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

“(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

“(d) REVIEW.—

“(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

“(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

“(3) STANDARDS OF REVIEW.—

“(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

“(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

“(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

“(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

“SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.

“(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part B of title VI, or under title VII.

“(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

“SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

“A State may expend payments received under section 111—

“(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

“(2) to inform employers of the existence of the program and the availability of the services of the program.

“PART B—BASIC VOCATIONAL REHABILITATION SERVICES

“STATE ALLOTMENTS

“SEC. 110. (a)(1) Subject to the provisions of subsection (c), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

“(A) the population of the State; and

“(B) the square of its allotment percentage, bears to the sum of the corresponding products for all the States.

“(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

“(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

“(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

“(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

“(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or \$3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

“(b)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a

State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

"(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

"(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

"(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1999; and

"(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 2000 through 2003.

#### "PAYMENTS TO STATES

"SEC. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

"(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year.

"(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

"(C) The Commissioner may waive or modify any requirement or limitation under subparagraph (B) or section 101(a)(17) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

"(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State.

"(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.

"(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

"(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

"(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

#### "CLIENT ASSISTANCE PROGRAM

"SEC. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

"(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

"(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

"(2) meets the requirements of designation under subsection (c).

"(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

"(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

"(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998—

"(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the merger of the designated State agency with 1 or more other State agencies or departments; and

"(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

"(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

"(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

"(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than \$50,000.

"(B) The Secretary shall allot \$30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(C) For the purpose of this paragraph, the term 'State' does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed \$7,500,000, the minimum allotment shall be \$100,000 for States and \$45,000 for territories.

"(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

"(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal

year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any such amount so reallocated to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

“(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

“(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

“(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

“(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

“(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

“(3) (A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

“(B) In subparagraph (A), the term ‘alternative means of dispute resolution’ means any procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

“(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

“(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003 to carry out the provisions of this section.

#### “PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

##### “VOCATIONAL REHABILITATION SERVICES GRANTS

“SEC. 121. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on or near such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

“(b) (1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

“(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

“(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities

residing on or near a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

“(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

“(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

“(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on or near a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

“(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

“(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

“(c) The term ‘reservation’ includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

#### “PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

##### “SEC. 131. DATA SHARING.

“(a) IN GENERAL.—

“(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

“(A) that concern clients of designated State agencies; and

“(B) that are data maintained either by—

“(i) the Rehabilitation Services Administration, as required by section 13; or

“(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

“(2) EMPLOYMENT STATISTICS.—The Secretary of Labor shall provide the Commissioner with employment statistics specified in section 15 of the Wagner-Peyser Act, that facilitate evaluation by the Commissioner of the program carried out under part B, and allow the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title I of the Workforce Investment Act of 1998.

“(b) TREATMENT OF INFORMATION.—For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.”

##### SEC. 405. RESEARCH AND TRAINING.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760 et seq.) is amended to read as follows:

#### “TITLE II—RESEARCH AND TRAINING

##### “DECLARATION OF PURPOSE

“SEC. 200. The purpose of this title is to—

“(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

“(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 202(h);

“(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

“(A) the procurement process for the purchase of rehabilitation technology;

“(B) the utilization of rehabilitation technology on a national basis;

“(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

“(D) the development or transfer of assistive technology;

“(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

“(A) generated by research, demonstration projects, training, and related activities; and

“(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

“(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

“(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

##### “AUTHORIZATION OF APPROPRIATIONS

“SEC. 201. (a) There are authorized to be appropriated—

“(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1999 through 2003; and

“(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1999 through 2003.

“(b) Funds appropriated under this title shall remain available until expended.

##### “NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

“SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the ‘Institute’), which shall be headed by a Director (hereinafter in this title referred to as the ‘Director’), in order to—

“(A) promote, coordinate, and provide for—

“(i) research;

“(ii) demonstration projects and training; and

“(iii) related activities,

with respect to individuals with disabilities;

“(B) more effectively carry out activities through the programs under section 204 and activities under this section;

“(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

“(D) provide leadership in advancing the quality of life of individuals with disabilities.

“(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

“(b) The Director, through the Institute, shall be responsible for—

“(1) administering the programs described in section 204 and activities under this section;

“(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this title as ‘covered activities’) funded by the Institute, to—

“(A) other Federal, State, tribal, and local public agencies;

“(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

“(C) rehabilitation practitioners; and

“(D) individuals with disabilities and the individuals’ representatives;

“(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

“(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

“(A) public and private entities, including—

“(i) elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965; and

“(ii) institutions of higher education;

“(B) rehabilitation practitioners;

“(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

“(D) the individuals’ representatives for the individuals described in subparagraph (C);

“(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

“(i) family care;

“(ii) self-care; and

“(iii) assistive technology devices and assistive technology services; and

“(B) as part of the program, disseminating engineering information about assistive technology devices;

“(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

“(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

“(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, self-employment, telecommuting, health, income, and other demographic

characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals’ representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

“(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

“(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment and telecommuting; and

“(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

“(c)(1) The Director, acting through the Institute or 1 or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

“(2) The development and dissemination of models may include—

“(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

“(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

“(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

“(D) disseminating through 1 or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

“(d)(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration.

“(2) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

“(3) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

“(e) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5,

United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

“(f)(1) The Director shall provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The scientific peer review shall be conducted by individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals’ representatives, and who are competent to review applications for the financial assistance.

“(2) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

“(g) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

“(h)(1) The Director shall—

“(A) by October 1, 1998 and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

“(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

“(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

“(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

“(2) Such plan shall—

“(A) identify any covered activity that should be conducted under this section and section 204 respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

“(B) determine the funding priorities for covered activities to be conducted under this section and section 204;

“(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 204;

“(D) be developed by the Director—

“(i) after consultation with the Rehabilitation Research Advisory Council established under section 205;

“(ii) in coordination with the Commissioner;

“(iii) after consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Interagency Committee on Disability Research established under section 203; and

“(iv) after full consideration of the input of individuals with disabilities and the individuals’ representatives, organizations representing individuals with disabilities, providers of services furnished under this Act, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

“(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals’ representatives; and

“(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that

are unserved or underserved by programs carried out under this Act.

“(i) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

“(j)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

“(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

“(3) The Director shall support, directly or by grant or contract, a center associated with an institution of higher education, for research and training concerning the delivery of vocational rehabilitation services to rural areas.

“(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.

#### “INTERAGENCY COMMITTEE

“SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the ‘Committee’), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

“(2) The Committee shall meet not less than four times each year.

“(b) After receiving input from individuals with disabilities and the individuals’ representatives, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

“(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and

development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.

#### “RESEARCH AND OTHER COVERED ACTIVITIES

“SEC. 204. (a)(1) To the extent consistent with priorities established in the 5-year plan described in section 202(h), the Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this Act.

“(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, V, VI, and VII, including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies.

“(B) Such projects, as described in the State plans submitted by State agencies, may include—

“(i) medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

“(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

“(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

“(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

“(v) studies, analyses, and other activities related to supported employment;

“(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this Act; and

“(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

“(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as ‘research grants’) to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 202(h).

“(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

“(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

“(ii) serve as centers of national excellence and national or regional resources for providers

and individuals with disabilities and the individuals’ representatives.

“(B) The Centers shall conduct research and training activities by—

“(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability of the individuals to prepare for, secure, retain, regain, or advance in employment;

“(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

“(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

“(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals’ representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

“(C) The research to be carried out at each such Center may include—

“(i) basic or applied medical rehabilitation research;

“(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

“(iii) research related to vocational rehabilitation;

“(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

“(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

“(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

“(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

“(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

“(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

“(G) Grants made under this paragraph may be used to provide faculty support for teaching—

“(i) rehabilitation-related courses of study for credit; and

“(ii) other courses offered by the Centers, either directly or through another entity.

“(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

“(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

“(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

“(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

“(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient

manner consistent with appropriate State and Federal law; and

“(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

“(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

“(i) the grant is made to a new recipient; or  
“(ii) the grant supports new or innovative research.

“(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(N) In conducting scientific peer review under section 202(f) of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals' representatives.

“(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

“(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

“(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

“(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

“(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

“(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

“(ii) demonstrating and disseminating—

“(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

“(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

“(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

“(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

“(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

“(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

“(i) cooperate with programs established under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the individuals' representatives to—

“(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

“(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

“(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

“(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

“(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

“(I) Early childhood services, including early intervention and family support.

“(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

“(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

“(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

“(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals' representatives.

“(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

“(i) the grant is made to a new recipient; or

“(ii) the grant supports new or innovative research.

“(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(G) Each Center established or supported through a grant made available under this paragraph shall—

“(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

“(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

“(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

“(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals' representatives, and organizations receiving financial assistance under this paragraph;

“(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

“(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

“(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

“(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

“(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

“(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

“(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

“(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

“(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

“(A) ensure dissemination of research findings;

“(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

“(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

“(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical

assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

"(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

"(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.

"(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

"(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programming.

"(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including—

"(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

"(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

"(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

"(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs that—

"(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

"(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

"(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

"(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

"(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

"(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

"(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

"(A) test new concepts and innovative ideas;

"(B) demonstrate research results of high potential benefits;

"(C) purchase prototype aids and devices for evaluation;

"(D) develop unique rehabilitation training curricula; and

"(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed \$50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

"(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

"(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

"(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

"(B) Activities carried out under the research program may include—

"(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

"(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

"(iii) identification and dissemination of outcome measurement models for the assessment of rehabilitation technology products and services; and

"(iv) development and testing of research-based tools to enhance consumer decisionmaking about rehabilitation technology products and services.

"(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

"(A) determine the use of specific alternative or complementary medical practices among individuals with disabilities and the perceived effectiveness of the practices;

"(B) determine the specific information sources, decisionmaking methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

"(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

"(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or

other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

"(C)(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

"(2) The Director shall not make a grant under this section that exceeds \$500,000 unless the peer review of the grant application has included a site visit.

"REHABILITATION RESEARCH ADVISORY COUNCIL.

"SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 202(h).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) PAYMENT AND EXPENSES.—

"(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of \$150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

“(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.”.

**SEC. 406. PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS.**

Title III of the Rehabilitation Act of 1973 (29 U.S.C. 770 et seq.) is amended to read as follows:

**“TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS**

**“SEC. 301. DECLARATION OF PURPOSE AND COMPETITIVE BASIS OF GRANTS AND CONTRACTS.**

“(a) PURPOSE.—It is the purpose of this title to authorize grants and contracts to—

“(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through economic and business development programs, through independent living services programs, and through client assistance programs; and

“(B) provide training to maintain and upgrade basic skills and knowledge of personnel (including personnel specifically trained to deliver services to individuals with disabilities whose employment outcome is self-employment or telecommuting) employed to provide state-of-the-art service delivery and rehabilitation technology services;

“(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services (including those services provided through community rehabilitation programs) authorized under this Act, or that otherwise further the purposes of this Act, including related research and evaluation;

“(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

“(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

“(5) provide training and information to individuals with disabilities and the individuals' representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and statewide workforce investment systems and to become active decisionmakers in the rehabilitation process.

“(b) COMPETITIVE BASIS OF GRANTS AND CONTRACTS.—The Secretary shall ensure that all grants and contracts are awarded under this title on a competitive basis.

**“SEC. 302. TRAINING.**

“(a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

“(1) AUTHORITY.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this Act, to individuals with disabilities, and who may include—

“(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

“(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation

needs of individuals with disabilities, including needs for rehabilitation technology;

“(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

“(D) personnel specifically trained to deliver services in the client assistance programs;

“(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability; and

“(F) personnel specifically trained to deliver services to individuals with disabilities pursuing self-employment, business ownership, and telecommuting; and

“(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act.

“(2) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

“(3) RELATED FEDERAL STATUTES.—In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding provisions of Federal statutes, including section 504, title I of the Americans with Disabilities Act (42 U.S.C. 401 et seq. and 1381 et seq.), that are related to work incentives for individuals with disabilities.

“(4) TRAINING FOR STATEWIDE WORKFORCE SYSTEMS PERSONNEL.—The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under title I of the Workforce Investment Act of 1998. Under this paragraph, personnel may be trained—

“(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of a statewide workforce investment system; or

“(B) to assist individuals with disabilities seeking assistance through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998.

“(5) JOINT FUNDING.—Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title I of the Workforce Investment Act of 1998.

“(b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate. In making such grants or entering into such contracts, the Commissioner shall target funds to areas determined under subsection (e) to have shortages of qualified personnel.

“(B) TYPES OF PROJECTS.—Academic training projects described in this subsection may include—

“(i) projects to train personnel in the areas of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting, and of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occu-

pational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

“(ii) projects to train personnel to provide—

“(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

“(II) job development and job placement services to individuals with disabilities;

“(III) supported employment services, including services of employment specialists for individuals with disabilities;

“(IV) specialized services for individuals with significant disabilities; or

“(V) recreation for individuals with disabilities;

“(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

“(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

“(2) APPLICATION.—No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

“(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

“(B) the identification of potential employers that provide employment that meets the requirements of paragraph (5)(A)(i); and

“(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

“(3) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no grant or contract under this subsection may be used to provide any one course of study to an individual for a period of more than 4 years.

“(B) EXCEPTION.—If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

“(4) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expanded to provide services that include the provision of scholarships and necessary stipends and allowances.

“(5) AGREEMENTS.—

“(A) CONTENTS.—A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for any academic year beginning after June 1, 1992, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

“(i) maintain employment—

“(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

“(II) on a full- or part-time basis; and

“(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received by the individual,

within a period, beginning after the recipient completes the training for which the scholarship

was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and

“(ii) repay all or part of any scholarship received, plus interest, if the individual does not fulfill the requirements of clause (i), except as the Commissioner by regulation may provide for repayment exceptions and deferrals.

“(B) ENFORCEMENT.—The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon completion of the training involved under such subparagraph.

“(c) GRANTS TO HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—The Commissioner, in carrying out this section, shall make grants to historically Black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

“(d) APPLICATION.—A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train individuals so as to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

“(e) EVALUATION AND COLLECTION OF DATA.—The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities. The Commissioner shall prepare and submit to Congress, by September 30 of each fiscal year, a report setting forth and justifying in detail how the funds made available for training under this section for the fiscal year prior to such submission are allocated by professional discipline and other program areas. The report shall also contain findings on such personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President's budget proposal, and how the findings on personnel shortages justify the allocations.

“(f) GRANTS FOR THE TRAINING OF INTERPRETERS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

“(i) for the establishment of interpreter training programs; or

“(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

“(B) GEOGRAPHIC AREAS.—The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

“(C) PRIORITY.—In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

“(D) FUNDING.—The Commissioner may award grants under this subsection through the use of—

“(i) amounts appropriated to carry out this section; or

“(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 603 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17))), amounts appropriated under section 686 of the Individuals with Disabilities Education Act.

“(2) APPLICATION.—A grant may not be awarded to an agency or organization under paragraph (1) unless the agency or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

“(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

“(B) a demonstration of the applicant's capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

“(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

“(D) such other information as the Commissioner may require.

“(g) TECHNICAL ASSISTANCE AND IN-SERVICE TRAINING.—

“(1) TECHNICAL ASSISTANCE.—The Commissioner is authorized to provide technical assistance to State designated agencies and community rehabilitation programs, directly or through contracts with State designated agencies or nonprofit organizations.

“(2) COMPENSATION.—An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate, subject to approval of the Commissioner, that shall not exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code. Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5, United States Code.

“(3) IN-SERVICE TRAINING OF REHABILITATION PERSONNEL.—

“(A) PROJECTS.—Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training for rehabilitation personnel, consistent with the needs identified through the comprehensive system for personnel development required by section 101(a)(7), including projects designed—

“(i) to address recruitment and retention of qualified rehabilitation professionals;

“(ii) to provide for succession planning;

“(iii) to provide for leadership development and capacity building; and

“(iv) for fiscal years 1999 and 2000, to provide training regarding the Workforce Investment Act of 1998 and the amendments to this Act made by the Rehabilitation Act Amendments of 1998.

“(B) LIMITATION.—If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1998 by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.

“(h) PROVISION OF INFORMATION.—The Commissioner, subject to the provisions of section 306, may require that recipients of grants or

contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

“SEC. 303. DEMONSTRATION AND TRAINING PROGRAMS.

“(a) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

“(1) GRANTS.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

“(2) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the grant only—

“(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

“(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

“(3) APPLICATION.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

“(A) a description of—

“(i) how the entity intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

“(ii) how the entity intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

“(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

“(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

“(i) a statement of the vocational rehabilitation goals to be achieved;

“(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

“(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

“(4) AWARD OF GRANTS.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration—

“(A) the diversity of strategies used to increase client choice, including selection among qualified service providers;

“(B) the geographic distribution of projects; and

“(C) the diversity of clients to be served.

“(5) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

“(6) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

“(7) EVALUATION.—The Commissioner may conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost-effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this section for the fiscal year.

“(8) DEFINITIONS.—For the purposes of this subsection:

“(A) DIRECT SERVICES.—The term ‘direct services’ means vocational rehabilitation services, as described in section 103(a).

“(B) ELIGIBLE CLIENT.—The term ‘eligible client’ means an individual with a disability, as defined in section 7(20)(A), who is not currently receiving services under an individualized plan for employment established through a designated State unit.

“(b) SPECIAL DEMONSTRATION PROGRAMS.—

“(1) GRANTS; CONTRACTS.—The Commissioner, subject to the provisions of section 306, may provide grants to, or enter into contracts with, eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this Act or that further the purposes of the Act, including related research and evaluation activities.

“(2) ELIGIBLE ENTITIES; TERMS AND CONDITIONS.—

“(A) ELIGIBLE ENTITIES.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to 1 or more types of organizations described in this subparagraph.

“(B) TERMS AND CONDITIONS.—A grant or contract under paragraph (1) shall contain such terms and conditions as the Commissioner may require.

“(3) APPLICATION.—An eligible entity that desires to receive a grant, or enter into a contract, under paragraph (1) shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

“(A) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

“(B) is of national significance.

“(4) TYPES OF PROJECTS.—The programs that may be funded under this subsection may include—

“(A) special projects and demonstrations of service delivery;

“(B) model demonstration projects;

“(C) technical assistance projects;

“(D) systems change projects;

“(E) special studies and evaluations; and

“(F) dissemination and utilization activities.

“(5) PRIORITY FOR COMPETITIONS.—

“(A) IN GENERAL.—In announcing competitions for grants and contracts under this subsection, the Commissioner shall give priority consideration to—

“(i) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

“(ii) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

“(iii) model transitional planning services for youths with disabilities.

“(B) ADDITIONAL COMPETITIONS.—In announcing competitions for grants and contracts under this subsection, the Commissioner may require that applicants address 1 or more of the following:

“(i) Age ranges.

“(ii) Types of disabilities.

“(iii) Types of services.

“(iv) Models of service delivery.

“(v) Stage of the rehabilitation process.

“(vi) The needs of underserved populations, unserved and underserved areas, individuals with significant disabilities, low-incidence disability population or individuals residing in federally designated empowerment zones and enterprise communities.

“(vii) Expansion of employment opportunities for individuals with disabilities.

“(viii) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under title I of the Workforce Investment Act of 1998 and under other Federal laws.

“(ix) Innovative methods of promoting achievement of high-quality employment outcomes.

“(x) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

“(xi) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

“(6) USE OF FUNDS FOR CONTINUATION AWARDS.—The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 12 and 311 (as such sections were in effect on the day before the date of the enactment of the Rehabilitation Act Amendments of 1998).

“(c) PARENT INFORMATION AND TRAINING PROGRAM.—

“(1) GRANTS.—The Commissioner is authorized to make grants to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational, independent living, and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of the individuals described in the preceding sentence, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this Act.

“(2) USE OF GRANTS.—An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals—

“(A) to better understand vocational rehabilitation and independent living programs and services;

“(B) to provide followup support for transition and employment programs;

“(C) to communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

“(D) to provide support in the development of the individualized plan for employment;

“(E) to provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

“(F) to understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

“(3) AWARD OF GRANTS.—The Commissioner shall ensure that grants under this subsection—

“(A) shall be distributed geographically to the greatest extent possible throughout all States; and

“(B) shall be targeted to individuals with disabilities, and the parents, family members,

guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

“(4) ELIGIBLE ORGANIZATIONS.—In order to receive a grant under this subsection, an organization—

“(A) shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization—

“(i) to coordinate training and information activities with Centers for Independent Living;

“(ii) to coordinate and work closely with parent training and information centers established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17); and

“(iii) to effectively conduct the training and information activities authorized under this subsection;

“(B)(i) shall be governed by a board of directors—

“(I) that includes professionals in the field of vocational rehabilitation; and

“(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

“(ii)(I) shall have a membership that represents the interests of individuals with disabilities; and

“(II) shall establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

“(C) shall serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

“(5) CONSULTATION.—Each organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

“(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17).

“(7) REVIEW.—

“(A) QUARTERLY REVIEW.—The board of directors or special governing committee of an organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

“(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the organization during the preceding fiscal year.

“(d) BRaille TRAINING PROGRAMS.—

“(1) ESTABLISHMENT.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of braille for personnel

providing vocational rehabilitation services or educational services to youth and adults who are blind.

“(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

“(A) development of braille training materials;

“(B) in-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youth and adults who are blind; and

“(C) activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

“(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

**“SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.**

“(a) GRANTS.—

“(1) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals (whether or not such family members are individuals with disabilities).

“(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1), an entity shall be—

“(A) a State designated agency;

“(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

“(C) a local agency working in collaboration with a State agency described in subparagraph (A).

“(3) MAINTENANCE AND TRANSPORTATION.—

“(A) IN GENERAL.—Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

“(B) REQUIREMENT.—Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this Act.

“(4) ASSURANCE OF COOPERATION.—To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

“(5) COORDINATION WITH OTHER PROGRAMS.—The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Act of 1998.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as may be necessary to carry out this section, for each of the fiscal years 1999 through 2003.

**“SEC. 305. RECREATIONAL PROGRAMS.**

“(a) GRANTS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

“(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, construction of facilities for aquatic rehabilitation therapy, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

“(C) DESIGN OF PROGRAM.—Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

“(2) MAXIMUM TERM OF GRANT.—A grant under this section shall be made for a period of not more than 3 years.

“(3) AVAILABILITY OF NONGRANT RESOURCES.—

“(A) IN GENERAL.—A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

“(B) FEDERAL SHARE.—The Federal share of the costs of the recreation programs carried out under this section shall be—

“(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

“(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

“(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

“(4) APPLICATION.—To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

“(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

“(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

“(5) LEVEL OF SERVICES.—Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

“(6) REPORTS BY GRANTEES.—

“(A) REQUIREMENT.—The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

“(B) LIMITATION.—The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1999 through 2003.

**“SEC. 306. MEASURING OF PROJECT OUTCOMES AND PERFORMANCE.**

“The Commissioner may require that recipients of grants under this title submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.”

**SEC. 407. NATIONAL COUNCIL ON DISABILITY.**

Title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) is amended to read as follows:

**“TITLE IV—NATIONAL COUNCIL ON DISABILITY**

**“ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY**

“SEC. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the ‘National Council’), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

“(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

“(i) organizations representing a broad range of individuals with disabilities; and

“(ii) organizations interested in individuals with disabilities.

“(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

“(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

“(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

“(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

“(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

“(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

“(B) As used in this paragraph, the term ‘full term’ means a term of 3 years.

“(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member’s predecessor was appointed shall be appointed only for the remainder of such term.

“(c) The President shall designate the Chairperson from among the members appointed to

the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

“(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

#### “DUTIES OF NATIONAL COUNCIL

“SEC. 401. (a) The National Council shall—

“(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

“(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

“(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

“(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

“(5) review and evaluate on a continuing basis—

“(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

“(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

“(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

“(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

“(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

“(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

“(b)(1) Not later than October 31, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled ‘National Disability Policy: A Progress Report’.

“(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

“(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

#### “COMPENSATION OF NATIONAL COUNCIL MEMBERS

“SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

“(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

“(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

#### “STAFF OF NATIONAL COUNCIL

“SEC. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5, United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

“(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

“(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

“(2) The National Council may—

“(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

“(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

“(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council’s duties and responsibilities.

“(3) Not more than 10 per centum of the total amounts available to the National Council in

each fiscal year may be used for official representation and reception.

“(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

“(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary’s judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

“(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

#### “ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

“SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

“(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

“(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

“(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

“(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

#### “AUTHORIZATION OF APPROPRIATIONS

“SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1999 through 2003.”

#### SEC. 408. RIGHTS AND ADVOCACY.

(a) CONFORMING AMENDMENTS TO RIGHTS AND ADVOCACY PROVISIONS.—

(1) EMPLOYMENT.—Section 501 (29 U.S.C. 791) is amended—

(A) in the third sentence of subsection (a), by striking “President’s Committees on Employment of the Handicapped” and inserting “President’s Committees on Employment of People With Disabilities”; and

(B) in subsection (e), by striking “individualized written rehabilitation program” and inserting “individualized plan for employment”.

(2) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(A) in subsection (a)(1), in the sentence following subparagraph (B), by striking “Chairperson” and inserting “chairperson”;

(B) in subsection (b)—

(i) in paragraph (2), by striking “guidelines” and inserting “information”;

(ii) by striking paragraph (3) and inserting the following:

“(3) establish and maintain—

“(A) minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

“(B) minimum guidelines and requirements for the standards issued pursuant to titles II and III of the Americans with Disabilities Act of 1990;

“(C) guidelines for accessibility of telecommunications equipment and customer premises equipment under section 255 of the Telecommunications Act of 1934 (47 U.S.C. 255); and

“(D) standards for accessible electronic and information technology under section 508;”;

(iii) in paragraph (9), by striking “; and” and inserting a semicolon;

(iv) in paragraph (10), by striking the period and inserting "; and"; and

(v) by adding at the end the following:

"(11) carry out the responsibilities specified for the Access Board in section 508.";

(C) in subsection (d)(1), by striking "procedures under this section" and inserting "procedures under this subsection";

(D) in subsection (g)(2), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce";

(E) in subsection (h)(2)(A), by striking "paragraphs (5) and (7)" and inserting "paragraphs (2) and (4)"; and

(F) in subsection (i), by striking "fiscal years 1993 through 1997" and inserting "fiscal years 1999 through 2003".

(3) FEDERAL GRANTS AND CONTRACTS.—Section 504(a) (29 U.S.C. 794(a)) is amended in the first sentence by striking "section 7(8)" and inserting "section 7(20)".

(4) SECRETARIAL RESPONSIBILITIES.—Section 506(a) (29 U.S.C. 794b(a)) is amended—

(A) by striking the second sentence and inserting the following: "Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States."; and

(B) in the second sentence of subsection (c), by striking "provided under this paragraph" and inserting "provided under this subsection".

(b) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

**"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY.**

**"(a) REQUIREMENTS FOR FEDERAL DEPARTMENTS AND AGENCIES.—**

**"(1) ACCESSIBILITY.—**

**"(A) DEVELOPMENT, PROCUREMENT, MAINTENANCE, OR USE OF ELECTRONIC AND INFORMATION TECHNOLOGY.—**When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology—

**"(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and**

**"(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.**

**"(B) ALTERNATIVE MEANS EFFORTS.—**When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

**"(2) ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS.—**

**"(A) IN GENERAL.—**Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the 'Access Board'), after consultation with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access

Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities, shall issue and publish standards setting forth—

**"(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology specified in section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3)); and**

**"(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).**

**"(B) REVIEW AND AMENDMENT.—**The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

**"(3) INCORPORATION OF STANDARDS.—**Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards. Not later than 6 months after the Access Board revises any standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

**"(4) ACQUISITION PLANNING.—**In the event that a Federal department or agency determines that compliance with the standards issued by the Access Board under paragraph (2) relating to procurement imposes an undue burden, the documentation by the department or agency supporting the procurement shall explain why compliance creates an undue burden.

**"(5) EXEMPTION FOR NATIONAL SECURITY SYSTEMS.—**This section shall not apply to national security systems, as that term is defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

**"(6) CONSTRUCTION.—**

**"(A) EQUIPMENT.—**In a case in which the Federal Government provides access to the public to information or data through electronic and information technology, nothing in this section shall be construed to require a Federal department or agency—

**"(i) to make equipment owned by the Federal Government available for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public; or**

**"(ii) to purchase equipment for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public.**

**"(B) SOFTWARE AND PERIPHERAL DEVICES.—**Except as required to comply with standards issued by the Access Board under paragraph (2), nothing in paragraph (1) requires the installation of specific accessibility-related software or the attachment of a specific accessibility-related peripheral device at a workstation of a Federal employee who is not an individual with a disability.

**"(b) TECHNICAL ASSISTANCE.—**The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

**"(c) AGENCY EVALUATIONS.—**Not later than 6 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the head of each Federal department or agency shall evalu-

ate the extent to which the electronic and information technology of the department or agency is accessible to and usable by individuals with disabilities described in subsection (a)(1), compared to the access to and use of the technology by individuals described in such subsection who are not individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

**"(d) REPORTS.—**

**"(1) INTERIM REPORT.—**Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the extent to which the electronic and information technology of the Federal Government is accessible to and usable by individuals with disabilities described in subsection (a)(1).

**"(2) BIENNIAL REPORTS.—**Not later than 3 years after the date of enactment of the Rehabilitation Act Amendments of 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

**"(e) COOPERATION.—**Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide to the Attorney General such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

**"(f) ENFORCEMENT.—**

**"(1) GENERAL.—**

**"(A) COMPLAINTS.—**Effective 2 years after the date of enactment of the Rehabilitation Act Amendments of 1998, any individual with a disability may file a complaint alleging that a Federal department or agency fails to comply with subsection (a)(1) in providing electronic and information technology.

**"(B) APPLICATION.—**This subsection shall apply only to electronic and information technology that is procured by a Federal department or agency not less than 2 years after the date of enactment of the Rehabilitation Act Amendments of 1998.

**"(2) ADMINISTRATIVE COMPLAINTS.—**Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 504 for resolving allegations of discrimination in a federally conducted program or activity.

**"(3) CIVIL ACTIONS.—**The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under paragraph (1).

**"(g) APPLICATION TO OTHER FEDERAL LAWS.—**This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 501 through 505) that provides greater or equal protection for the rights of individuals with disabilities than this section."

(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 509 (29 U.S.C. 794e) is amended to read as follows:

**"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.**

**"(a) PURPOSE AND CONSTRUCTION.—**

**"(1) PURPOSE.—**The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

“(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and

“(B)(i) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) because the individuals do not have a developmental disability, as defined in section 102 of such Act (42 U.S.C. 6002); and

“(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

“(2) CONSTRUCTION.—This section shall not be construed to require the provision of protection and advocacy services that can be provided under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.).

“(b) APPROPRIATIONS LESS THAN \$5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than \$5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of subparagraphs (A) and (B) of subsection (a)(1).

“(c) APPROPRIATIONS OF \$5,500,000 OR MORE.—

“(1) RESERVATIONS.—

“(A) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds \$5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

“(B) GRANT FOR THE ELIGIBLE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds \$10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than \$50,000 for the fiscal year.

“(2) ALLOTMENTS.—For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for individuals referred to in subsection (b).

“(3) SYSTEMS WITHIN STATES.—

“(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

“(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than \$100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than \$100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

“(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

“(A) IN GENERAL.—For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than \$50,000 for the fiscal year for which the allotment is made.

“(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

“(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

“(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

“(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

“(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

“(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

“(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a)(1);

“(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

“(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

“(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

“(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

“(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

“(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

“(g) CARRYOVER AND DIRECT PAYMENT.—

“(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

“(2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

“(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

“(i) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

“(j) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

“(k) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

“(m) DEFINITIONS.—As used in this section:

“(1) ELIGIBLE SYSTEM.—The term ‘eligible system’ means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

“(2) AMERICAN INDIAN CONSORTIUM.—The term ‘American Indian consortium’ means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).”.

**SEC. 409. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.**

Title VI of the Rehabilitation Act of 1973 (29 U.S.C. 795 et seq.) is amended to read as follows:

**TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES****“SEC. 601. SHORT TITLE.**

“This title may be cited as the ‘Employment Opportunities for Individuals With Disabilities Act’.

**“PART A—PROJECTS WITH INDUSTRY****“PROJECTS WITH INDUSTRY**

“SEC. 611. (a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

“(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

“(A) provide for the establishment of business advisory councils, that shall—

“(i) be comprised of—

“(I) representatives of private industry, business concerns, and organized labor;

“(II) individuals with disabilities and representatives of individuals with disabilities; and

“(III) a representative of the appropriate designated State unit;

“(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment board for the community under section 118(b)(1)(B) of the Workforce Investment Act of 1998;

“(iii) identify the skills necessary to perform the jobs and careers identified; and

“(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

“(B) provide job development, job placement, and career advancement services;

“(C) to the extent appropriate, provide for—

“(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

“(ii) to the extent practicable, the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

“(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

“(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 102(a)(1), and if the determination is made in a manner consistent with section 102(a).

“(B) Such a determination may be made by the recipient of a grant under this part, to the

extent the determination is appropriate and available and consistent with the requirements of section 102(a).

“(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals' representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

“(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 101(a)(10), as determined to be appropriate by the Commissioner.

“(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

“(A) assist employers in hiring individuals with disabilities; or

“(B) improve or develop relationships between—

“(i) grant recipients or prospective grant recipients; and

“(ii) employers or organized labor; or

“(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

“(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

“(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

“(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

“(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

“(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

“(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraph (2).

“(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

“(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

“(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

“(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register, in final form, indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

“(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

“(3)(A) The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

“(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

“(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

“(i) is not an employee of the Federal Government; and

“(ii) has experience or expertise in conducting projects.

“(D) The Commissioner shall ensure that—

“(i) a representative of the appropriate designated State unit shall participate in the review; and

“(ii) no person shall participate in the review of a grant recipient if—

“(I) the grant recipient provides any direct financial benefit to the reviewer; or

“(II) participation in the review would give the appearance of a conflict of interest.

“(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

“(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of onsite compliance reviews, identifying individual grant recipients.

“(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

“(1) entities conducting projects for the purpose of assisting such entities in—

“(A) the improvement of or the development of relationships with private industry or labor; or

“(B) the improvement of relationships with State vocational rehabilitation agencies; and

“(2) entities planning the development of new projects.

“(h) As used in this section:

“(1) The term ‘agreement’ means an agreement described in subsection (a)(4).

“(2) The term ‘project’ means a Project With Industry established under subsection (a)(2).

“(3) The term ‘grant recipient’ means a recipient of a grant under subsection (a)(2).

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 612. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1999 through 2003.

“PART B—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

“SEC. 621. PURPOSE.

“It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

“SEC. 622. ALLOTMENTS.

“(a) IN GENERAL.—

“(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

“(A) no State shall receive less than \$250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

“(B) if the sums appropriated to carry out this part for the fiscal year exceed by \$1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than \$300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

“(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

“SEC. 623. AVAILABILITY OF SERVICES.

“Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or title I, may not be used to provide extended services to individuals who are eligible under this part or title I.

“SEC. 624. ELIGIBILITY.

“An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

“(1) the individual is eligible for vocational rehabilitation services;

“(2) the individual is determined to be an individual with a most significant disability; and

“(3) a comprehensive assessment of rehabilitation needs of the individual described in section 7(2)(B), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

“SEC. 625. STATE PLAN.

“(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State

shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

“(b) CONTENTS.—Each such plan supplement shall—

“(1) designate each designated State agency as the agency to administer the program assisted under this part;

“(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(15)(A)(i), with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

“(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 622;

“(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

“(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

“(6) provide assurances that—

“(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

“(B) the comprehensive assessments of individuals with significant disabilities conducted under section 102(b)(1) and funded under title I will include consideration of supported employment as an appropriate employment outcome;

“(C) an individualized plan for employment, as required by section 102, will be developed and updated using funds under title I in order to—

“(i) specify the supported employment services to be provided;

“(ii) specify the expected extended services needed; and

“(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

“(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized plan for employment;

“(E) services provided under an individualized plan for employment will be coordinated with services provided under other individualized plans established under other Federal or State programs;

“(F) to the extent jobs skills training is provided, the training will be provided on site; and

“(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

“(7) provide assurances that the State agencies designated under paragraph (1) will expend

not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

“(8) contain such other information and be submitted in such manner as the Commissioner may require.

“SEC. 626. RESTRICTION.

“Each State agency designated under section 625(b)(1) shall collect the information required by section 101(a)(10) separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under title I.

“SEC. 627. SAVINGS PROVISION.

“(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

“(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

“SEC. 628. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1999 through 2003.”

SEC. 410. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.

Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.) is amended to read as follows:

“TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

“CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

“PART A—GENERAL PROVISIONS

“SEC. 701. PURPOSE.

“The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

“(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

“(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

“(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part B of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal law, and programs funded through non-Federal sources.

“SEC. 702. DEFINITIONS.

“As used in this chapter:

“(1) CENTER FOR INDEPENDENT LIVING.—The term ‘center for independent living’ means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

“(A) is designed and operated within a local community by individuals with disabilities; and

“(B) provides an array of independent living services.

“(2) **CONSUMER CONTROL.**—The term ‘consumer control’ means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

“**SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.**

“Services may be provided under this chapter to any individual with a significant disability, as defined in section 7(21)(B).

“**SEC. 704. STATE PLAN.**

“(a) **IN GENERAL.**—

“(1) **REQUIREMENT.**—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

“(2) **JOINT DEVELOPMENT.**—The plan under paragraph (1) shall be jointly developed and signed by—

“(A) the director of the designated State unit; and

“(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

“(3) **PERIODIC REVIEW AND REVISION.**—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

“(A) the provision of State independent living services;

“(B) the development and support of a statewide network of centers for independent living; and

“(C) working relationships between—

“(i) programs providing independent living services and independent living centers; and

“(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

“(4) **DATE OF SUBMISSION.**—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

“(b) **STATEWIDE INDEPENDENT LIVING COUNCIL.**—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

“(c) **DESIGNATION OF STATE UNIT.**—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

“(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

“(2) provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723;

“(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

“(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

“(d) **OBJECTIVES.**—The plan shall—

“(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

“(2) explain how such objectives are consistent with and further the purpose of this chapter.

“(e) **INDEPENDENT LIVING SERVICES.**—The plan shall provide that the State will provide independent living services under this chapter to individuals with significant disabilities, and will provide the services to such an individual in

accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

“(f) **SCOPE AND ARRANGEMENTS.**—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

“(g) **NETWORK.**—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

“(h) **CENTERS.**—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

“(i) **COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.**—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

“(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

“(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

“(j) **COORDINATION OF SERVICES.**—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

“(k) **COORDINATION BETWEEN FEDERAL AND STATE SOURCES.**—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

“(l) **OUTREACH.**—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

“(m) **REQUIREMENTS.**—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

“(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

“(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

“(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

“(4)(A) maintain records that fully disclose—

“(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

“(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

“(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

“(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

“(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

“(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

“(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

“(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

“(n) **EVALUATION.**—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

“**SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.**

“(a) **ESTABLISHMENT.**—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the ‘Council’). The Council shall not be established as an entity within a State agency.

“(b) **COMPOSITION AND APPOINTMENT.**—

“(1) **APPOINTMENT.**—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

“(2) **COMPOSITION.**—The Council shall include—

“(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

“(B) as ex officio, nonvoting members—

“(i) a representative from the designated State unit; and

“(ii) representatives from other State agencies that provide services for individuals with disabilities; and

“(C) in a State in which 1 or more projects are carried out under section 121, at least 1 representative of the directors of the projects.

“(3) **ADDITIONAL MEMBERS.**—The Council may include—

“(A) other representatives from centers for independent living;

“(B) parents and guardians of individuals with disabilities;

“(C) advocates of and for individuals with disabilities;

“(D) representatives from private businesses;

“(E) representatives from organizations that provide services for individuals with disabilities; and

“(F) other appropriate individuals.

“(4) **QUALIFICATIONS.**—

“(A) **IN GENERAL.**—The Council shall be composed of members—

“(i) who provide statewide representation;

“(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

“(iii) who are knowledgeable about centers for independent living and independent living services; and

“(iv) a majority of whom are persons who are—

“(I) individuals with disabilities described in section 7(20)(B); and

“(II) not employed by any State agency or center for independent living.

“(B) **VOTING MEMBERS.**—A majority of the voting members of the Council shall be—

“(i) individuals with disabilities described in section 7(20)(B); and

“(ii) not employed by any State agency or center for independent living.

“(5) **CHAIRPERSON.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

“(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

“(6) TERMS OF APPOINTMENT.—

“(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

“(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

“(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

“(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

“(7) VACANCIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

“(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

“(c) DUTIES.—The Council shall—

“(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 704;

“(2) monitor, review, and evaluate the implementation of the State plan;

“(3) coordinate activities with the State Rehabilitation Council established under section 105, if the State has such a Council, or the commission described in section 101(a)(21)(A), if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

“(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

“(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

“(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

“(e) PLAN.—

“(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this chapter, and under section 110 (consistent with section 101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

“(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

“(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

“(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and nec-

essary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

“SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

“(a) APPROVAL OF STATE PLANS.—

“(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

“(2) PROCEDURES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

“(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

“(i) to the Secretary shall be deemed to be references to the Commissioner; and

“(ii) to section 101 shall be deemed to be references to section 704.

“(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

“(c) ONSITE COMPLIANCE REVIEWS.—

“(1) REVIEWS.—The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

“(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

“(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

“(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

“(C) ensure that at least one member of a team conducting such a review shall be an individual who—

“(i) is not a government employee; and

“(ii) has experience in the operation of centers for independent living.

“(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

“PART B—INDEPENDENT LIVING SERVICES  
“SEC. 711. ALLOTMENTS.

“(a) IN GENERAL.—

“(1) STATES.—

“(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appro-

riated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

“(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than \$275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made.

“(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

“(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).

“(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

“SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

“(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way

of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

“(b) FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

“(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

“**SEC. 713. AUTHORIZED USES OF FUNDS.**

“The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

“(1) to provide independent living services to individuals with significant disabilities;

“(2) to demonstrate ways to expand and improve independent living services;

“(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725;

“(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

“(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

“(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

“(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

“**SEC. 714. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1999 through 2003.

“**PART C—CENTERS FOR INDEPENDENT LIVING**

“**SEC. 721. PROGRAM AUTHORIZATION.**

“(a) IN GENERAL.—From the funds appropriated for fiscal year 1999 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

“(b) TRAINING.—

“(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this part for the fiscal year involved.

“(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

“(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent

living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

“(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

“(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

“(c) IN GENERAL.—

“(1) STATES.—

“(A) POPULATION BASIS.—After the reservation required by subsection (b) has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

“(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

“(i) if such excess is not less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

“(ii) if such excess is not less than \$4,000,000 and is less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

“(iii) if such excess is less than \$4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Common-

wealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made.

“(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

“(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

“(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

“**SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

“(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

“(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

“(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

“(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

“(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

“(d) NEW CENTERS FOR INDEPENDENT LIVING.—

“(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

“(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

“(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

“(B) shall consider the ability of each such applicant to operate a center for independent living based on—

“(i) evidence of the need for such a center;

“(ii) any past performance of such applicant in providing services comparable to independent living services;

“(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

“(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

“(v) budgets and cost-effectiveness;

“(vi) an evaluation plan; and

“(vii) the ability of such applicant to carry out the plans; and

“(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

“(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

“(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

“(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

“(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

“(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

“(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

“(g) REVIEW.—

“(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving

funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

“(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

“SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—

“(A) INITIAL YEAR.—

“(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

“(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

“(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

“(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

“(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

“(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 722.

“(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

“(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

“(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

“(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

“(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

“(d) NEW CENTERS FOR INDEPENDENT LIVING.—

“(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

“(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

“(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

“(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

“(i) evidence of the need for a center for independent living, consistent with the State plan;

“(ii) any past performance of such applicant in providing services comparable to independent living services;

“(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

“(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

“(v) the budgets and cost-effectiveness of the applicant;

“(vi) the evaluation plan of the applicant; and

“(vii) the ability of such applicant to carry out the plans; and

“(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

“(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

“(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and

at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

“(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

“(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

“(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

“(f) **NONRESIDENTIAL AGENCIES.**—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

“(g) **REVIEW.**—

“(1) **IN GENERAL.**—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

“(2) **ENFORCEMENT.**—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

“(A) the date of such notification; or

“(B) in the case of a center that requests an appeal under subsection (i), the date of any final decision under subsection (i), unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

“(h) **ONSITE COMPLIANCE REVIEW.**—The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

“(i) **ADVERSE ACTIONS.**—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

“**SEC. 724. CENTERS OPERATED BY STATE AGENCIES.**

“A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

“(1) no nonprofit private agency—

“(A) submits an acceptable application to operate a center for independent living for the fis-

cal year before a date specified by the Commissioner; and

“(B) obtains approval of the application under section 722 or 723; or

“(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

“**SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.**

“(a) **IN GENERAL.**—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

“(b) **STANDARDS.**—

“(1) **PHILOSOPHY.**—The center shall promote and practice the independent living philosophy of—

“(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

“(B) self-help and self-advocacy;

“(C) development of peer relationships and peer role models; and

“(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

“(2) **PROVISION OF SERVICES.**—The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

“(3) **INDEPENDENT LIVING GOALS.**—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

“(4) **COMMUNITY OPTIONS.**—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

“(5) **INDEPENDENT LIVING CORE SERVICES.**—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

“(6) **ACTIVITIES TO INCREASE COMMUNITY CAPACITY.**—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

“(7) **RESOURCE DEVELOPMENT ACTIVITIES.**—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

“(c) **ASSURANCES.**—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

“(1) the applicant is an eligible agency;

“(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

“(3) the applicant will comply with the standards set forth in subsection (b);

“(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

“(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

“(6) the applicant will ensure that the majority of the staff, and individuals in decision-making positions, of the applicant are individuals with disabilities;

“(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31, United States Code;

“(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

“(A) the extent to which the center is in compliance with the standards;

“(B) the number and types of individuals with significant disabilities receiving services through the center;

“(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

“(D) the sources and amounts of funding for the operation of the center;

“(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center; and

“(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

“(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

“(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

“(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

“(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

“(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

“(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

“**SEC. 726. DEFINITIONS.**

“As used in this part, the term ‘eligible agency’ means a consumer-controlled, community-

based, cross-disability, nonresidential private nonprofit agency.

**“SEC. 727. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1999 through 2003.

**“CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

**“SEC. 751. DEFINITION.**

“For purposes of this chapter, the term ‘older individual who is blind’ means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

**“SEC. 752. PROGRAM OF GRANTS.**

“(a) IN GENERAL.—

“(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

“(2) DESIGNATED STATE AGENCY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(2)(A)(i).

“(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than \$13,000,000, grants made under subsection (a) shall be—

“(1) discretionary grants made on a competitive basis to States; or

“(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

“(A) under this chapter; or

“(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(c) CONTINGENT FORMULA GRANTS.—

“(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than \$13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

“(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (f), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

“(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

“(1) providing independent living services to older individuals who are blind;

“(2) conducting activities that will improve or expand services for such individuals; and

“(3) conducting activities to help improve public understanding of the problems of such individuals.

“(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

“(1) services to help correct blindness, such as—

“(A) outreach services;

“(B) visual screening;

“(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

“(D) hospitalization related to such services;

“(2) the provision of eyeglasses and other visual aids;

“(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

“(4) mobility training, braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

“(5) guide services, reader services, and transportation;

“(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

“(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

“(8) other independent living services.

“(f) MATCHING FUNDS.—

“(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than \$1 for each \$9 of Federal funds provided in the grant.

“(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

“(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

“(i) APPLICATION FOR GRANT.—

“(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grant under subsection (j)(4)).

“(2) CONTENTS.—An application for a grant under this section shall contain—

“(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

“(i) the number and types of older individuals who are blind and are receiving services;

“(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

“(iii) the sources and amounts of funding for the operation of each project or program;

“(iv) the amounts and percentages of resources committed to each type of service provided;

“(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

“(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

“(B) an assurance that the agency will—

“(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

“(ii) engage in—

“(1) capacity-building activities, including collaboration with other agencies and organizations;

“(II) activities to promote community awareness, involvement, and assistance; and

“(III) outreach efforts; and

“(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

“(j) AMOUNT OF FORMULA GRANT.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

“(A) the amount determined under paragraph (2); or

“(B) the amount determined under paragraph (3).

“(2) MINIMUM ALLOTMENT.—

“(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

“(i) \$225,000; or

“(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

“(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is \$40,000.

“(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

“(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

“(B) a percentage equal to the quotient of—

“(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

“(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

“(4) DISPOSITION OF CERTAIN AMOUNTS.—

“(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

“(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

“(i) the failure of any State to submit an application under subsection (i);

“(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

“(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

“(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

**“SEC. 753. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1999 through 2003.”.

**SEC. 411. REPEAL.**

Title VIII of the Rehabilitation Act of 1973 (29 U.S.C. 797 et seq.) is repealed.

**SEC. 412. HELEN KELLER NATIONAL CENTER ACT.**

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking “1993 through 1997” and inserting “1999 through 2003”.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is

amended by striking "1993 through 1997" and inserting "1999 through 2003".

(c) REGISTRY.—Such Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following:

**"SEC. 209. REGISTRY.**

"(a) IN GENERAL.—To assist the Center in providing services to individuals who are deaf-blind, the Center may establish and maintain registries of such individuals in each of the regional field offices of the network of the Center.

"(b) VOLUNTARY PROVISION OF INFORMATION.—No individual who is deaf-blind may be required to provide information to the Center for any purpose with respect to a registry established under subsection (a).

"(c) NONDISCLOSURE.—The Center (including the network of the Center) may not disclose information contained in a registry established under subsection (a) to any individual or organization that is not affiliated with the Center, unless the individual to whom the information relates provides specific written authorization for the Center to disclose the information.

"(d) PRIVACY RIGHTS.—The requirements of section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974") shall apply to personally identifiable information contained in the registries established by the Center under subsection (a), in the same manner and to the same extent as such requirements apply to a record of an agency.

"(e) REMOVAL OF INFORMATION.—On the request of an individual, the Center shall remove all information relating to the individual from any registry established under subsection (a)."

**SEC. 413. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.**

Section 2(2) of the joint resolution approved July 11, 1949 (63 Stat. 409, chapter 302; 36 U.S.C. 155b(2)) is amended by inserting "solicit," before "accept."

**SEC. 414. CONFORMING AMENDMENTS.**

(a) RANDOLPH-SHEPPARD ACT.—Section 2(e) of the Act of June 20, 1936 (commonly known as the "Randolph-Sheppard Act") (49 Stat. 1559, chapter 638; 20 U.S.C. 107a(e)) is amended by striking "section 101(a)(1)(A)" and inserting "section 101(a)(2)(A)".

(b) TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.—

(1) Section 101(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(b)) is amended—

(A) in paragraph (7)(A)(ii)(II), by striking "individualized written rehabilitation program" and inserting "individualized plan for employment"; and

(B) in paragraph (9)(B), by striking "(as defined in section 7(25) of such Act (29 U.S.C. 706(25)))" and inserting "(as defined in section 7 of such Act)".

(2) Section 102(e)(23)(A) of such Act (29 U.S.C. 2212(e)(23)(A)) is amended by striking "the assurance provided by the State in accordance with section 101(a)(36) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(36))" and inserting "the portion of the State plan provided by the State in accordance with section 101(a)(21) of the Rehabilitation Act of 1973".

(c) TITLE 38, UNITED STATES CODE.—Sections 3904(b) and 7303(b) of title 38, United States Code, are amended by striking "section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))" (relating to the establishment and support of Rehabilitation Engineering Research Centers) and inserting "section 204(b)(3) of the Rehabilitation Act of 1973 (relating to the establishment and support of Rehabilitation Engineering Research Centers)".

(d) NATIONAL SCHOOL LUNCH ACT.—Section 27(a)(1)(B) of the National School Lunch Act (42 U.S.C. 1769h(a)(1)(B)) is amended by striking "section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8))" and inserting "section 7 of the Rehabilitation Act of 1973".

(e) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 421(11) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061(11)) is amended by striking "section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B))" and inserting "section 7(20)(B) of the Rehabilitation Act of 1973".

(f) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 412(5) of the Energy Conservation and Production Act (42 U.S.C. 6862(5)) is amended by striking "a handicapped individual as defined in section 7(7) of the Rehabilitation Act of 1973" and inserting "an individual with a disability, as defined in section 7 of the Rehabilitation Act of 1973".

(g) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 101(12) of the National and Community Service Act of 1990 (42 U.S.C. 12511(12)) is amended by striking "section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B))" and inserting "section 7(20)(B) of the Rehabilitation Act of 1973".

**TITLE V—GENERAL PROVISIONS**

**SEC. 501. STATE UNIFIED PLAN.**

(a) DEFINITION OF APPROPRIATE SECRETARY.—In this section, the term "appropriate Secretary" means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b).

(b) STATE UNIFIED PLAN.—

(1) IN GENERAL.—A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the activities or programs set forth in paragraph (2), except that the State may include in the plan the activities described in paragraph (2)(A) only with the prior approval of the legislature of the State. The State unified plan shall cover 1 or more of the activities set forth in subparagraphs (A) through (D) of paragraph (2) and may cover 1 or more of the activities set forth in subparagraphs (E) through (O) of paragraph (2).

(2) ACTIVITIES.—The activities and programs referred to in paragraph (1) are as follows:

(A) Secondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(B) Postsecondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(C) Activities authorized under title I.

(D) Activities authorized under title II.

(E) Programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)).

(F) Work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)).

(G) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(H) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(I) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(J) Activities authorized under chapter 41 of title 38, United States Code.

(K) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(L) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(M) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(N) Training activities carried out by the Department of Housing and Urban Development.

(O) Programs authorized under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(c) REQUIREMENTS.—

(1) IN GENERAL.—The portion of a State unified plan covering an activity or program de-

scribed in subsection (b) shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) ADDITIONAL SUBMISSION NOT REQUIRED.—A State that submits a State unified plan covering an activity or program described in subsection (b) that is approved under subsection (d) shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) COORDINATION.—A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) APPROVAL BY THE APPROPRIATE SECRETARIES.—

(1) JURISDICTION.—The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) APPROVAL.—

(A) IN GENERAL.—A portion of the State unified plan covering an activity or program described in subsection (b) that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3).

(B) SPECIAL RULE.—In subparagraph (A), the term "criteria for approval of a State plan", relating to activities carried out under title I or II or under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), includes a requirement for agreement between the State and the appropriate Secretary regarding State performance measures, including levels of performance.

**SEC. 502. DEFINITIONS FOR INDICATORS OF PERFORMANCE.**

(a) IN GENERAL.—In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b), shall issue definitions for indicators of performance and levels of performance established under titles I and II.

(b) REPRESENTATIVES.—The representatives referred to in subsection (a) are representatives of States (as defined in section 101) and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 101), educators, participants in activities carried out under this Act, State Directors of adult education, providers of adult education, providers of literacy services, individuals with expertise in serving the employment and training needs of eligible youth (as defined in section 101), parents, and other interested parties, with expertise regarding activities authorized under this Act.

**SEC. 503. INCENTIVE GRANTS.**

(a) IN GENERAL.—Beginning on July 1, 2000, the Secretary shall award a grant to each State that exceeds the State adjusted levels of performance for title I, the expected levels of performance for title II, and the levels of performance for programs under Public Law 88-210 (as

amended; 20 U.S.C. 2301 et seq.), for the purpose of carrying out an innovative program consistent with the requirements of any 1 or more of the programs within title I, title II, or such Public Law, respectively.

(b) APPLICATION.—

(1) IN GENERAL.—The Secretary may provide a grant to a State under subsection (a) only if the State submits an application to the Secretary for the grant that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—The Secretary may review an application described in paragraph (1) only to ensure that the application contains the following assurances:

(A) The legislature of the State was consulted with respect to the development of the application.

(B) The application was approved by the Governor, the eligible agency (as defined in section 203), and the State agency responsible for programs established under Public Law 88-210 (as amended; 20 U.S.C. 2301 et seq.).

(C) The State and the eligible agency, as appropriate, exceeded the State adjusted levels of performance for title I, the expected levels of performance for title II, and the levels of performance for programs under Public Law 88-210 (as amended; 20 U.S.C. 2301 et seq.).

(c) AMOUNT.—

(1) MINIMUM AND MAXIMUM GRANT AMOUNTS.—Subject to paragraph (2), a grant provided to a State under subsection (a) shall be awarded in an amount that is not less than \$750,000 and not more than \$3,000,000.

(2) PROPORTIONATE REDUCTION.—If the amount available for grants under this section for a fiscal year is insufficient to award a grant to each State or eligible agency that is eligible for a grant, the Secretary shall reduce the minimum and maximum grant amount by a uniform percentage.

**SEC. 504. PRIVACY.**

(a) SECTION 144 OF THE GENERAL EDUCATION PROVISIONS ACT.—Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93-380; 88 Stat. 571).

(b) PROHIBITION ON DEVELOPMENT OF NATIONAL DATABASE.—

(1) IN GENERAL.—Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under title I of this Act.

(2) LIMITATION.—Nothing in paragraph (1) shall be construed to prevent the proper administration of national programs under subtitles C and D of title I of this Act or to carry out program management activities consistent with title I of this Act.

**SEC. 505. BUY-AMERICAN REQUIREMENTS.**

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a et seq.).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under this Act, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this subtitle, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations as such sections are in effect on the date of enactment of this Act, or pursuant to any successor regulations.

**SEC. 506. TRANSITION PROVISIONS.**

(a) WORKFORCE INVESTMENT SYSTEMS.—The Secretary of Labor shall take such actions as the Secretary determines to be appropriate to provide for the orderly transition from any authority under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to the workforce investment systems established under title I of this Act. Such actions shall include the provision of guidance relating to the designation of State workforce investment boards, local workforce investment areas, and local workforce investment boards described in such title.

(b) ADULT EDUCATION AND LITERACY PROGRAMS.—

(1) IN GENERAL.—The Secretary of Education shall take such actions as the Secretary determines to be appropriate to provide for the transition from any authority under the Adult Education Act (20 U.S.C. 1201 et seq.) to any authority under the Adult Education and Family Literacy Act (as added by title II of this Act).

(2) LIMITATION.—The authority to take actions under paragraph (1) shall apply only for the 1-year period beginning on the date of the enactment of this Act.

(c) REGULATIONS.—

(1) INTERIM FINAL REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall develop and publish in the Federal Register interim final regulations relating to the transition to, and implementation of, this Act.

(2) FINAL REGULATIONS.—Not later than December 31, 1999, the Secretary shall develop and publish in the Federal Register final regulations relating to the transition to, and implementation of, this Act.

(d) EXPENDITURE OF FUNDS DURING TRANSITION.—

(1) IN GENERAL.—Subject to paragraph (2) and in accordance with regulations developed under subsection (b), States, grant recipients, administrative entities, and other recipients of financial assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or under this Act may expend funds received under the Job Training Partnership Act or under this Act, prior to July 1, 2000, in order to plan and implement programs and activities authorized under this Act.

(2) ADDITIONAL REQUIREMENTS.—Not to exceed 2 percent of any allotment to any State from amounts appropriated under the Job Training Partnership Act or under this Act for fiscal year 1998 or 1999 may be made available to carry out paragraph (1) and not less than 50 percent of any such amount used to carry out paragraph (1) shall be made available to local entities for the purposes described in such paragraph.

(e) REORGANIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall reorganize and align functions within the Department of Labor and within the Employment and Training Administration in order to carry out the duties and responsibilities required by this Act (and related laws) in an effective and efficient manner.

**SEC. 507. EFFECTIVE DATE.**

Except as otherwise provided in this Act, this Act and the amendments made by this Act, shall

take effect on the date of the enactment of this Act.

And the Senate agree to the same.

BILL GOODLING.  
HOWARD "BUCK" MCKEON.  
FRANK RIGGS.  
LINSEY GRAHAM.  
BOB SCHAFFER.  
W.L. CLAY.  
M.G. MARTINEZ.  
DALE KILDEE.

*Managers on the Part of the House.*

JIM JEFFORDS.  
DAN COATS.  
JUDD GREGG.  
BILL FRIST.  
MIKE DEWINE.  
MICHAEL B. ENZI.  
TIM HUTCHINSON.  
SUSAN COLLINS.  
JOHN WARNER.  
MITCH MCCONNELL.  
EDWARD M. KENNEDY.  
PAUL WELLSTONE.  
JACK REED.

*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1385) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—WORKFORCE INVESTMENT SYSTEMS

WORKFORCE INVESTMENT DEFINITIONS

The House bill provides definitions of the following terms: 'adult education and literacy activities'; 'basic skills deficient'; 'case management'; 'chief elected official'; 'citizenship skills'; 'community based organization'; 'dislocated worker'; 'displaced homemaker'; 'economic development agencies'; 'employment, training, and literacy programs'; 'English literacy program'; 'family'; 'family literacy services'; 'full service eligible provider'; 'Governor'; 'human resource programs'; 'individual of limited English proficiency'; 'individual with a disability'; 'institution of higher education'; 'labor market area'; 'literacy'; 'local benchmarks'; 'local board'; 'local educational agency'; 'local workforce development area'; 'lower living standard income level'; 'non-traditional employment'; 'offender'; 'on-the-job training'; 'outlying area'; 'participant'; 'postsecondary institution'; 'public assistance'; 'rapid response assistance'; 'representatives of employees'; 'school dropout'; 'Secretaries'; 'skill grant'; 'appropriate Secretary'; 'State'; 'State adjusted benchmarks'; 'State benchmark'; 'State educational agency'; 'statewide system'; 'supportive services'; 'termination'; 'unemployed individuals'; 'unit of general local government'; 'veteran'; 'vocational education'; and 'youth corps program'.

The Senate amendment provides definitions of the following terms: 'adult'; 'adult education'; 'area vocational education school'; 'chief elected official'; 'disadvantaged adult'; 'dislocated worker'; 'displaced homemaker'; 'economic development agencies'; 'educational service agency'; 'elementary school'; 'local educational agency'; 'eligible agency'; 'eligible institution'; 'eligible provider'; 'employment and training activity'; 'English literacy program'; 'Governor';

'individual of limited English proficiency'; 'individual with a disability'; 'institution of higher education'; 'literacy'; 'local area'; 'local partnership'; 'local performance measure'; 'low-income individual'; 'lower living standard income level'; 'nontraditional employment'; 'on-the-job-training'; 'out-of-school youth'; 'outlying area'; 'participant'; 'postsecondary educational institution'; 'poverty line'; 'public assistance'; 'rapid response activity'; 'school dropout'; 'secondary school'; 'Secretary'; 'State'; 'State educational agency'; 'State performance measure'; 'statewide partnership'; 'supportive services'; 'tribally controlled community college'; 'unit of general local government'; 'veteran'; 'vocational education'; 'vocational rehabilitation program'; 'vocational student organization'; 'welfare recipient'; 'workforce investment activity'; 'youth'; 'youth activity'; and 'youth partnership'.

In the Conference agreement, the House recedes on the definition of 'adult' with an amendment to change the age from 22 to 18; the Senate recedes on the definition of 'adult education'; the Senate recedes on the definition of 'area vocational education schools'; the Senate recedes on the definition of 'basic skills deficient' with an amendment to add writing to the definition; the Senate recedes on the definition of 'case management'; the House recedes on the definition of 'chief elected official'; the House recedes on the definition of 'citizenship skills'; the Senate recedes on the definition of 'community-based organization' with an amendment to clarify that the community-based organization has demonstrated effectiveness in the field of workforce development; the House and Senate add a definition of 'customized training'; the House recedes on the definition of 'disadvantaged adult'; the House recedes on the definition of 'dislocated worker'; the House recedes on the 'definition of 'displaced homemaker'; the Senate recedes on the definition of 'economic development agencies'; the House recedes on the definition of 'educational service agency'; the Senate recedes on the definition of 'elementary school'; the House recedes on the definition of 'eligible agency'; the Senate recedes on part A, and the House recedes on part B of the definition of 'eligible provider'; the House and Senate have the same definition of 'employment and training activity'; the House recedes on the definition of 'English literacy program'; the Senate recedes on the definition of 'family'; the Senate recedes on the definition of 'family literacy services'; the House recedes on the definition of 'full service eligible providers'; the Senate recedes on the definition of 'Governor'; the House recedes on the definition of 'human resource programs'; the House recedes on the definition of 'individual of limited English proficiency'; the House recedes on the definition of 'individual with a disability'; the House and Senate have the same definition of 'institution of higher education'; the Senate recedes on the definition of 'labor market area'; the House recedes on the definition of 'literacy'; the House recedes on the definition of 'local area'; the Senate recedes on the definition of 'local board' with an amendment to change the term to 'local workforce investment board'; the House recedes on the definition of 'local benchmarks' with an amendment to change the term to 'local performance measures'; the Senate recedes on the definition of 'local educational agency'; the Senate recedes on the definition of 'local partnership'; the House recedes on the definition of 'low-income individual'; the House recedes on the definition of 'lower living standard income level'; the House and Senate agree to use the current law definition of an older individual to define 'older worker'; the House recedes on the definition of 'nontraditional employment' with an

amendment to strike 'in titles I and III' from the definition; the Senate recedes on the definition of 'offender'; the Senate recedes on the definition of 'on-the-job training'; the House recedes on the definition of 'out-of-school youth' with an amendment to remove literacy from the list; the House recedes on the definition of 'outlying area'; the Senate recedes on the definition of 'participant'; the House recedes on the definition of 'postsecondary educational institutions'; the House recedes on the definition of 'poverty line'; the Senate recedes on the definition of 'public assistance'; the House recedes on the definition of 'rapid response activity'; the House recedes on the definition of 'representatives of employees'; the House recedes on the definition of 'school dropout'; the Senate recedes on the definition of 'Secretary' with an amendment to not include the Secretary of Education; the House recedes on the definition of 'secondary school' with an amendment; the House recedes on the definition of 'skill grant'; the Senate recedes on the definition of 'State'; the House recedes on the definition of 'State adjusted benchmarks'; the House recedes on the definition of 'State benchmark'; the Senate recedes on the definition of 'State educational agency'; the House recedes on the definition of 'State performance measure'; the House recedes on the definition of 'Statewide partnership' with an amendment to change the term to 'State board'; the House recedes on the definition of 'Statewide system'; the Senate recedes on the definition of 'supportive services' with an amendment to add housing; the Senate recedes on the definition of 'termination'; the House recedes on the definition of 'tribally controlled community college'; the Senate recedes on the definition of 'unemployed individuals'; the House recedes on the definition of 'unit of general local government'; the House recedes on the definition of 'veteran'; the House and Senate recede to strike the definition of 'vocational education'; the House recedes on the definition of 'vocational rehabilitation program'; the Senate recedes on the definition of 'vocational student organization'; the Senate recedes on the definition of 'welfare recipient'; the House recedes on the definition of 'workforce investment activity'; the House recedes on the definition of 'youth' with an amendment to change the term to 'eligible youth'; the House recedes on the definition of 'youth activity'; the House recedes on the definition of 'youth corps program'; the House recedes with an amendment to the definition of 'youth partnership' to change the term to 'youth council'.

#### STATE PROVISIONS

##### *State workforce investment boards*

The House bill requires States to establish a collaborative process consisting of the Governor, representatives of the State legislature, and representatives appointed by the Governor, with: business; local elected officials; local education agencies; postsecondary institutions; organizations representing participants (including community-based organizations); service providers; parents; employers; State Education Agency; State agencies responsible for vocational rehabilitation; welfare; vocational, adult and postsecondary education; such other agency officials as the Governor may designate (including economic development); and the Veterans' Employment and Training Service, to develop a single State plan for the three block grants, for programs authorized under the Wagner-Peyser Act, and a performance measurement system for the three block grant. The collaborative process would also be used to carry out other duties including designation of local workforce development areas, development of criteria for appoint-

ment of local workforce development boards, and development of criteria for the Statewide full-service employment and training delivery system.

The Senate amendment establishes a Statewide partnership with composition similar to the House provision except: (1) it adds individuals with experience relating to youth activities; it expands the illustrative list of additional State agencies to include the Employment Service and others; refers to representatives of "labor organizations" rather than "employees", and (2) it does not include representatives of local educational agencies, postsecondary institutions, organizations representing participants, service providers, parents, or the State agency responsible for welfare or veterans. In addition, the Senate requires that the chair of the partnership be a representative of business.

The Conference agreement establishes a State Workforce Investment Board composed of the Governor; members of the State legislature; a majority of representatives of business; chief elected officials; representatives of individuals with experience relating to youth activities; representatives of individuals with experience and expertise in the delivery of workforce investment activities (including chief executive officers of community colleges and community-based organizations); and officials of the lead State agency with responsibility for programs, services, and activities carried out by one-stop partners. The Conference agreement adds a conflict of interest provision which prohibits members of the State board from voting on matters regarding the provision of services by such member, matters that would provide direct financial benefit to such member or their immediate family, and other activities considered in conflict of interest by the Governor. Additionally, the Conference agreement contains a sunshine provision that requires information regarding activities of the State board, the plan prior to submission, its membership, and minutes of its formal meetings, to be made available to the public.

##### *State plan*

The House bill requires State to submit a 3-year plan that describes the statewide system as well as activities under the Wagner-Peyser Act and the Adult Education Act. The State plan must include long-term goals for the workforce development system and benchmarks for achieving those goals and ensuring continuous improvement.

With respect to approval of the State plan, the House bill provides that the State plan be approved unless the appropriate Secretary makes a written determination within 90 days of receipt that the plan is inconsistent with a specific provision of the Act.

The Senate amendment contains provisions similar to the House bill, except that the plan does not include Adult Education or reference to long-term goals. The Senate amendment includes similar plan controls regarding the identification and description of the State workforce system, descriptions and assurance on criteria for appointments, processes for public comment, and data and reporting.

With respect to approval of the State plan, the Senate amendment provides that the State plan be approved unless the appropriate Secretary makes a written determination within 60 days of receipt that the plan is: (1) inconsistent with the provisions of the title; (2) in the case of the Wagner-Peyser portion of the plan, does not meet the plan approval standard under that Act; or (3) the State and the Secretary have not reached agreement on the expected levels of performance.

The Conference agreement requires States to submit a plan that outlines a 5-year strategy for the statewide workforce investment system, including activities under Wagner-Peyser. The contents of the State plan follow the House and Senate provisions, specifically with respect to a description of the State board, performance accountability, state workforce and economic development information, and identification of local areas. Additionally, States are given the authority to require regional planning by workforce development areas in a single labor market area, economic development region or other appropriate contiguous sub-area of the state.

With respect to approval of the State plan, the Conference agreement generally follows the Senate amendment except to provide that State plans are considered approved unless the Secretary makes a written determination within 90 days of receipt of the State plan that the plan is inconsistent with the provisions of the title.

#### LOCAL PROVISIONS

##### *Local workforce investment areas*

The House bill requires that States desiring to receive a grant under this Act, designate local geographic areas, called workforce development areas, for the purpose of distributing funds. The House bill allows Governors to determine where geographic lines are drawn to form local workforce areas and guarantees automatic designation of single local units of government with populations of 500,000 or more who apply for designation.

The Senate amendment follows the House bill, with the exceptions that units of government with populations of 500,000 or more may request designation only with the agreement of the political subdivisions within the county with populations of 200,000 or more. Additionally, single units of general local government with populations of 200,000 or more that were previously Service Delivery Areas under the Job Training Partnership Act (JTPA) are given an automatic right to request designation as local areas. Such areas may appeal a denial of designation to the Secretary, who may grant the designation if the local area has demonstrated effectiveness and meets certain other criteria.

The Conference agreement requires States to designate local workforce areas through the process described in the State plan, and after consultation with chief elected officials. In making such designations, the Governor must take into consideration several factors such as labor market areas. The Conference agreement also requires the Governor to approve a request for designation from any single unit of general local government with a population of 500,000 or more. Additionally, Governors are required to approve a request for temporary designation, as a local area, from any unit, or combination of units, of local governments with a population of 200,000 or more that was a service delivery area under JTPA and performed successfully and has sustained fiscal integrity. Such temporary designation is limited to 2 years, after which the designation is to be extended until the end of the duration of the State plan if, for the period of the temporary designation, the Governor determines the area substantially met (as defined by the State board) the local performance measures for the area and sustained the fiscal integrity of the program. A process for appeal to the Secretary of Labor is outlined. Additionally, the Governor may approve any request from any unit, or combination of units, of local government, based upon a recommendation of the State board.

##### *Local workforce investment boards*

The House bill establishes local workforce development boards which are comprised of a

majority of representatives of business; representatives of local educational entities; representatives of community-based organizations, representatives of employees (which may include labor); and other representatives of the public (which may include program participants, parents, individuals with disabilities, older workers, veterans, or organizations serving such individuals). Boards may also include representatives of local welfare agencies, economic development agencies, and the local employment services system.

With respect to functions of local workforce investment boards, the House bill includes development of the local plan, selection of one-stop providers, identification of training providers, budgeting, program oversight, designation of administrative entity, and negotiation of local benchmarks. Additionally, local boards are authorized to act as the fiscal agent to receive and disburse funds, or may designate an alternate administrative entity to serve as the fiscal agent.

The Senate amendment establishes local workforce investment partnerships which are comprised of a majority of representatives of business; chief officers of postsecondary, adult and vocational education; chief officers of labor organizations; and chief officers of economic development agencies. Boards may also include chief officers from one-stop partners and other individuals or entities.

With respect to functions of local workforce investment boards, the Senate amendment adds to the House provisions: (1) promotion of the participation of private sector employment and the use of intermediaries to assist employers in meeting hiring needs; (2) coordination of the workforce investment activities with economic development strategies; and (3) assistance in the development of the labor market information system as functions of the local partnership. The Senate amendment does not include the designation of an administrative entity as a function of the local workforce investment board. Additionally, although the chief local elected official is the fiscal agent for funds allocated to the local area, the fiscal agent is required to disburse funds for workforce investment activities at the direction of the local partnerships.

In addition, the Senate amendment establishes a youth partnership in each local area to work, with the approval of the local partnership, on planning, awarding and oversight of grants for the youth programs. The youth partnerships are required to include parents as well as representatives of the local partnership, youth service agencies, public housing authorities, youth organizations, business, and Job Corps.

The Conference agreement establishes local workforce investment boards whose members are appointed by the chief elected officials and which are comprised of a majority of representatives of business; representatives of local educational entities; representatives of labor organizations; representatives of community-based organizations; representatives of economic development agencies; and representatives of each of the one-stop partners. Boards may also include others as determined by the local elected official. The Conference agreement includes language to require the actions of the Board to be available to the public and includes conflict of interest language for members of the Board.

In the Conference agreement, Governors may require regional planning, sharing of employment statistics, arrangements of the delivery of service, and performance measurements across labor market areas, regardless of workforce investment area designation, in order to ensure maximum efficiency

in the delivery of employment and training services.

With respect to functions of local workforce investment boards, the Conference agreement generally follows the House and Senate provisions to include: development of the local plan; designation, certification and oversight of one-stop operators; the provision of grants for youth activities; identification of eligible providers of intensive and training services; development and entry into memorandums of understanding with one-stop partners; development of a budget; negotiation of local performance measures; program oversight and assistance in development of a statewide employment statistics system; and coordination of employer linkages with workforce investment activities and promotion of the participation of private employers with the statewide workforce investment system.

With respect to youth partnerships, the Conference agreement establishes a "youth council" similar to the youth partnership established by the Senate amendment. The youth council would operate as a subgroup within each local workforce investment board and would be responsible for the selection and oversight of local youth programs.

##### *Local plan*

The House bill requires the local workforce development board and the local elected official to develop a 3-year local strategic plan to be submitted to the Governor for approval, describing the employment and job skills needs of the local area, the employment and training activities to be funded, local performance measures, and the local full service employment and training delivery system. The House bill also includes specific provisions relating to involving others in development of disadvantaged youth programs.

The Senate amendment requires the local workforce investment partnership, in partnership with the local elected official, to develop a local plan similar to that in the House bill, to be submitted to the Governor for approval.

The Conference agreement follows the House and Senate provisions with the exception to allow for development of a 5-year local plan. The submitted local plan is required to include an identification of the workforce investment and job skill needs of the local area; a description of the one-stop delivery system; the local levels of performance; the type and availability of adult and dislocated worker employment and training activities; a description of how the local board will coordinate statewide rapid response activities; a description of available local youth activities; a description of the process for providing for public comment; identification of the local fiscal agent; and other such information required by the Governor.

#### WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

##### *Establishment of one-stop delivery systems*

The House bill requires local workforce development areas to establish a full service employment and training delivery system to provide both individuals and employers access to services through a network of eligible providers. Services are available to participants regardless of where they initially enter the full-service system. The design of the full service system is determined by States and local communities, and requires that there be at least one physical location in each local workforce development area where participants can receive all of the core services, and through which they may access more intensive employment and training services. Any entity located in a local area

may be designated by the local board to provide services. Such entities may include institutions of higher education; local employment services offices established under the Wagner-Peyser Act; private, nonprofit organizations (including community-based organizations); private for-profit entities; agencies of local government; and other organizations of demonstrated effectiveness (which may include local chambers of commerce).

The Senate amendment requires States to establish at least one one-stop customer service center in each local area where the activities of the local participating entities must be accessible to all individuals seeking assistance. One-stop partners are designated by the local partnership and local chief elected official. Each one-stop partner must enter into an operating agreement with the local partnership and the one-stop operator. One-stop operators are selected by the local partnership and the chief elected official and may be public or private entities. One-stop centers administer the individual training accounts and provide core services. Entities eligible to be designated as providers of services are similar to those in the House bill except that nontraditional public secondary schools and area vocational education schools are eligible for designation.

The Conference agreement requires there be established a one-stop delivery system in each local workforce investment area. Such local systems shall provide core services, and access to intensive services, training and related services. Programs carried out by one-stop partners are required to make available to participants, through such system, the core services applicable to such programs administered by the one-stop partner or additional partners. The local board, chief elected official, and Governor are encouraged to retain existing one-stop delivery systems where such systems have been established and are effectively and efficiently meeting the workforce investment needs of the local area, and are performing to the satisfaction of the local board, chief elected official and the Governor. Additionally, the Conference agreement prohibits the designation or certification of elementary and secondary schools as one-stop operators.

#### *Identification of eligible providers of training services*

The House bill requires eligible providers of adult or dislocated worker services to submit specified performance-based information relating to outcomes of their participants, such as completion rates, and placement. Any eligible provider may lose eligibility if they fail to meet performance criteria established by the Governor. Additionally providers of on-the-job training and apprenticeship programs registered with the National Apprenticeship Act are exempt from certain requirements.

The Senate amendment is similar to the House bill, but does not include an exemption for registered apprenticeship programs from certain requirements.

In the Conference agreement local boards would be authorized to identify providers of training services at the local level based upon minimum criteria established by the Governor. To be eligible, providers submit an application to the local workforce investment board which includes performance and cost information. The local workforce investment board submits the list of such providers to the State, which may remove a provider in the event such provider fails to meet minimum levels of performance. Otherwise, such provider is considered an eligible provider. A participant with an Individual Training Account (ITA) may attend any provider on the State list. A program operated under title IV, and apprenticeship programs

(registered with the National Apprenticeship Act), are automatically eligible for the first year, and may remain on such State list unless they fail to meet the specified performance levels.

#### *Identification of eligible providers of youth activities*

The House bill authorizes the local workforce investment board to identify eligible providers of youth activities. Adult mentoring is required as an element of youth programs.

The Senate amendment authorizes the youth partnership to identify providers of youth activities.

The Conference agreement authorizes the local youth council, working through the local workforce investment board, to competitively award grants or contract to eligible youth providers.

#### YOUTH ACTIVITIES

##### *Authorization/State allotments*

The House bill reserves .25 percent for outlying areas. The remaining 99.75 percent is allotted to States under a formula based on  $\frac{1}{3}$  unemployment individuals in areas of substantial unemployment (greater than 6.5 percent),  $\frac{1}{3}$  excess number of unemployed individuals (greater than 4.5 percent), and  $\frac{1}{3}$  disadvantaged youth. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .25 percent applies for small states.

The Senate amendment contains a trigger when appropriations exceed \$1 billion. If the funding level is less than \$1 billion, the first .25 percent is reserved for outlying areas. Of the remaining 99.75 percent, the first \$15 million is reserved for Native American youth activities. The remaining funds are then allotted to States under a formula based on  $\frac{1}{3}$  unemployed individuals in areas of substantial unemployment,  $\frac{1}{3}$  excess number of unemployed individuals, and  $\frac{1}{3}$  economically disadvantaged youth. If the funding level is in excess of \$1 billion, before any amounts are reserved or allotted to States, up to \$250 million is assigned for Youth Opportunity grants, \$10 million for migrant youth activities, and \$10 million for youth academies. The remainder is then allotted per the above specifications. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .40 percent applies for small states.

The Conference agreement generally follows the Senate amendment with the exception that, from funding dedicated for Youth Opportunity grants (\$250 million in grants for high-poverty areas when State block grant funding exceeds \$1 billion), 4 percent is guaranteed for migrant youth programs. Additionally, the Conference agreement holds all States harmless at 100 percent of their FY 1998 funding allotments. A small State minimum of .3 percent would apply, as long as States receive their FY 1998 allotted levels. For new funds in excess of the FY 1998 funding levels, a .4 percent small State minimum would apply. However, "small States" are limited to those defined as "small States" under JTPA.

##### *Within State allocations*

The House bill reserves 25 percent of youth funds at the State level, 15 percent of which is for State youth activities with the remaining 10 percent to be used to make matching grants for school dropouts. The remaining 75 percent of State grant funds would be driven to the local level. Of that amount 70 percent, or more, would be disbursed based on a formula of  $\frac{1}{3}$  unemployed,  $\frac{1}{3}$  excess unemployed, and  $\frac{1}{3}$  economically disadvantaged adults. The remaining 30 per-

cent, or less, would be disbursed by a method determined through the State collaborative process.

The Senate amendment sends 85 percent of youth State grant funds to the local level in one of two ways as determined by the State. Either all 85 percent of the funds are driven to the local level through a formula based on  $\frac{1}{3}$  unemployed individuals in areas of substantial unemployment,  $\frac{1}{3}$  excess number of unemployed individuals,  $\frac{1}{3}$  disadvantaged adults (min. 90%); or States can choose to send 70 percent or more of those funds through the above formula with up to the remaining 30 percent being disbursed through a formula incorporating other factors relating to excess poverty and employment. This optional formula would be developed through the Statewide partnership and approved by the Secretary. The remaining 15 percent is reserved for Statewide activities. States may reserve not more than 15 percent from each of the three funding streams for statewide activities, with no more than 5 percent of that amount being used for administration. Funds from all three funding streams reserved for statewide activities and administration would be pooled at the state level, with statewide activities benefiting adults, dislocated workers, and youth.

The Conference agreement generally follows the Senate amendment except that consideration of rural, urban and suburban areas are included in the factors relating to excess poverty and employment used in the alternative formula.

##### *Use of funds*

The House bill requires programs providing youth activities to include summer employment linked directly to academic and occupational learning; postsecondary educational or training opportunities; an objective assessment of the academic and skill levels and service needs of each participant; service strategies that identify the employment goal; adult mentoring; the integration of academic, occupational and work-based learning opportunities; comprehensive guidance and counseling; and the involvement of employers and parents in the design and implementation of such programs.

The Senate amendment requires youth activities to include a summer jobs program; tutoring and instruction leading to the completion of secondary school; dropout prevention; and alternative secondary school for out-of-school youth in addition to employment skills training.

The Conference agreement program requirements for youth activities follow the House bill and Senate amendment. Program elements shall consist of tutoring, study skills training, and instruction leading to completion of secondary school (including dropout prevention strategies) alternative secondary school services; summer employment opportunities directly linked to academic and occupational learning; paid and unpaid work experiences as appropriate (including internships and job shadowing); occupational skill training; leadership development opportunities; supportive services; adult mentoring; follow-up services; and comprehensive guidance and counseling (which may include drug and alcohol abuse counseling and referral). Additionally, at least 30 percent of youth funds must be used to provide services to out-of-school youth.

##### *Youth opportunity grants*

The House bill authorizes, as a demonstration activity, projects that assist in providing comprehensive services to increase the employment rates of out-of-school youth residing in targeted high-poverty areas within Empowerment Zones and Enterprise Communities. In addition, the House bill reserves 10 percent of youth funds at the State level to

be used for out-of-school youth projects in high-poverty areas.

The Senate amendment reserves amounts appropriated for youth in excess of \$1 billion (up to \$250 million) for Youth Opportunity grants, which the Secretary may provide to assist youth in high-poverty areas located in Empowerment Zones/Enterprise Communities, high-poverty areas located on Indian reservations, or other high-poverty areas designated by the States.

The Conference agreement follows the Senate amendment.

#### ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES

##### *Authorization/State allotments*

The House bill establishes a single delivery system for all adults and dislocated workers while maintaining separate funding streams for each. For the Adult funding, .25 percent is reserved for outlying areas. The remaining 99.75 percent is allotted to States under a formula based on  $\frac{1}{3}$  unemployed individuals in areas of substantial unemployment,  $\frac{1}{3}$  excess number of unemployed individuals and  $\frac{1}{3}$  economically disadvantaged adults. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .25 percent applies for small states.

For dislocated workers, the House bill allots 80 percent to States, first reserving .25 percent for outlying areas, under a formula based on  $\frac{1}{3}$  unemployed individuals in areas of substantial unemployment,  $\frac{1}{3}$  excess number of unemployment individuals, and  $\frac{1}{3}$  long-term unemployment. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .25 percent applies for small states. The Department of Labor reserves the remaining 20 percent for skill upgrading and emergency grants.

The Senate amendment reserves .25 percent for outlying areas for adult activities. The remaining 99.75 percent is disbursed to States under a formula based on  $\frac{1}{3}$  unemployed individuals in areas of substantial unemployment,  $\frac{1}{3}$  excess number of unemployed individuals, and  $\frac{1}{3}$  disadvantaged adults. No State is allowed to receive less than 90 percent or more than 130 percent of the amount they received in the preceding fiscal year. A minimum allotment of .40 percent applies for small states.

For dislocated workers, States receive 80 percent of funds disbursed under a formula based on  $\frac{1}{3}$  unemployed individuals in areas of substantial unemployment,  $\frac{1}{3}$  excess unemployed individuals and  $\frac{1}{3}$  long-term (15 weeks or more) unemployment. The Department of Labor is allowed to reserve 20 percent of the amount available for allotment to States for outlying areas, dislocated worker demonstration projects, emergency grants, and dislocated worker activities technical assistance.

The Conference agreement generally follows the Senate amendment except that the Conference agreement holds all States harmless at 100 percent of their FY 1998 funding allotments. A small State minimum of .3 percent would apply, as long as States receive their FY 1998 allotted levels. For new funds in excess of the FY 1998 funding levels, a .4 percent small State minimum would apply. However, "small States" are limited to those defined as "small States" under JTPA.

##### *Within State allocations*

The House bill separately allocates funds to local workforce development areas for both adult and dislocated worker funding streams based upon State-determined for-

mulas. Under the Adult funding stream, 15 percent of funds would be held at the State level for adult activities only. The remaining 85 percent of funds would go to the local level. Of that amount, 70 percent or more would be disbursed based on a formula based on  $\frac{1}{3}$  unemployed,  $\frac{1}{3}$  excess unemployed and  $\frac{1}{3}$  economically disadvantaged adults. The remaining 30 percent, or less, would be disbursed by a method determined through the State collaborative process. The House bill includes a cap of 10 percent for local administration. Additionally, 20 percent of funds may be transferred between the adult and dislocated workers streams with approval of the Governor.

For dislocated workers, the House bill allows the State to reserve up to 30 percent for dislocated worker activities. The remaining 70 percent, or more, would be driven to the local level. Of that amount, 70 percent would be disbursed based on a formula of  $\frac{1}{3}$  unemployed,  $\frac{1}{3}$  excess unemployed, and  $\frac{1}{3}$  economically disadvantaged adults. The remaining 30 percent, or less, would be disbursed by a method determined through the State collaborative process.

The Senate amendment sends 85 percent of adult State grant funds to the local level in one of two ways that the State determines. Either all 85 percent of the funds are driven to the local level through a formula based on  $\frac{1}{3}$  unemployed individuals in areas of substantial unemployment (greater than 6.5 percent),  $\frac{1}{3}$  excess number of unemployed individuals, and  $\frac{1}{3}$  disadvantaged adults (min. 90%); or States can choose to send 70 percent, or more, of those funds through the above formula with up to the remaining 30 percent being disbursed through a formula incorporating other factors relating to excess poverty and employment. This optional formula would be developed through the Statewide partnership and approved by the Secretary. The remaining 15 percent is reserved for Statewide activities.

For dislocated workers, the Senate amendments sends 60 percent of State grant funds to the local level under a formula determined by the Governor to be based on: (1) insured unemployment data, (2) unemployment concentrations, (3) plant closings and mass layoff data, (4) declining industries data, (5) farmer-rancher economic hardship data, and (6) long-term unemployment data. Twenty-five percent of the State grant is to be used for rapid response activities. The remaining 15 percent is reserved for Statewide activities. The Senate amendment allows a 20 percent transfer, at the local level, between the Adult and Dislocated Worker funding streams.

Additionally, the Senate amendment allows States to reserve not more than 15 percent from each of the three funding streams (adult, dislocated and youth) for statewide activities, with no more than 5 percent of that amount being used for administration. Funds from all three funding streams reserved for statewide activities and administrative would be pooled at the State level, with Statewide activities benefiting adults, dislocated workers and youth.

The Conference agreement generally follows the Senate amendment except that consideration of rural, urban and suburban areas is included in the factors relating to excess poverty and employment used in the alternative formula.

##### *Use of funds*

In the House bill, services available to adults and dislocated workers and the local level include core services and training services. Training services include basic skills training; occupational skills training; on-the-job training; customized training; programs that combine workplace training with

related instruction, which may include cooperative education programs; private sector operated training programs; skill upgrading and retraining; entrepreneurial training; employability training; and customized training conducted with a commitment by an employer to employ an individual upon successful completion of the training. Additionally, participants unable to obtain employment through the core services may receive intensive services. (Intensive services include specialized assessments; individuals counseling and career planning; case management; and follow-up services.)

In the Senate amendment, services available to adults and dislocated workers at the local level include employment skills training; on-the-job training; job readiness training; adult education when combined with one of the other training activities; and other services deemed appropriate by the local partnership. Additionally, core services are provided through the one-stop customer service system. The Senate amendment provides no distinction for intensive services.

The Conference agreement generally follows the House bill including distinguishing intensive services from other types of services provided.

##### *Rapid response activities*

The House bill requires rapid response assistance to be provided by the State through an entity designated by the State. The House bill generally follows current law with respect to the activities under rapid response.

The Senate amendment generally follows the House bill with respect to rapid response.

The Conference agreement follows House and Senate provisions.

##### *Individual training accounts*

The House bill requires, for adult training, the use of career grants, which are defined as a voucher or credit, through which a participant chooses training among qualified providers. The House bill specifies four exceptions where training may be provided by contract in lieu of career grants: (1) on-the-job training; (2) where there are an insufficient number of qualified providers; (3) where qualified providers are unable to provide effective services to special populations; or (4) where training is to be provided by community-based organizations. Even where there are exceptions, it is required that participants be provided customer choice to the extent possible.

The Senate amendment contains provisions similar to the House bill regarding requirements for customer choice, except the term "Individual Training Account" is used in lieu of career grant. The two exceptions allow the use of contracting for training services are (1) on-the-job training; and (2) where the Governor issues a written waiver based on evidence that there are no available private or public providers.

The Conference agreement includes Individual Training Accounts (ITAs). The Conference agreement makes an exception to the use of Individual Training Accounts for on-the-job training; customized training; training services not provided by an eligible provider within the local workforce investment area; and training services offered by community-based organizations or other private organizations that serve "special participant populations", defined as those who face multiple barriers to employment (including individuals with substantial language or cultural barriers, offenders, or homeless).

##### GENERAL PROVISIONS

##### *Performance accountability system*

The House bill establishes indicators of performance for all adult, dislocated workers, and youth programs to be applied to

States as well as local areas. There are six core indicators relating to adult and dislocated worker programs, and four core indicators relating to the youth program. The Secretary of Labor is required to negotiate the expected levels of performance for each indicator with each State. States then negotiate expected levels of performance with each local area. Negotiations are to take into account special economic and demographic factors. Technical assistance, sanctions, and incentive funds are tied to actual performance.

The Senate amendment is similar to current law and establishes four core indicators of performance that apply to States and local areas. Indicators of performance apply separately to dislocated workers, economically disadvantaged adults, and youth. Additionally, the Senate amendment specifies performance-related information that is to be reported annually.

The Conference agreement generally follows the House bill and Senate amendment. The Conference agreement establishes four core indicators of performance relating to adults and dislocated workers and three core indicators of performance relating to activities for eligible youth. The process for negotiating expected levels of performance is similar to the process outlined in the House bill. States failing to meet expected performance levels after one year may request technical assistance or assistance in the development of a performance improvement plan. For States failing to meet expected performance levels for two consecutive years, the Secretary may reduce the amount of that State's grant by up to 5 percent. Funds resulting from such a reduction are to be used to provide financial incentives for States exceeding expected levels of performance.

#### JOB CORPS

The House bill retains Job Corps as a national program, but raises the minimum age to 16. The Secretary is required to consult with States and localities prior to establishing procedures for selecting center operators. As part of the selection process, applicants would need to pass a background check. Selection would be based, in part, on previous performance. The House bill outlines some procedures regarding the closure of centers, as well as provisions regarding the "zero tolerance" policy.

The Senate amendment strengthens linkages among Job Corps centers and the State workforce development systems and the local communities in which they are located. Assures that applicants are assigned to Job Corps centers nearest to where they reside, with certain exceptions. The Senate amendment also assures that Job Corps students would learn occupational skills in demand in their "home" labor market areas. Job Corps Center performance standards would be established for placement, retention, earning and skill gains of graduates, and students would be provided with follow-up counseling for up to 12 months after graduation.

The Conference agreement generally follows the Senate amendment.

#### NATIONAL PROGRAMS

##### *Native American programs*

The House bill generally follows current law and authorizes programs for Native Americans which can include comprehensive workforce and career development activities and supplemental services.

The Senate amendment generally follows the House bill, with the exception that it maintains the Native American Employment and Training Council from current law.

The Conference agreement generally follows the House and Senate provisions.

##### *Migrant and seasonal farmworker programs*

The House bill authorizes a program for migrant and seasonal farmworkers from cur-

rent law which is authorized to provide comprehensive workforce and career development activities and related services which may include employment, training, educational assistance, literacy assistance, an English literacy program, worker safety training, housing, supportive services, and the continuation of the case management database.

The Senate amendment generally follows the House bill except that it authorizes additional activities, includes dropout prevention activities, follow-up services for employed individuals, self-employment and related business enterprise development education, and technical assistance relating to capacity enhancement. The Senate amendment does not include the provision of housing as an authorized activity.

The Conference agreement follows the Senate amendment with the exception that the provision of housing remains as an authorized activity.

##### *Veterans*

The House bill retains the current law which authorizes the Secretary of Labor to conduct programs to meet the needs of "Vietnam era veterans" as well as veterans with service-connected disabilities, and veterans who are recently separated from military service.

The Senate amendment broadens the eligibility provision to add veterans with significant barriers to employment and veterans who served on active duty during war or campaign for which badges have been authorized.

The Conference agreement follows the Senate amendment.

##### *Demonstration, pilot, multiservice, research, multistate projects and evaluations*

The House bill contains provisions relating to technical assistance, national partnership grants, research, pilots and demonstration grants, and evaluations, that are similar to current law.

The Senate amendment requires the Secretary to develop a strategic plan for setting priorities for demonstrations, pilots, multiservice, research, multistate projects. Requires grants and contracts, under this section, to be awarded through a peer review process for awards over \$100,000. Dislocated worker projects are separately authorized; not more than 10 percent of dislocated worker funds reserved for the national emergency grants may be used for such projects.

The Conference agreement generally follows the Senate amendment with the exception that the peer review process applies only to applications for awards in excess of \$500,000.

##### *National emergency grants*

The House bill makes National Emergency Grants available to provide assistance to dislocated workers.

The Senate amendment expands eligibility for services under the Emergency Grants to include, in addition to dislocated workers, members of the armed forces and certain defense employees that are eligible for services under the current Defense Diversification Program.

The Conference agreement follows the Senate amendment.

##### *Civil rights/Labor standards*

The House bill generally incorporates the current law provisions for nondiscrimination; and provisions relating to wages, benefits, health and safety, non-displacement, and grievance procedures.

The Senate amendment also generally incorporates the current law provisions but adds title IX exemptions to the prohibition on sex discrimination and modifies the religious facility exemption consistent with the

National and Community Service Act regulations. The Senate amendment also similarly incorporates many of the labor standards from current law.

The Conference agreement generally follows the House and Senate provisions.

##### *Waivers*

The House bill includes authority for the Secretary to waive any statutory or regulatory requirements of the adult and youth training provisions of the Act and Wagner-Peyser, with exceptions for labor standards, nondiscrimination, and related provisions.

The Senate amendment clarifies that waivers previously granted to States may continue to be in effect under this Act for the duration of the waiver. Additionally, the Senate amendment includes provisions similar to the House bill with respect to general waivers of statutory or regulatory requirements. The Senate amendment also authorizes workforce flexibility plans to allow States to submit to the Secretary plans under which the State may provide waivers to local areas.

The Conference agreement follows the Senate amendment except for striking all references to "partnership".

##### *Drug testing provision*

The House bill has no provision.

The Senate amendment requires each eligible provider of training services to administer a drug test (1) on a random basis to individuals who apply to participate in training services, and (2) to participants in training where there is a reasonable suspicion of drug use. Each applicant must agree to submit to such tests and be dismissed from participation if they fail the test.

The Conference agreement strikes the Senate provision and replaces it with language to clarify that States shall not be prohibited from testing job training participants for the use of controlled substances. The Conference agreement stipulates that States may sanction individuals who test positive, as follows: 1) a six month ban from the program for the first positive test; and 2) similar to the Senate amendment, a 2-year ban from the program for subsequent positive tests. Additionally, if States use funds from this Act for such testing, the Conference agreement stipulates that such funds must come from State administrative expenses, which are limited to 5 percent of the total State training allotment.

#### REPEALERS

The House bill repeals Parts F, G, H, I, and J of title IV of the Job Training Partnership Act; title V of the Job Training Partnership Act; the National Literacy Act of 1991; and sections 303, 304, 305, and 306 of the Rehabilitation Act of 1973.

The Senate amendment repeals the Adult Education Act (20 U.S.C. 1201); Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note); title II of Public Law 95-250 (92 Stat. 172); the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.); Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211); subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.) except section 738 of such title (42 U.S.C. 11448); subchapter I of chapter 421 of title 49, United States Code; the Job Training Partnership Act (29 U.S.C. 1501 et seq.); title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

The Conference agreement follows the Senate amendment.

## TITLE II—ADULT EDUCATION AND FAMILY LITERACY PROGRAMS

*Title*

The House bill names this Act the "Adult Education and Family Literacy Act".

The Senate amendment names this Act the "Adult Education and Literacy Act".

The Conference agreement adopts the House title.

*Purpose*

The purpose of the House bill is to assist the States to provide educational skills for adults necessary for employment and self-sufficiency, as well as the skills necessary for the educational development of their children.

The purpose of the Senate amendment is to assist the States to provide education and literacy services to adults to enable them to become literate, complete a secondary education, and obtain the education skills necessary for the educational development of their children.

The Conference agreement blends the purposes in the House and Senate bills. It provides that the purpose is to assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency, assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children and assist adults in the completion of a secondary school education.

*Allocation of funds to eligible agencies*

The House bill provides an initial allotment of \$100,000 for each outlying area and \$250,000 for each eligible agency. The additional allotment would be distributed on the basis of a population age 16 through 60, who are without a high school diploma or the equivalent, who are not currently required to be enrolled in school, and who are not currently enrolled in secondary school. No eligible agency allotment would be less than 90 percent of its allotment in the preceding year.

The Senate amendment provides for initial allotments identical to those in the House bill. Remaining funds are to be distributed on the basis of population age 16 and over, who are without a high school diploma, or the equivalent, who are not currently required to be enrolled in school, and who are not currently enrolled in secondary school.

The Conference agreement adopts the House provisions.

*Eligible recipients*

The House bill specifies those entities eligible to receive grants from the eligible agency. Grants are to be made on a competitive basis and all eligible entities are to have direct and equitable access to funds.

The Senate amendment also specifies those entities eligible to receive grants from the eligible agency and includes language regarding direct and equitable access.

The Conference agreement blends the two lists and specifies the following as entities eligible to receive grants from the eligible agency: a local educational agency; a community-based organization of demonstrated effectiveness; an institution of higher education; volunteer literacy organizations of demonstrated effectiveness; a public or private nonprofit agency; other nonprofit institutions which have an ability to provide literacy services to adults and families; a library; public housing authorities; and a consortium of such agencies; organizations or institutions. The agreement adopts the House language requiring grants to be made on a competitive basis and includes language regarding direct and equitable access to eligible providers, including the use of the same announcement and application process.

*Use of funds by eligible agency*

The House bill provides that the eligible agency responsible for the administration of adult education and literacy programs would be authorized to spend funds directly for both program administration and other permissible activities. Other uses of eligible agency funds would include: professional development programs; technical assistance; State or regional literacy resource centers; monitoring and evaluation; incentives for coordination and performance awards, curriculum development; other Statewide activities for adult education and literacy; and support services such as transportation and child care. The House bill would require eligible agencies to use not less than 85 percent of available funds for local grants and allows them to reserve not more than 15 percent for State level activities, of which no more than 5 percent or \$50,000 could be used for administrative expenses.

The Senate amendment provides that the eligible agency responsible for the administration of adult education and literacy programs which be authorized to spend funds directly for program administration, State leadership activities, and programs for corrections education and other institutionalized persons. State leadership activities would include: professional development, curriculum development, monitoring and evaluation, development of performance measures, integration of literacy instruction with occupational skill training, developing linkages with postsecondary institutions, State or regional literacy resource centers, and other Statewide activities for adult education and literacy. The Senate would require eligible agencies to use not less than 80 percent of available funds for local grants and allows States to use not more than 20 percent for State leadership activities, of which no more than 5 percent of \$80,000 could be used for administrative expenses. Of the 80 percent reserved for local grants, the Senate amendment requires that eligible agencies make available not more than 10 percent of the funds reserved for grants to local providers for programs for corrections education and other institutionalized individuals.

The Conference agreement blends the two lists of activities and would include: the establishment or operation of professional development programs to improve the quality of instruction; the provision of technical assistance to eligible providers; the provision of technology assistance, including staff training, to eligible providers; support of State or regional networks of literacy resource centers; monitoring and evaluation of the quality of and the improvement in, activities and services authorized under this section; developing and disseminating curricula; integration of literacy instruction and occupational skill training and promoting linkages with employers; linkages with postsecondary institutions; incentives for coordination and performance awards; other activities of Statewide significance, and coordination with existing support services designed to increase enrollment in, and successful completion of, adult education and literacy activities. It requires eligible agencies to collaborate where possible and avoid duplicating efforts in order to maximize the impact of activities carried out under this Act. The agreement would require eligible agencies to use not less than 82.5 percent of available funds for local grants, and allow eligible agencies to use not more than 12.5 percent for State leadership activities and not more than 5 percent or \$65,000 for administrative expenses. The agreement adopts the Senate reservation for corrections education but modifies the program description to encourage dollars to be spent on criminal of-

fenders who will be released within five years and to change the reference to bilingual programs to English literacy programs.

*Priorities and preferences*

The House bill requires eligible agencies to consider a variety of factors in awarding grants to local providers.

The Senate amendment sets forth a list of priorities and preferences eligible agencies are to consider in funding local adult education and literacy activities.

The Conference agreement merges the two provisions and requires the following factors to be considered when awarding grants to provide: whether or not they are based on sound research; the past effectiveness of the provider in improving the literacy skills of adults and families; the commitment of the provider to serve those most in need of services; whether or not the program is of sufficient intensity and duration for participants to achieve substantial learning gains, and whether the program effectively employs technology, provides learning in real-life contexts, is staffed by well trained personnel, is coordinated with other available resources, maintains a high-quality information management system, funds communities that have a demonstrated need for English literacy programs, and establishes measurable goals for client outcomes.

*Use of funds by eligible recipients*

The House bill requires eligible recipients receiving a grant to conduct one of the following activities: adult education and literacy services, including services provided on a work site; family services, and English literacy programs. It limits to 5 percent the amount of the grant available for planning, administration, personnel development and interagency coordination.

The Senate amendment requires grants and contracts to eligible recipients to be used for programs or services that meet the purposes of the Adult Education and Literacy Act, such as adult education and literacy services and English literacy programs. It limits to 5 percent the amount recipients could use for planning, administration, personnel development and interagency coordination.

The Conference agreement adopts the House language but modifies it slightly to specifically reference workplace literacy services. Adoption of the House language would, for the first time, specifically allow the use of funds for family literacy programs.

*Eligible agency fiscal requirements*

The House bill requires eligible agencies to use their federal grants to supplement and not supplant other public funds spent for adult education and literacy activities. It requires the fiscal effort per student or the aggregate expenditures for adult education and literacy activities within the State to be maintained at a level not less than 90 percent of the previous year. Grants to eligible agencies would be reduced in proportion to the amount the eligible agency failed to meet this requirement. One quarter of the federal grant to each eligible agency would be required to be matched with non-federal funds used for adult education and literacy activities.

The Senate amendment contains similar supplement, not supplant language. It requires aggregate expenditures for adult education and literacy to be maintained at a level not less than 90 percent of the previous year but would not permit grants to any eligible agency failing to reach that level. The Senate amendment requires eligible agencies to provide an amount equal to 25 percent of the total amount of funds expended for adult education in the State from non-federal

sources. The Senate amendment allows that eligible agency's share to be in cash or in kind, fairly evaluated.

The Conference agreement adopts the House language on maintenance of effort but amends it to prevent an eligible agency reduction from bringing the per capita expenditure below the national average. The House recedes to the Senate language on supplement not supplant and the State share.

#### *Eligible agency plan requirements*

The House bill requires the eligible agency plan to include assurances for the coordination of adult education and job training programs within the State, describe the assessment to determine adult education needs, the use of funds, and an evaluation of program effectiveness. It would also provide assurances concerning direct and equitable access to all eligible recipients and an assurance regarding fiscal requirements of the program. Finally, it requires an assurance that at least one grant will be awarded to providers who offer flexible schedules and necessary support services to enable individuals to participate in adult education and literacy activities.

The Senate amendment would require eligible agencies to submit plans for a 3-year period. Such plans are to include an assessment to determine adult education needs and descriptions of the use of funds, evaluation procedures, the method of selecting local recipients, the measures to be taken to coordinate and avoid duplication of services among various federal education, training and human services programs, a description of the process to be used for public participation and comment with respect to the eligible agency plan and a description of how the eligible agency will develop program strategies for populations such as low-income students, individuals with disabilities, single parents, etc. Each plan would have to provide assurances regarding the fiscal requirements of the program.

The Conference agreement blends the provisions of the House and Senate bills. It adopts language requiring the submission of a 5-year plan. Plan components would include an assessment to determine adult education needs, a description of the use of funds, evaluation procedures, a description of how the eligible agency will develop program strategies for populations such as low-income students, individuals with disabilities, single parents, etc., assurances for the coordination of adult education and job training programs within the State. It adopts House language requiring an assurance that at least one grant will be awarded to providers who offer flexible schedules and necessary support services to enable individuals to participate in adult education and literacy activities except that it is amended to require that an effort be made to coordinate funds for support services prior to paying for them with adult education dollars.

It would also provide assurances concerning direct and equitable access to all eligible recipients and an assurance regarding fiscal requirements of the program. The eligible agency plan would also be required to describe the process used for public participation and comment consistent with the Senate amendment.

#### *Use of phonics*

The House bill contains numerous references to the use of instructional practices using phonemic awareness and systematic phonics.

The Senate amendment does not contain similar references.

The Conference agreement adopts the House language but amends such references to include fluency and reading comprehension as well.

#### *National Institute for Literacy*

The House bill continues the National Institute for Literacy for purposes of providing national literacy leadership, coordinating literacy services, and serving as a national resource for adult education and family literacy by disseminating information and supporting more effective services. Activities are similar to current law but place an emphasis on support for a national electronic database of information and for a network of State or regional adult literacy resource centers. The administrative structure would remain the same, except that the name of the National Institute Board would be changed to the National Institute for Literacy Advisory Board. The House bill requires the Secretary to reserve 1.5 percent of the amount appropriated, but not more than \$6,500,000, for the Institute.

The Senate amendment contains provisions similar to those in the House bill but does not cap funding for the Institute.

The Conference agreement would continue the National Institute for Literacy based on provisions in the House and Senate bills. There are few changes from current law. The Conferees are especially interested in the Institute taking a leadership role in improving reading instruction for youth and adults based on recent research supported by the National Institute for Health and identified by the National Academy of Sciences. The agreement requires the Secretary to reserve 1.5 percent of the amount appropriated, but not more than \$8,000,000, for the Institute.

#### *National activities—Department of Education*

The House bill would authorize the Secretary to carry out national activities to enhance the quality of adult education and family literacy nationwide, including technical assistance to States for developing and using performance measures, research on adult education methods and effectiveness, evaluation and assessment, and demonstration programs. The House bill would reserve 1.5 percent of the amount appropriated, but not more than \$6,500,000 to establish and carry out national leadership and evaluation activities.

The Senate amendment would authorize the Secretary to carry out national leadership and evaluation activities to enhance the quality of adult education and literacy nationwide, including research, demonstration, dissemination, evaluations and assessments, capacity building at the State and local levels, data collection, professional development and technical assistance. The Senate amendment would reserve 1.5 percent of the amount appropriated for national leadership and evaluation activities, but does not cap the amount available.

The Conference agreement blends the House and Senate National leadership activities. Authorized activities would include: technical assistance, dissemination of information on successful practices, improving the quality of adult education and literacy activities, research, demonstration programs, carrying out an independent evaluation and assessment of adult education and literacy activities, support efforts aimed at capacity building, collecting data and other activities to enhance the quality of adult education and literacy nationwide. The agreement requires the Secretary to reserve 1.5 percent of the amount appropriated, but not more than \$8,000,000, for national leadership and evaluation activities.

#### *Accountability*

The House will requires eligible agencies receiving funds under the Adult Education title to identify, in their plan, indicators and related levels of performance to be used to measure the State's progress in meeting the

State's long-term goals. Upon submission of the plan, the Secretary of Education is authorized to negotiate with each eligible agency, the expected levels of performance to be achieved.

The core indicators of performance for adult education and family literacy programs to include measures of achievement in the areas of reading, writing, language acquisition, problem solving, etc.; receipt of a high school diploma or its equivalent; entry into a postsecondary school, job retraining program, employment or career advancement; attainment of the literacy skills and knowledge individuals need to be productive and responsible citizens and become more actively involved with the education of their children, and such other measures as the eligible agency may wish to collect.

Eligible agencies that exceed the benchmarks or demonstrate continuing progress toward meeting them are eligible to receive incentive grant funds.

The Senate amendment contains a similar list of performance measures, including demonstrated improvements in literacy skill levels; attainment of secondary school diplomas or their equivalent, and placement in, retention in, or completion of postsecondary education, training, or unsubsidized employment.

The Conference agreement follows the House bill, although it uses the term "performance measures" instead of "benchmarks." It merges the two lists of specific indicators, except that language referring to the literacy skills and knowledge individuals need to be productive and responsible citizens is dropped and "measures of the success of family literacy programs" is listed among the other measures eligible agencies may wish to collect.

### **TITLE III—WORKFORCE INVESTMENT-RELATED ACTIVITIES**

#### **WAGNER-PEYSER ACT**

#### *Amendments to Wagner-Peyser*

The House bill retains a separate authorization and funding stream for Wagner-Peyser. It requires public labor exchange activities to be part of the one-stop system, integrates the Wagner-Peyser plan into the State Workforce Development plan, and amends several sections of the Wagner-Peyser Act.

The Senate amendment also retains a separate authorization and funding stream for Wagner-Peyser and integrates the labor exchange activities and plan into the workforce development system.

The Conference agreement generally follows the House bill and Senate amendment. The Conference agreement follows the Senate amendment with respect to function of the Secretary and approval of the plan.

#### *Employment Statistics*

The House bill retains the current labor market information provisions under JTPA.

The Senate amendment streamlines current provisions related to labor market statistics (LMI), strengthening the role of States and localities, and makes such information beneficial to individuals seeking employment.

The Conference agreement generally follows the Senate amendment except it renames the section as "Employment Statistics".

#### *21st Century Workforce Commission*

The House bill contains no provision. The Senate amendment establishes the 21st Century Workforce Commission to conduct a study of all matters relating to the information technology workforce in the United States. Composed of 21 members, the Commission is required to submit to the President and Congress their report within 6

months of their first meeting, and terminate within 90 days of that submission.

The Conference Agreement generally follows the Senate amendment with modifications to limit the number of Commission members to 15 (8 business, 1 labor, 2 State and local officials, 3 education, and 1 representing the research community in the field of information technology). The Secretaries of Education and Labor would be ex-officio members of the Commission.

#### *Prohibitions*

The House bills includes provisions that no provisions under this Act may be construed to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system. The House bill further includes a provision clarifying that nothing in this Act shall be construed to provide a local workforce investment board with the authority to mandate curricula for schools.

The Senate agreement includes a prohibition that none of the funds under the Act may be used for activities authorized under the School to Work Opportunities Act. The Senate bill also includes a provision clarifying that no funds under this Act may be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

The Conference agreement generally contains both the House and Senate provisions. Specifically the Conference agreement includes language that "None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 or to carry out, through programs funded under this Act, activities that were funded under the School-to-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act."

#### TITLE IV—REHABILITATION ACT AMENDMENTS OF 1998

##### GENERAL PROVISIONS

The House bill addresses several definitions including administrative costs, employment outcome, and public safety officer.

The Senate amendment addresses each definition considered by the House and several more definitions including: assessment for determining eligibility and vocational rehabilitation needs, construction, extended services, federal share, independent living core services and independent living services, individual with a disability, individual with a most significant disability, individual's representative/applicant's representative, local workforce investment board, the term "requires vocational rehabilitation services", significant disability, statewide workforce investment board, supported employment, supported employment services, underemployed, and workforce investment activities.

The Conference agreement accents the Senate amendment on a majority of definitions with the following few exceptions or qualifications: 1) "administrative costs" will be the definition in the current Department of Education regulations; 2) "construction" remains unchanged from current law; 3) "individual's representative/applicant's representative" does not include the descriptor 'advocate'; 4) the term "requires vocational rehabilitation services" is deleted; and 5) the definition of the term "underemployed" is eliminated. Those definitions relating back to other titles of the Workforce Investment Act mirror the meanings and definitions given them in those titles.

##### REPORTS ON PROGRAM OUTCOMES AND EVALUATIONS

The House bill requires that the annual report on vocational rehabilitation include data on the administrative costs for the Title I program.

The Senate amendment expands the performance and accountability information that is collected and reported on the vocational rehabilitation programs. The Senate amendment also requires the Commissioner to conduct studies and make analyses to identify exemplary practices in vocational rehabilitation. These studies would focus on subjects such as informed client choice, customer satisfaction, job placement and retention, assistive technology, and integrated employment.

The Conference agreement includes the requirement for reporting administrative costs contained in the House bill as well as the additional reporting requirement in the Senate amendment. The Conferees urge the Commissioner to direct current evaluation activities on identifying what works well, rather than continuing to seek to define, or in many cases, redefine, the chronic problems connected to the employment of individuals with disabilities.

##### VOCATIONAL REHABILITATION SERVICES *Statewide*

The House bill clarifies that the requirement for the State plan to be in effect in all political subdivisions of the State does not apply to cases in which private earmarked funds are used as state matching funds for particular geographic regions of the State, and is permitted without a waiver by the Commissioner.

The Senate amendment makes no change to current law.

The Conference agreement follows the clarifications in the House bill. These clarifications are necessary in light of recent Department of Education interpretations of these statutory provisions that are contrary to the legislative intent. The Conference agreement provides that earmarking of private funds for service delivery in particular geographic areas of the State is permitted without a waiver of the State's statewide obligations by the Commissioner if State funds are unavailable for the Federal match. This exception to the statewide requirements in section 101(a)(4)(B) is intended to allow States to use funds earmarked for a particular geographic location within the State as part of the State's non-Federal share under title I without obtaining a waiver of Statewide from the Commissioner.

In making these changes, the Conferees reaffirm the original purposes of the statewide provisions and the earmarked funds exception of Title I. The statewide provision is intended to ensure that, in general, State efforts are not purposely skewed to particular areas of a State, without approval from the Department of Education.

##### INFORMATION FOR INDIVIDUALS NOT COVERED UNDER THE STATE'S ORDER OF SELECTION CRITERIA

The House bill makes no change to current law.

The Senate amendment requires that all individuals eligible for vocational rehabilitation services, including those who do not receive services because the State is under an order of selection, receive at least information and referral services regarding access to the State workforce development system and other information to help the individual prepare for, secure, retain, or regain a job. A State may also provide additional counseling and guidance services.

The Conference agreement deletes the allowable State activities (but maintains the

authority to provide additional counseling and guidance services), expands the required information and referral services to include guidance, and specifies what a proper referral must be. The Conferees intend to alleviate the backlog of eligible individuals who do not receive services from the State vocational rehabilitation program because they do not meet the State's order of selection criteria. Many of these individuals do not receive services from the State workforce system and are inappropriately referred back to the State vocational rehabilitation program because they have a disability. The Conferees expect that through the changes made throughout the Conference agreement in integrating the State workforce system, States will serve individuals with disabilities throughout the entire State workforce system, not only through State vocational rehabilitation program.

##### COMPREHENSIVE SYSTEM OF PERSONNEL TRAINING

The House bill modifies the requirements in current law for a comprehensive personnel development system.

The Senate amendment adopts the majority of changes in the House bill and adds several additional requirements.

The Conference agreement maintains the requirements contained in current law. The Conferees believe that there is a continued need for a comprehensive system of personnel development, which was included in the Rehabilitation Amendments of 1992, in order to ensure that individuals with disabilities receive assistance from qualified vocational rehabilitation personnel.

##### *Interagency agreements*

The House bill makes no changes to current law.

The Senate amendment requires a State's Governor to ensure that the State's vocational rehabilitation agency enters into interagency agreements with appropriate public entities, including the State's workforce investment system, to provide vocational rehabilitation services more efficiently and comprehensively, to ensure cooperation among agencies which provide vocational rehabilitation services, and to ensure no duplication of services. While the Senate amendment does not detail what the agreements must contain or with whom they must be made, it does include requirements that the agreements contain a dispute resolution process and methods for defining financial responsibility.

The Conference agreement modifies the Senate amendment by 1) allowing the State's vocational rehabilitation chief administrator to consult with the Governor regarding the agreements and 2) specifying certain entities with which the State vocational rehabilitation agency must establish agreements. These entities include public institutions of higher education. The Conferees recognize that colleges and universities already have a responsibility to provide certain services under the Americans with Disabilities Act (ADA). The Conferees encourage State vocational rehabilitation agencies and public institutions of higher education, in developing interagency agreements, to consider the requirements of the ADA and other laws as well as agreements that may currently be in place. However, State vocational rehabilitation agencies should not interpret these "interagency agreement" provisions as shifting the obligation for paying for specific vocational rehabilitation services to colleges and universities. State vocational rehabilitation agencies still have that responsibility. Moreover, public institutions of higher education, as parties in interagency agreements, must agree to the terms of the interagency agreements, including the services that they are expected to provide.

*Cooperative agreements with other components of State workforce investment system*

The House bill makes no changes to current law.

The Senate amendment provides for cooperative agreements with other parts of a State's workforce investment system to allow for activities such as: staff training and technical assistance regarding vocational rehabilitation services and eligibility, common customer service procedures such as intake and human services hot lines, common dispute resolution procedures, and electronic links to share employment statistics and employment opportunities.

The Conference agreement mirrors the Senate amendment. The Conferees do not intend that this provision be confused with the provision outlining "Interagency Agreements." Interagency agreements are designed to assure cooperation not only among agencies within a State's workforce investment system, but more importantly outside the system. Interagency agreements also have specific provisions regarding the payment of services among these agencies. This section is designed to make the State vocational rehabilitation system more compatible with the State's workforce system and to underscore the links between the two systems.

*Coordination with education officials*

The House bill changed references in the area of transition services for students with disabilities from Individualized Written Rehabilitation Plan (IWRP) to Individualized Education Program (IEP) so that transition services may be provided under an IEP without requiring the development of a separate IWRP, or Individual Plan for Employment (IPE) as it is referred to in the House bill.

The Senate amendment requires the State plan to contain plans, policies and procedures for coordination between the vocational rehabilitation agency and local and State education officials in facilitating the transition of students with disabilities from secondary school to the workforce through vocational rehabilitation services.

The Conference agreement blends the House and Senate provisions. First, the Conference agreement specifically allows transition planning to be provided under an IEP without requiring the development of a separate IPE. Second, the Conferees also reaffirm the intent of the transition services provisions in the 1992 Vocational Rehabilitation Amendments, which according to the Senate report, was not "to shift the responsibility of service delivery from education to rehabilitation during the transition years" but rather to define the role of the rehabilitation system as "primarily one of planning for the student's years after leaving school." The Conference agreement encourages State vocational rehabilitation agencies to assist schools in identifying transition services in the development of the IEP (including participation in IEP meetings), and to participate in the cost of transition services for any student with a disability so long as those students have been determined eligible to receive vocational rehabilitation services. The nature of these services and the roles and responsibilities of each party are to be determined at the State or local level. However, State vocational rehabilitation agencies should not interpret the "interagency agreement" provisions as shifting the obligation for paying for specific transition services normally provided by those agencies to local school districts. State vocational rehabilitation agencies still have that responsibility. Further, school districts are parties in interagency agreements, and must agree to the terms of the interagency agreements and the services that they are expected to provide.

The Conferees intend for transition services to cover a wide range of activities that facilitate the transition of secondary school students with disabilities from school to post-school activities.

*Presumption of eligibility for recipients of SSDI and SSI*

The House bill makes no changes to current law.

The Senate amendment adds new language making individuals who receive SSI or SSDI benefits to be automatically eligible for vocational rehabilitation services.

The Conference agreement follows the Senate amendment. However, the Conferees do not intend to create any sort of entitlement to vocational rehabilitation services for individuals receiving SSI or SSDI benefits. To actually receive services, a person must have a disability and require vocational rehabilitation services to prepare for, secure, retain, or regain employment. The "presumption of eligibility" is only the first step in the overall evaluation of whether or not an individual with a disability will receive vocational rehabilitation services. People receiving SSI or SSDI have already met a much stricter standard as to whether they have a disability. Therefore there is no need to reestablish their eligibility in that regard for vocational rehabilitation. SSI and SSDI recipients must still, however, demonstrate their desire to work in order to receive vocational rehabilitation services. Moreover, the decision on whether an individual actually receives vocational rehabilitation services is based on the availability of funds in accordance with the State's order of selection criteria.

*Individual plans*

The House bill renames the *Individualized Written Rehabilitation Plan* (IWRP) as the *Individual Plan for Employment* (IPE). The bill enhances client control by requiring that clients have the opportunity to exercise informed choice in the development and implementation of their plans by selecting employment goals, services, providers, and methods to procure services, as well as providing for extended services.

The Senate amendment renames the IWRP as the *Individual Rehabilitation Employment Plan* (IREP), and follows the House bill in providing for informed client choice and extended services. The Senate amendment also establishes mandatory procedures and components for individual plans.

The Conference agreement follows the Senate amendment, except for adopting the House term of *Individual Plan for Employment*. The Conference agreement reflects the need to provide greater choice and involvement of vocational rehabilitation clients in developing their service plans. The Conferees expect that these changes will fundamentally change the role of the client-counselor relationship, and that in many cases counselors will serve more as facilitators of plan development.

*Improved and enhanced consumer choice*

The House bill strongly emphasize improved and enhanced consumer choice, especially through new language regarding the vocational rehabilitation consumer's role in his or her Individual Employment Plan.

The Senate amendment also emphasizes improved and enhanced consumer choice and requires assurances that vocational rehabilitation consumers or their appropriate representative be provided information and support services to assist the consumers in exercising informed choice throughout the rehabilitation process.

The Conference agreement adopts these views and expands the role of vocational rehabilitation consumers in the decisions regarding their job training. The Conferees be-

lieve that a consumer-driven program is most effective in getting people jobs. Therefore, the Conferees endorse increased independence for individuals with disabilities to informed choice.

*State Rehabilitation Council*

The House bill makes no changes to current law.

The Senate amendment expands the membership of the Council, increases the responsibilities of the Council, and adds additional functions. The Senate amendment also makes several changes to better integrate and coordinate vocational rehabilitation services in the State Workforce system.

The Conference agreement follows the Senate amendment. In doing so, the Conferees preserve the Council's advisory functions. The Conference agreement adds additional function that follow the Senate amendment in requiring that the Council and State agency jointly develop, agree to, and review State goals and priorities.

*American Indian vocational rehabilitation services*

The House bill makes no changes to current law.

The Senate amendment gives the Rehabilitation Services Administration the flexibility to make decisions about the duration of individual grants, but also allows for long-term grants that will contribute to the stability and effectiveness of services.

The Conference agreement follows the Senate amendment and adds language giving tribal vocational rehabilitation agencies the authority to provide vocational rehabilitation services to Native Americans who reside either on or near reservations. However, the Conferees do not intend this authority to require tribal vocational rehabilitation agencies to serve Native Americans not living on a reservation. It merely allows the agencies to do so if they choose.

RESEARCH AND TRAINING

*Research and training improvements*

The House bill eliminates the references to the compensation rate for the Director of the National Institute for Disability and Rehabilitation Research (NIDRR), and eliminates provisions related to the Deputy Director.

The Senate amendment follows the House bill regarding the appointment of the Director but retains references to the Deputy Director; eliminates provisions that requires the awarding of funds for pediatric rehabilitation and other areas, adds provisions that allow research grants to be made for research programs on the effectiveness of medical practices and on quality assurance in rehabilitation technology, and makes other improvements in focusing research funds on critical areas.

The Conference agreement follows the House bill regarding the appointment of the Director and Deputy Director of NIDRR. The Conference agreement follows the Senate amendment regarding the elimination of provisions requiring funding for specific projects and in allowing for grants in designated emerging research areas. The Conferees intend that information and findings from work funded by the Institute be effectively disseminated so that it is more accessible to the public, including individuals with disabilities. The Conferees also recognize that individuals with disabilities lack access to uniform, useful information about assistive technology devices and services. The Conferees urge NIDRR to assume a leadership role in promoting the identification, use, and acceptance of uniform information about common devices and services that permit individuals with disabilities to make informed decisions about such devices and services. However, the Conferees believe that

it would be inappropriate for NIDRR to contemplate or set standards for such devices and services.

PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

*Transfer and elimination of programs*

The House bill eliminates 22 programs by repealing sections 303 through 306 in Title III of current law and repealing authorized but unfunded programs in Title VIII.

The Senate amendment also repeals sections 303 to 306 in Title III, as well as the currently funded Reader Services and Interpreter Services programs, and all programs in Title VIII.

The Conference agreement consolidates into Title III the currently funded programs authorized under Title VIII. It also retains the currently funded Reader Services and Interpreter Services programs in Title III, and transfers the Grants for Demonstration Projects to Increase Choice, Braille Training Projects and Parent Information and Training Programs from Title VIII to Title III. Title VIII is repealed completely. Many of these programs were authorized for more than twenty years yet were never funded. The changes in the Conference agreement streamline the training and demonstration projects by consolidating them into a single section with flexible authority to address changing and emerging needs.

NATIONAL COUNCIL ON DISABILITY

*Duties and administration of the National Council on Disability*

The House bill makes no changes to current law regarding the National Council on Disability, other than extending the authorization for the Council.

The Senate amendment expands the membership of the Council, modifies the duties of the Council, and makes other changes related to the administration of the Council.

The Conference agreement follows the Senate amendment, but strikes the expansion of duties at the international level.

RIGHTS AND ADVOCACY

*Electronic and information technology regulations*

The House bill requires that the Director of the Office of Management and Budget establish procedures for each federal agency to provide written certification by September 30 of each year that is in compliance with the accessibility guidelines, and to oversee agencies in complying with the requirements. The House bill, however, makes no changes to the guidelines for electronic and information technology accessibility.

The Senate amendment makes significant changes to current law in the areas of accessibility and electronic and information technology standards. These changes include requiring Federal agencies to procure, maintain, and use electronic and information technology that provides individuals with disabilities with comparable access to what is available to individuals without disabilities. The Senate amendment also requires that the Architectural and Transportation Barriers Compliance Board with issuing electronic and information technology standards, establishes reporting requirements for Federal agencies, establishes complaint procedures, and clarifies individual rights of action relative to section 505 of the Act.

The Conference agreement follows the Senate amendment with several changes. The Conference agreement clarifies provisions in order to be consistent with the Clinger-Cohen Act of 1996, clarifies procedures relating to the extent of the Federal government's responsibilities in providing public access to information, and modifies the procedures for filing complaints.

EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

*Expanding employment opportunities*

The House bill makes no changes to current law.

The Senate amendment emphasizes expanded employment opportunities for individuals with disabilities by authoring funding for two new types of projects: projects in telecommuting and projects in self-employment.

The Conference agreement deletes the authority related to the new projects in the Senate amendment, reflecting the Conferees' intention to streamline and consolidate programs in the Rehabilitation Act. However, the Conferees agree and fully intend that telecommuting and self-employment be viable employment outcomes for recipients of vocational rehabilitation services who want such opportunities. These amendments are supported by amendments to Title I of the Act.

INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

*State Independent Living Councils*

The House bill makes no changes to current law.

The Senate amendment adds at least one representative of the directors of projects serving American Indians with disabilities to the State Independent Living Councils and clarifies the means by which the minimum allotments are adjusted for inflation, and other technical changes.

The Conference agreement adopts the Senate amendments.

TITLE V—GENERAL PROVISIONS

*Unified plan*

The House bill contains no provision.

The Senate amendment allows States to submit a unified plan to the Secretary to fulfill the State plan requirements of training activities for adults, dislocated workers and youth; adult education; and secondary and postsecondary vocational education.

The Conference agreement generally follows the Senate amendment with the exception that the State legislature must approve the inclusion of secondary vocational education in the unified plan.

*Incentive grants*

The House bill authorizes the Secretary of Labor to award incentive grants to States that: (1) exceed levels of performance; (2) demonstrate continuing progress towards exceeding benchmarks; and (3) demonstrate significant progress in the coordination and integration of programs.

The Senate amendment authorizes the Secretary of Labor to award incentive grants to States that exceed the expected levels of performance for performance measures established under the workforce development and adult education titles and vocational edu-

cation. Special consideration is to be given to States achieving the highest level of performance related to employment retention and earnings. Funds are to be used for innovative projects.

The Conference agreement generally follows the Senate amendment except that States must apply for such incentive grants, and are only eligible to receive incentive grants if they consult with their State legislature in development of their application. The application must have the approval of the Governor, the State agency responsible for adult education, and the State agency responsible for vocational education. Grant funds would be required to be spent to carry out innovative training, adult education, or vocational education programs consistent with the requirements of this Act and the Carl D. Perkins Vocational Education Act accordingly. Applications would be developed with the assistance of the State board.

*Authorization of appropriations/Effective date/Transition*

The House bill authorizes such sums for five years (FY 1999–FY 2003). The House bill takes effect July 1, 1998. The Secretaries are authorized to take such steps as they determine appropriate to provide for an orderly transition from authorities amended or repealed by the Act.

The Senate amendment authorizes such sums for six years (FY 1999–FY 2004). In general, the Senate amendment takes effect July 1, 1999 (except for the 21st Century Workforce Commission authority which takes effect upon enactment). The Secretary of Labor is authorized to take steps to provide for the orderly transition to the authority of the bill. Additionally, the Governor may use funds made available under any provision of law repealed by the bill to implement the bill prior to its effective date.

The Conference agreement takes effect upon the date of enactment, unless otherwise set forth in the Act and authorizes such sums for five years (FY 1999–FY 2003). The Conference agreement generally follows the House bill and Senate amendment with respect to transition.

BILL GOODLING.  
HOWARD "BUCK" MCKEON.  
FRANK RIGGS.  
LINDSEY GRAHAM.  
BOB SCHAFFER.  
W.L. CLAY.  
M.G. MARTINEZ.  
DALE KILDEE.

*Managers on the Part of the House.*

JIM JEFFORDS.  
DAN COATS.  
JUDD GREGG.  
BILL FRIST.  
MIKE DEWINE.  
MICHAEL B. ENZI.  
TIM HUTCHINSON.  
SUSAN COLLINS.  
JOHN WARNER.  
MITCH MCCONNELL.  
EDWARD M. KENNEDY.  
CHRIS DODD.  
PAUL WELLSTONE.  
JACK REED.

*Managers on the Part of the Senate.*

**NOTICE**

***Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.***

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RIGGS (at the request of Mr. ARMEY) for July 30 and 31 on account of personal reasons.

Mr. YATES (at the request of Mr. GEPHARDT) after 7 p.m. today for physical reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TRAFICANT) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. FALCOMA, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. BENTSEN, for 5 minutes, today.

(The following Members (at the request of Mr. BURR of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS, for 5 minutes, today.

Mr. CAMPBELL, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. DELAURO, and to include extraneous material on H.R. 4194, in the Committee of the Whole today regarding the children's sleepwear amendment.

(The following Members (at the request of Mr. TRAFICANT) and to include extraneous material:)

Mr. SANDERS.

Mr. KIND.

Mr. BENTSEN.

Ms. MCCARTHY of Missouri.

Mr. STARK.

Mr. HAMILTON.

Mr. ABERCROMBIE.

Mr. FORD.

Mr. SERRANO.

Mr. KUCINICH.

Mr. VENTO.

Mr. BLAGOJEVICH.

Mr. KENNEDY of Massachusetts.

Ms. JACKSON-LEE of Texas.

Mrs. MALONEY of New York.

Mr. HOYER.

Mr. RANGEL.

Mr. ETHERIDGE.

Mr. MARKEY.

Mrs. CLAYTON.

Mr. HINCHEY.

Ms. LEE.

Ms. MILLENDER-MCDONALD.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURR of North Carolina) and to include extraneous material:)

Mr. EHRLICH.

Mr. SAXTON.

Mr. MCKEON.

Mr. DELAY.

Mr. FORBES.

Mr. SPENCE.

Mr. FRANKS of New Jersey.

Mr. CALVERT.

Mr. NEY.

Mr. RADANOVICH.

Mr. SMITH of New Jersey.

Mr. SMITH of Oregon.

Mr. RIGGS.

Ms. ROS-LEHTINEN.

## BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 39. An act to reauthorize the African Elephant Conservation Act.

## ADJOURNMENT

Mr. BURR of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 3 minutes a.m.), under its previous order, the House adjourned until today Thursday, July 30, 1998, at 1 p.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10359. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule—Subordination of Direct Loan Security to Secure a Guaranteed Line of Credit; Correction (RIN: 0560-AE92) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10360. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement [DFARS Case 97-D012] received July 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

10361. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Resolution and Receivership Rules (RIN: 3064-AB92) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10362. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Department of Health and Human Services, transmitting the Administration's final rule—Oral Dosage Form New Animal Drugs; Bacitracin Methylene Disalicylate Soluble [21 CFR Part 520] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10363. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementa-

tion Plans; Colorado; 1993 Periodic Carbon Monoxide Emission Inventories For Colorado [CO-001-0024a; FRL-6124-4] received July 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10364. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption And Water Use Of Certain Home Appliances And Other Products Required Under The Energy Policy And Conservation Act ("Appliance Labeling Rule") received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10365. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 97F-0405] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10366. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives Permitted in Food for Human Consumption [Docket No. 94F-0040] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10367. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations; Clarifying Amendments and Corrections (RIN: 3150-AE07) received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10368. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List; Additions—received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10369. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Public Availability of Information; Electronic FOIA Amendment [Docket No. OST-96-1430; Amdt. 1] (RIN: 2105-AC69) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

10370. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Management Measures for Nontrawl Sablefish [Docket No. 980406085-8164-01; I.D. 031198C] (RIN: 0648-AJ27) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10371. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Indiana Regulatory Program [SPATS No. IN-130-FOR; State Program Amendment No. 95-8] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10372. A letter from the Chief, Regulations Division Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting the Department's final rule—Posting of Signs and Written Notification to Purchasers of Handguns [T.D. ATF-402; Ref. Notice No. 855] (RIN: 1512-AB68) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10373. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes [Docket No. 98-NM-209-AD; Amendment 39-10665; AD 98-15-14] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10374. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29280; Amdt. No. 1878] (RIN: 2120-AA65) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10375. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29281; Amdt. No. 1879] (RIN: 2120-AA65) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10376. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328-100 Series Airplanes [Docket No. 98-NM-133-AD; Amendment 39-10662; AD 98-15-11] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10377. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Porterville, CA [Airspace Docket No. 98-AWP-2] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10378. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Ukiah, CA [Airspace Docket No. 98-AWP-11] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10379. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D and Establishment of Class E Airspace; Yuma MCAS-Yuma International Airport, AZ; Correction [Airspace Docket No. 98-AWP-14] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10380. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29282; Amdt. No. 1880] (RIN: 2120-AA65) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10381. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 98-NM-117-AD; Amendment 39-10661; AD 98-15-10] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10382. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes [Docket No. 98-NM-149-AD; Amendment 39-10663; AD 98-15-12] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10383. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes [Docket No. 98-NM-230-AD; Amendment 39-10658; AD 98-15-07] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10384. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146-RJ Series Airplanes [Docket No. 97-NM-02-AD; Amendment 39-10659; AD 98-15-08] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10385. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320-111 and -211 Series Airplanes [Docket No. 97-NM-160-AD; Amendment 39-10660; AD 98-15-09] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10386. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 and Model A321 Series Airplanes [Docket No. 94-NM-94-AD; Amendment 39-10657; AD 98-15-06] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10387. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes [Docket No. 97-CE-92-AD; Amendment 39-10664; AD 98-15-13] (RIN: 2120-AA64) received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10388. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Amendments to the Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Organic Pesticide Chemicals Manufacturing Industry—Pesticide Chemicals Point Source Category [FRL-6126-6] received July 23, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10389. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Investment Companies [13 CFR Part 107] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10390. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Payment for Non-VA Physician Services Associated with Either Outpatient or Inpatient Care Provided at Non-VA Facilities (RIN: 2900-AH66) received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10391. A letter from the Chief Counsel, Department of the Treasury, transmitting the Department's final rule—Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and BONDS [31 CFR Part 356] received July 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10392. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rules and Regulations [Revenue Ruling 98-37] received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10393. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Treatment Of Loans With Below-Market Interest Rates [Revenue Ruling 98-34] received July 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. House Joint Resolution 120. Resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam; adversely (Rept. 105-653). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3482. A bill to designate the Federal building located at 11000 Wilshire Boulevard in Los Angeles, California, as the "Abraham Lincoln Federal Building" (Rept. 105-654). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3598. A bill to designate the Federal building located at 700 East San Antonio Street in El Paso, Texas, as the "Richard C. White Federal Building" (Rept. 105-655). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. S. 2032. A act to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building"; with amendments (Rept. 105-656). Referred to the House Calendar.

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 3736. A bill to amend the Immigration and Nationality Act to make changes relating to H-1B nonimmigrants; with an amendment (Rept. 105-657). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 507. Resolution providing special investigative authority for the Committee on Education and the Workforce; with an amendment (Rept. 105-658). Referred to the House Calendar.

Mr. GOODLING: Committee of Conference. Conference report on H.R. 1385. A bill to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes (Rept. 105-659). Ordered to be printed.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CRANE (for himself and Mr. MATSUI):

H.R. 4342. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 4343. A bill to amend the Congressional Budget Act of 1974 regarding the application of points of order to unreported measures in the House of Representatives; to the Committee on Rules, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEFAZIO (for himself, Mr. ABERCROMBIE, Mr. ALLEN, Mr. ANDREWS, Mr. ACKERMAN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BLUMENAUER, Mr. BOEHLERT, Mr. BORSKI, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mr. BUYER, Mrs. CAPPAS, Ms. CARSON, Mr. CHAMBLISS, Mrs. CLAYTON, Mr. CLAY, Mr. COSTELLO, Ms. DANNER, Mr. DELAHUNT, Ms. DELAURO, Mr. DIXON, Mrs. EMERSON, Mr. ENGEL, Mr. ENGLISH of Pennsylvania, Mr. FARR of California, Mr. FATTAH, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FRELINGHUYSEN, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GEKAS, Mr. GILCHREST, Mr. GREEN, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HILLIARD, Mr. HINCHEY, Mr. HOLDEN, Ms. HOOLEY of Oregon, Mr. HULSHOF, Mr. HUTCHINSON, Mr. JACKSON, Mrs. JOHNSON of Connecticut, Mr. JONES, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KIND of Wisconsin, Mr. KINGSTON, Ms. KILPATRICK, Mr. LAFALCE, Mr. LEWIS of Georgia, Mr. LOBIONDO, Ms. LOFGREN, Mrs. LOWEY, Mr. MANTON, Mrs. MALONEY of New York, Mr. MARKEY, Mr. MARTINEZ, Mr. MASCARA, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCNULTY, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MEEKS of New York, Mr. METCALF, Mr. MILLER of California, Ms. MILLENDER-MCDONALD, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mrs. MORELLA, Mr. MURTHA, Mr. NADLER, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PASCRELL, Mr. PAUL, Mr. PAYNE, Mr. PETERSON of Minnesota, Mr. POSHARD, Mr. QUINN, Mr. RAHALL, Mr. REGULA, Mr. ROEMER, Mr. ROMERO-BARCELO, Mr. ROTHMAN, Ms. SANCHEZ, Mr. SANDERS, Mr. SANDLIN, Mr. SAWYER, Mr. SAXTON, Mr. SCOTT, Mr. SCHUMER, Mr. SERRANO, Mr. SHAYS, Mr. SKELTON, Mr. ADAM SMITH of Washington, Mr. SMITH of New Jersey, Mr. SPRATT, Mr. STEARNS, Mr. STENHOLM, Mr. STRICKLAND, Mr. STOKES, Mr. TOWNS, Mr. UNDERWOOD, Mr. WALSH, Mr. WATTS of Oklahoma, Mr. WATKINS, Mr. WAXMAN, Mr. WEXLER, Mr. WEYGAND, Mr. WHITFIELD, and Ms. WOOLSEY):

H.R. 4344. A bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. CHENOWETH (for herself, Mr. BOYD, Mr. PETERSON of Pennsylvania, Mr. CANNON, Mr. MCINNIS, and Mr. ROGERS):

H.R. 4345. A bill to authorize the continued use on national forest and other public lands of the alternative arrangements that were approved by the Council on Environmental Quality for windstorm-damaged national forests and grasslands in Texas; to the Committee on Resources.

By Mr. BUNNING of Kentucky:

H.R. 4346. A bill to amend the Internal Revenue Code of 1986 to provide exemptions from taxation with respect to public safety officers killed in the line of duty; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 4347. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the United States Capitol, and for other purposes; to the Committee on Transportation and Infra-

structure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS:

H.R. 4348. A bill to amend section 5137 of the Revised Statutes of the United States to allow national banks to continue to hold passive investments in certain subsurface rights acquired in the course of the banking business and carried on the books of the bank for a nominal amount; to the Committee on Banking and Financial Services.

By Mr. SMITH of New Jersey (for himself, Mr. ENGLISH of Pennsylvania, Mr. PAUL, Mr. ENSIGN, and Mr. SHAYS):

H.R. 4349. A bill to amend the Internal Revenue Code of 1986 to provide for an exception from penalty tax and exclusion from income for certain amounts withdrawn from certain retirement plans for qualified long-term care insurance and a credit for taxpayers with certain persons requiring custodial care in their households; to the Committee on Ways and Means.

By Mr. STEARNS (for himself, Mr. OXLEY, and Mr. LARGENT):

H.R. 4350. A bill to amend title 18, United States Code, to prohibit Internet gambling, and for other purposes; to the Committee on the Judiciary.

By Mr. STUPAK:

H.R. 4351. A bill to amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Parks Advisory Commission; to the Committee on Resources.

By Mr. TAUZIN (for himself and Mr. MARKEY):

H.R. 4352. A bill to amend the Communications Act of 1934 to improve competition in the multichannel video programming distribution market, and for other purposes; to the Committee on Commerce.

By Mr. STUPAK:

H. Res. 512. A resolution expressing the sense of the House of Representatives that the President should focus appropriate attention on the issue of neighborhood crime prevention, community policing and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority; to the Committee on the Judiciary.

#### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. SAM JOHNSON.

H.R. 74: Mr. FILNER and Ms. BROWN of Florida.

H.R. 164: Mr. MCNULTY, Mr. DOOLEY of California, Mr. DAVIS of Virginia, Mr. DICKS, and Mr. SHERMAN.

H.R. 979: Mr. BILIRAKIS.

H.R. 1073: Mr. LUTHER.

H.R. 1111: Mr. HAYWORTH, Mr. MEEKS of New York, Mr. BONIOR, Mr. HOLDEN, Mr. GOODE, Mr. STARK, and Mr. MILLER of California.

H.R. 1126: Mr. GOODLING, Mr. CARDIN, Mr. FOX of Pennsylvania, Mr. GEKAS, Mr. TALENT, Mr. PITTS, and Mr. HULSHOF.

H.R. 1134: Mr. WELLER.

H.R. 1202: Mrs. JOHNSON of Connecticut.

H.R. 1231: Ms. KAPTUR, Mr. KLECZKA, and Mr. CUMMINGS.

H.R. 1321: Mrs. THURMAN and Mr. HILLIARD.

H.R. 1356: Mr. INGLIS of South Carolina.

H.R. 1383: Mr. RIGGS.

H.R. 1450: Mr. KLING.

H.R. 1542: Mrs. BONO.

H.R. 2023: Mr. BISHOP.

H.R. 2397: Mr. KILDEE, Ms. BROWN of Florida, Mr. SNOWBARGER, Mr. JOHN, Mr. ABERCROMBIE, Mr. NUSSLE, Ms. DUNN of Washington, and Mr. BACHUS.

H.R. 2408: Ms. MCCARTHY of Missouri.

H.R. 2468: Mr. RANGEL.

H.R. 2497: Mr. RIGGS.

H.R. 2568: Mr. MCINTYRE.

H.R. 2635: Mr. DAVIS of Virginia.

H.R. 2660: Mr. MARTINEZ.

H.R. 2670: Mr. FOLEY.

H.R. 2697: Mr. GOODE, Mr. KILDEE, and Mr. FORD.

H.R. 2721: Mrs. MYRICK.

H.R. 2723: Mr. WATTS of Oklahoma.

H.R. 2828: Mr. GILMAN, Mr. STOKES, Ms. WATERS, Mr. ENGLISH of Pennsylvania, Mr. MANTON, Mr. BOYD, Mr. PASTOR, Mr. SAXTON, Mr. BILIRAKIS, Mr. RAMSTAD, Mr. CHAMBLISS, Mr. WATTS of Oklahoma, Mr. SOLOMON, Mr. REGULA, and Mr. ACKERMAN.

H.R. 2882: Mrs. BONO and Mr. SCHUMER.

H.R. 2900: Mr. MATSUI.

H.R. 2914: Mr. GREENWOOD and Mr. CRAMER.

H.R. 2931: Mr. RANGEL.

H.R. 2953: Mr. HASTINGS of Florida, Mr. FRANK of Massachusetts, and Ms. KILPATRICK.

H.R. 2968: Mr. ROMERO-BARCELO.

H.R. 2990: Mr. DAN SCHAEFER of Colorado, Mr. COLLINS, Mr. MILLER of California, and Ms. GRANGER.

H.R. 3008: Mr. FORBES.

H.R. 3050: Mr. GEJDENSON and Mr. BOUCHER.

H.R. 3070: Mr. MCGOVERN, Ms. LOFGREN, and Mr. DEFAZIO.

H.R. 3081: Mr. BLUMENAUER and Ms. STABENOW.

H.R. 3177: Mr. BARTLETT of Maryland.

H.R. 3181: Mr. RANGEL.

H.R. 3207: Mr. SCHUMER.

H.R. 3217: Mr. PORTMAN and Mr. TANNER.

H.R. 3231: Ms. JACKSON-LEE.

H.R. 3248: Mr. BUYER and Mr. BRADY of Texas.

H.R. 3261: Mr. HOSTETTLER.

H.R. 3262: Ms. MCCARTHY of Missouri and Mr. FORD.

H.R. 3284: Mr. SNYDER.

H.R. 3304: Mr. BLUMENAUER.

H.R. 3320: Ms. MILLENDER-MCDONALD.

H.R. 3341: Mr. PALLONE.

H.R. 3501: Mr. MCCREERY.

H.R. 3550: Mr. THOMPSON.

H.R. 3567: Mr. MANZULLO.

H.R. 3610: Mr. BARTLETT of Maryland.

H.R. 3688: Mr. STENHOLM, Mr. COMBEST, Mr. FROST, Mr. SESSIONS, Mr. BONILLA, Mr. DOOLEY of California, Mr. BARTON of Texas, and Mr. BUNNING of Kentucky.

H.R. 3741: Mr. TRAFICANT.

H.R. 3747: Mr. SANDLIN.

H.R. 3773: Mr. KUCINICH.

H.R. 3795: Mr. ENGEL.

H.R. 3814: Mr. LEWIS of Georgia, Mrs. MINK of Hawaii, Mrs. THURMAN, Mr. KILDEE, Mr. RANGEL, and Mr. ALLEN.

H.R. 3821: Mr. LAHOOD, Mr. MARKEY, Mr. FORD, Ms. HARMAN, Mr. SKAGGS, Ms. PELOSI, and Mr. TOWNS.

H.R. 3831: Mr. LANTOS and Mr. FORD.

H.R. 3865: Mr. ENGEL.

H.R. 3879: Ms. DANNER, Mr. COMBEST, and Mr. INGLIS of South Carolina.

H.R. 3916: Mr. FARR of California, Mr. BARCIA of Michigan, Mr. STRICKLAND, and Ms. KAPTUR.

H.R. 3925: Mr. MARTINEZ.

H.R. 3932: Ms. FURSE and Mr. OWENS.

H.R. 3981: Mrs. JOHNSON of Connecticut, Mr. HOUGHTON, Mr. DELAHUNT, Mr. ENGLISH of Pennsylvania, Ms. MCCARTHY of Missouri, Mr. PICKETT, Mr. DAVIS of Virginia, and Mr. SCOTT.

H.R. 4006: Mr. DOYLE, Mr. PETERSON of Minnesota, Mr. LAHOOD, Mrs. MYRICK, Mr. GOODLATTE, Mr. PEASE, Mr. SUNUNU, and Ms. PRYCE of Ohio.

H.R. 4007: Mr. HANSEN and Mr. OWENS.  
H.R. 4037: Mr. SKEEN, Mr. SNOWBARGER, Mr. NETHERCUTT, and Mr. CHABOT.  
H.R. 4061: Mr. FOX of Pennsylvania.  
H.R. 4067: Mr. SNOWBARGER.  
H.R. 4070: Mr. MARKEY.  
H.R. 4071: Mr. BAKER and Mr. LEWIS of Kentucky.

H.R. 4135: Mr. SCHUMER, Ms. KILPATRICK, Mrs. CLAYTON, Ms. NORTON, and Mr. HILLIARD.

H.R. 4145: Mr. BRADY of Pennsylvania, Mr. YATES, Mr. HINCHEY, Mr. FRANK of Massachusetts, Mr. CLAY, Mr. RUSH, Ms. CHRISTIAN-GREEN, Mr. HASTINGS of Florida, Mr. MEEKS of New York, Mr. RANGEL, Mrs. CLAYTON, Ms. FURSE, Mr. BISHOP, Mrs. MEEK of Florida, Ms. KILPATRICK, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CUMMINGS, Mr. THOMPSON, Mr. DAVIS of Illinois, Mr. OWENS, Mr. FILNER, Mr. BARRETT of Nebraska, Ms. NORTON, and Ms. ROYBAL-ALLARD.

H.R. 4152: Mr. BROWN of Ohio, Ms. NORTON, and Ms. KILPATRICK.

H.R. 4183: Mr. BOEHLERT.  
H.R. 4184: Mr. BONIOR and Mr. FROST.  
H.R. 4185: Mr. BONIOR and Mr. FROST.  
H.R. 4196: SAM JOHNSON.  
H.R. 4197: Mr. STUMP, Mr. GILLMOR, Mr. SAM JOHNSON, and Mr. METCALF.  
H.R. 4204: Mr. CHAMBLISS.

H.R. 4206: Mr. MANTON, Mr. ENGEL, Ms. WOOLSEY, Mr. WAXMAN, Mr. DELAHUNT, Mr. RANGEL, and Mr. VENTO,

H.R. 4211: Ms. NORTON, Ms. JACKSON-LEE, Mr. JENKINS, Mr. BEREUTER, Mr. MEEKS of New York, Mr. RUSH, Mr. BRADY of Pennsylvania, Mr. ADERHOLT, Mr. KENNEDY of Rhode Island, Ms. RIVERS, Mrs. MEEK of Florida, and Mr. FORD.

H.R. 4213: Mr. TOWNS, Mr. PITTS, and Mr. HOUGHTON.

H.R. 4217: Mr. HOSTETTLER and Mr. METCALF.

H.R. 4220: Mr. ENSIGN, Mr. RILEY, and Mr. KUCINICH.

H.R. 4224: Mrs. MALONEY of New York and Mr. POSHARD.

H.R. 4233: Mr. WAXMAN, Ms. LOFGREN, Mr. YATES, Mr. ACKERMAN, and Mr. MALONEY of New York.

H.R. 4248: Mr. BOYD.  
H.R. 4252: Mr. PALLONE and Mr. LEWIS of Kentucky.

H.R. 4258: Mr. PICKERING.  
H.R. 4281: Mr. HOSTETTLER, Mrs. MYRICK, Mr. METCALF.

H.R. 4293: Ms. VALAZQUEZ and Mr. DOYLE.  
H.R. 4296: Mr. YATES, Mr. MILLER of Florida, and Mrs. MYRICK.

H.R. 4300: Mr. BONILLA, Mr. SOLOMON, Mr. SPENCE, and Ms. WATERS.  
H.R. 4301: Mr. BUNNING of Kentucky.

H.R. 4308: Mr. GILMAN, Mr. OWENS, and Mr. BONIOR.

H.R. 4309: Mr. SAXTON.  
H.R. 4312: Mr. METCALF.  
H.R. 4314: Mr. HOUGHTON.  
H.R. 4321: Mrs. KELLY.

H.R. 4324: Mr. DREIER, Mr. NORWOOD, and Mr. GILLMOR.

H.R. 4330: Mr. ADERHOLT and Mr. DUNCAN.  
H.R. 4339: Mr. MCINTOSH, Ms. STABENOW, Mr. GOODE, Mr. LUCAS of Oklahoma, Mr. HALL of Texas, Mr. SANDERS, Ms. DANNER, Mr. RILEY, Mr. WATKINS, Mr. BORSKI, Mr. MASCARA, Mr. HILLIARD, Mr. RODRIGUEZ, and Mr. CLEMENT.

H. Con. Res. 264: Mr. MARTINEZ.  
H. Con. Res. 286: Mr. DEUTSCH, Mr. JACKSON, and Mr. CLAY.

H. Con. Res. 287: Mr. LAFALCE.  
H. Con. Res. 292: Mr. JACKSON.

H. Con. Res. 299: Mrs. BONO, Mr. INGLIS of South Carolina, Mr. ROYCE, and Mr. FOLEY.

H. Con. Res. 309: Ms. NORTON, Ms. BROWN of Florida, and Ms. MCKINNEY.

H. Con. Res. 312: Mr. ROHRBACHER.  
H. Res. 313: Mrs. CAPPS, Ms. BROWN of Florida, and Ms. DEGETTE.

H. Res. 483: Mr. WAXMAN, Mr. MARTINEZ, Mr. FROST, and Mr. DIXON.

H. Res. 503: Mr. BALLENGER, Mr. TRAFICANT, Mrs. FOWLER, and Mr. LARGENT.

### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3262: Mr. Frost.

### AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3736

OFFERED BY: Mr. SMITH OF TEXAS

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) SHORT TITLE.—This Act may be cited as the “Temporary Access to Skilled Workers and H-1B Nonimmigrant Program Improvement Act of 1998”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; amendments to Immigration and Nationality Act.

#### TITLE I—PROVISIONS RELATING TO H-1B NONIMMIGRANTS

Sec. 101. Temporary increase in access to temporary skilled personnel under H-1B program.

Sec. 102. Protection against displacement of United States workers in case of H-1B dependent employers.

Sec. 103. Changes in enforcement and penalties.

Sec. 104. Collection and use of H-1B nonimmigrant fees for State student incentive grant programs and job training of United States workers.

Sec. 105. Determinations on labor condition applications to be made by Attorney General.

Sec. 106. Computation of prevailing wage level.

Sec. 107. Improving count of H-1B and H-2B nonimmigrants.

Sec. 108. Report on age discrimination in the information technology field.

Sec. 109. Report on high-technology labor market needs.

#### TITLE II—SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

Sec. 201. Special immigrant status for certain NATO civilian employees.

#### TITLE III—MISCELLANEOUS PROVISION

Sec. 301. Academic honoraria.

(c) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to that section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

### TITLE I—PROVISIONS RELATING TO H-1B NONIMMIGRANTS

#### SEC. 101. TEMPORARY INCREASE IN ACCESS TO TEMPORARY SKILLED PERSONNEL UNDER H-1B PROGRAM.

(a) TEMPORARY INCREASE IN SKILLED NON-IMMIGRANT WORKERS.—Paragraph (1)(A) of section 214(g) (8 U.S.C. 1184(g)) is amended to read as follows:

“(A) under section 101(a)(15)(H)(i)(b), may not exceed—

“(i) 65,000 in each fiscal year before fiscal year 1998;

“(ii) 85,000 in fiscal year 1998;

“(iii) 95,000 in fiscal year 1999;

“(iv) 105,000 in fiscal year 2000;

“(v) 115,000 in each of fiscal years 2001 and 2002; and

“(vi) 65,000 in each succeeding fiscal year.”.

(b) TEMPORARY CAP ON NONIMMIGRANT, NONPHYSICIAN HEALTH CARE WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is further amended by adding at the end the following:

“(5) The total number of aliens described in section 212(a)(5)(C) who may be issued visas or otherwise provided nonimmigrant status during each of fiscal years 1999, 2000, 2001, and 2002 under section 101(a)(15)(H)(i)(b) may not exceed 7,500.”.

(c) EFFECTIVE DATES.—The amendment made by subsection (a) applies beginning with fiscal year 1998 and the amendment made by subsection (b) applies beginning with fiscal year 1999.

#### SEC. 102. PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS IN CASE OF H-1B-DEPENDENT EMPLOYERS.

(a) PROTECTION AGAINST LAY OFF AND REQUIREMENT FOR PRIOR RECRUITMENT OF UNITED STATES WORKERS.—

(1) ADDITIONAL STATEMENTS ON APPLICATION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

“(E)(i) In the case of an application described in clause (ii), the employer did not displace and will not displace a United States worker (as defined in paragraph (4)) employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application.

“(ii) An application described in this clause is an application filed on or after the date final regulations are first promulgated to carry out this subparagraph (but not earlier than October 1, 1998), and before October 1, 2002, by an H-1B-dependent employer (as defined in paragraph (3)). An application is not described in this clause if the only H-1B nonimmigrants sought in the application are exempt H-1B nonimmigrants.

“(F) In the case of an application described in subparagraph (E)(ii), the employer will not place the nonimmigrant with another employer (regardless of whether or not such other employer is an H-1B-dependent employer) where—

“(i) the nonimmigrant performs duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer; and

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer;

unless the employer has inquired of the other employer as to whether, and has no knowledge that, the other employer has displaced or intends to displace a United States worker employed by such other employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application.

“(G)(i) In the case of an application described in subparagraph (E)(ii), subject to

clause (ii), the employer, prior to filing the application—

“(I) has taken good faith steps to recruit, in the United States using procedures that meet industry-wide standards and offering compensation that is at least as great as that required to be offered to H-1B nonimmigrants under subparagraph (A), United States workers for the job for which the nonimmigrant or nonimmigrants is or are sought; and

“(II) has offered the job to any United States worker who applies and is equally or better qualified for the job for which the nonimmigrant or nonimmigrants is or are sought.

“(ii) The conditions described in clause (i) shall not apply to an application filed with respect to the employment of an H-1B nonimmigrant who is described in subparagraph (A), (B), or (C) of section 203(b)(1).”.

(2) NOTICE ON APPLICATION OF POTENTIAL LIABILITY OF PLACING EMPLOYERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by adding at the end the following: “The application form shall include a clear statement explaining the liability under subparagraph (F) of a placing employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.”.

(3) CONSTRUCTION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is further amended by adding at the end the following: “Nothing in subparagraph (G) shall be construed to prohibit an employer from using selection standards normal or customary to the type of job involved.”.

(b) H-1B-DEPENDENT EMPLOYER AND OTHER DEFINITIONS.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

“(3)(A) For purposes of this subsection, the term ‘H-1B-dependent employer’ means an employer that—

“(i) has at least 51 full-time equivalent employees who are employed in the United States; and

(ii) employs non-exempt H-1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

“(B) For purposes of this subsection—

“(i) the term ‘exempt H-1B nonimmigrant’ means an H-1B nonimmigrant who—

“(I) receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least \$60,000; or

“(II) has attained a master’s or higher degree (or its equivalent) in a specialty related to the intended employment; and

“(ii) the term ‘non-exempt H-1B nonimmigrant’ means an H-1B nonimmigrant who is not an exempt H-1B nonimmigrant.

“(C) For purposes of subparagraph (A)—

“(i) in computing the number of full-time equivalent employees, exempt H-1B nonimmigrants shall not be taken into account; and

“(ii) any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer.

“(4) For purposes of this subsection:

“(A) The term ‘area of employment’ means the area within normal commuting distance of the worksite or physical location where the work of the H-1B nonimmigrant is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

“(B) In the case of an application with respect to one or more H-1B nonimmigrants by an employer, the employer is considered to ‘displace’ a United States worker from a job if the employer lays off the worker from a

job that is essentially the equivalent of the job for which the nonimmigrant or nonimmigrants is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

“(C) The term ‘H-1B nonimmigrant’ means an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b).

“(D) The term ‘lays off’, with respect to a worker—

“(i) means to cause the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in subparagraph (E) or (F) of paragraph (1)); but

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under paragraph (1)(F), with either employer described in such paragraph) at equivalent or higher compensation and benefits as the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(E) The term ‘United States worker’ means an employee who—

“(i) is a citizen or national of the United States; or

“(ii) is an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, or is granted asylum under section 208.”.

(2) CONFORMING AMENDMENTS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by striking “a nonimmigrant described in section 101(a)(15)(H)(i)(b)” each place it appears and inserting “an H-1B nonimmigrant”.

(c) IMPROVED POSTING OF NOTICE OF APPLICATION.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

“(i) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in conspicuous locations at the place of employment or electronic notification to employees in the occupational classification for which H-1B nonimmigrants are sought.”.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) apply to applications filed under section 212(n)(1) of the Immigration and Nationality Act on or after the date final regulations are issued to carry out such amendments (but not earlier than October 1, 1998), and the amendments made by subsection (b) take effect on the date of the enactment of this Act.

(e) REDUCTION OF PERIOD FOR PUBLIC COMMENT.—In first promulgating regulations to implement the amendments made by this section in a timely manner, the Secretary of Labor and the Attorney General may reduce to not less than 30 days the period of public comment on proposed regulations.

#### SEC. 103. CHANGES IN ENFORCEMENT AND PENALTIES.

(a) INCREASED ENFORCEMENT AND PENALTIES.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended to read as follows:

“(C)(i) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B), (1)(E), or (1)(F), a substantial failure to meet a condition of paragraph (1)(C), (1)(D), or

(1)(G)(i)(I), or a misrepresentation of material fact in an application—

“(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation) as the Secretary determines to be appropriate; and

“(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

“(ii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1), a willful misrepresentation of material fact in an application, or a violation of clause (iv)—

“(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$5,000 per violation) as the Secretary determines to be appropriate; and

“(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

“(iii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1) or a willful misrepresentation of material fact in an application, in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application—

“(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$25,000 per violation) as the Secretary determines to be appropriate; and

“(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

“(iv) It is a violation of this clause for an employer who has filed an application under this subsection to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this clause, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer’s compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.

“(v) The Secretary of Labor and the Attorney General shall devise a process under which an H-1B nonimmigrant who files a complaint regarding a violation of clause (iv) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period (not to exceed the duration of the alien’s authorized admission as such a nonimmigrant).”.

(b) USE OF ARBITRATION PROCESS FOR DISPUTES INVOLVING QUALIFICATIONS OF UNITED STATES WORKERS NOT HIRED.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

“(5)(A) This paragraph shall apply instead of subparagraphs (A) through (E) of paragraph (2) in the case of a violation described in subparagraph (B).

“(B) The Commissioner shall establish a process for the receipt, initial review, and disposition in accordance with this paragraph of complaints respecting an employer's failure to meet the condition of paragraph (1)(G)(i)(II) or a petitioner's misrepresentation of material facts with respect to such condition. Complaints may be filed by an aggrieved individual who has submitted a resume or otherwise applied in a reasonable manner for the job that is the subject of the condition. No proceeding shall be conducted under this paragraph on a complaint concerning such a failure or misrepresentation unless the Commissioner determines that the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively.

“(C) If the Commissioner finds that a complaint has been filed in accordance with subparagraph (B) and there is reasonable cause to believe that such a failure or misrepresentation described in such complaint has occurred, the Commissioner shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Commissioner shall pay the fee and expenses of the arbitrator.

“(D)(i) The arbitrator shall make findings respecting whether a failure or misrepresentation described in subparagraph (B) occurred. If the arbitrator concludes that failure or misrepresentation was willful, the arbitrator shall make a finding to that effect. The arbitrator may not find such a failure or misrepresentation (or that such a failure or misrepresentation was willful) unless the complainant demonstrates such a failure or misrepresentation (or its willful character) by clear and convincing evidence. The arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Commissioner. Such findings shall be final and conclusive, and, except as provided in this subparagraph, no official or court of the United States shall have power or jurisdiction to review any such findings.

“(ii) The Commissioner may review and reverse or modify the findings of an arbitrator only on the same bases as an award of an arbitrator may be vacated or modified under section 10 or 11 of title 9, United States Code.

“(iii) With respect to the findings of an arbitrator, a court may review only the actions of the Commissioner under clause (ii) and may set aside such actions only on the grounds described in subparagraph (A), (B), or (C) of section 706(a)(2) of title 5, United States Code. Notwithstanding any other provision of law, such judicial review may only be brought in an appropriate United States Court of Appeals.

“(E) If the Commissioner receives a finding of an arbitrator under this paragraph that an employer has failed to meet the condition of paragraph (1)(G)(i)(II) or has misrepresented a material fact with respect to such condition, unless the Commissioner reverses or modifies the finding under subparagraph (D)(ii)—

“(i) the Commissioner may impose administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation or \$5,000 per violation in the case of a willful failure or misrepresentation) as the Commissioner determines to be appropriate; and

“(ii) the Attorney General is authorized to not approve petitions filed with respect to

that employer under section 204 or 214(c) during a period of not more than 1 year for aliens to be employed by the employer.”

(2) CONFORMING AMENDMENT.—The first sentence of section 202(n)(2)(A) (8 U.S.C. 1152(n)(2)(A)) is amended by striking “The Secretary” and inserting “Subject to paragraph (5)(A), the Secretary”.

(C) LIABILITY OF PETITIONING EMPLOYER IN CASE OF PLACEMENT OF H-1B NONIMMIGRANT WITH ANOTHER EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

“(E) If an H-1B-dependent employer places a non-exempt H-1B nonimmigrant with another employer as provided under paragraph (1)(F) and the other employer has displaced or displaces a United States worker employed by such other employer during the period described in such paragraph, such displacement shall be considered for purposes of this paragraph a failure, by the placing employer, to meet a condition specified in an application submitted under paragraph (1); except that the Attorney General may impose a sanction described in subclause (II) of subparagraph (C)(i), (C)(ii), or (C)(iii) only if the Secretary of Labor found that such placing employer—

“(i) knew or had reason to know of such displacement at the time of the placement of the nonimmigrant with the other employer, or

“(ii) has been subject to a sanction under this subparagraph based upon a previous placement of an H-1B nonimmigrant with the same other employer.”

(d) SPOT INVESTIGATIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (c), is further amended by adding at the end the following:

“(F) The Secretary may, on a case-by-case basis, subject an employer to random investigations for a period of up to 5 years, beginning on the date that the employer is found by the Secretary to have committed a willful failure to meet a condition of paragraph (1) (or has been found under paragraph (5) to have committed a willful failure to meet the condition of paragraph (1)(G)(i)(II)) or to have made a willful misrepresentation of material fact in an application. The preceding sentence shall apply to an employer regardless of whether or not the employer is an H-1B-dependent employer. The authority of the Secretary under this subparagraph shall not be construed to be subject to, or limited by, the requirements of subparagraph (A).”

**SEC. 104. COLLECTION AND USE OF H-1B NON-IMMIGRANT FEES FOR STATE STUDENT INCENTIVE GRANT PROGRAMS AND JOB TRAINING OF UNITED STATES WORKERS.**

(a) IMPOSITION OF FEE.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following:

“(9)(A) The Attorney General shall impose a fee on an employer (excluding an employer described in subparagraph (A) or (B) of section 212(p)(1)) as a condition for the approval of a petition filed on or after October 1, 1998, and before October 1, 2002, under paragraph (1) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(i)(b). The amount of the fee shall be \$250 for each such nonimmigrant.

“(B) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(t).

“(C)(i) An employer may not require an alien who is the subject of the petition for which a fee is imposed under this paragraph to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee,

“(ii) Section 274A(g)(2) shall apply to a violation of clause (i) in the same manner as it applies to a violation of section 274A(g)(1).”

(b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

“(t) H-1B NONIMMIGRANT PETITIONER ACCOUNT.—

“(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account which shall be known as the ‘H-1B Nonimmigrant Petitioner Account’. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9).

“(2) USE OF HALF OF FEES BY SECRETARY OF EDUCATION FOR HIGHER EDUCATION GRANTS.—Fifty percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available until expended to the Secretary of Education for additional allotments to States under subpart 4 of chapter 8 of title IV of the Higher Education Act of 1965 but only for the purpose of assisting States in providing grants to eligible students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.

“(3) USE OF HALF OF FEES BY SECRETARY OF LABOR FOR JOB TRAINING.—Fifty percent of amounts deposited into the deposits into such Account shall remain available until expended to the Secretary of Labor for demonstration programs described in section 104(d) of the Temporary Access to Skilled Workers and H-1B Nonimmigrant Program Improvement Act of 1998.”

(c) CONFORMING MODIFICATION OF APPLICATION REQUIREMENTS FOR STATE STUDENT INCENTIVE GRANT PROGRAM.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c-2(b)) is amended—

(1) in paragraph (9), by striking “and” at the end;

(2) in paragraph (10), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(11) provides that any portion of the allotment to the State for each fiscal year that derives from funds made available under section 286(t)(2) of the Immigration and Nationality Act shall be expended for grants described in paragraph (2)(A) to students enrolled in a program of study leading to a degree in mathematics, computer science, or engineering.”

(d) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.

(1) IN GENERAL.—Subject to paragraph (3), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or demonstration programs or projects under a successor Federal law, the Secretary of Labor shall establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(2) GRANTS.—Subject to paragraph (3), the Secretary of Labor shall award grants to carry out the programs and projects described in paragraph (1) to—

(A)(i) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act; or

(ii) local boards that will carry out such programs or projects through one-stop delivery systems established under a successor Federal law; or

(B) regional consortia of councils or local boards described in subparagraph (A).

(3) LIMITATION.—The Secretary of Labor shall establish programs and projects under paragraph (1), including awarding grants to carry out such programs and projects under

paragraph (2), only with funds made available under section 286(t)(3) of the Immigration and Nationality Act, and not with funds made available under the Job Training Partnership Act or a successor Federal law.

**SEC. 105. DETERMINATIONS ON LABOR CONDITION APPLICATIONS TO BE MADE BY ATTORNEY GENERAL.**

(a) IN GENERAL.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by striking “with respect to whom” and all that follows through “with the Secretary” and inserting “with respect to whom the Attorney General determines that the intending employer has filed with the Attorney General”.

(b) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking “unless the employer has filed with the Secretary of Labor” and inserting “unless the employer has filed with the Attorney General”;

(2) in paragraph (1), in the matter following subparagraph (D)—

(A) by striking “The Secretary shall compile” and inserting “The Secretary of Labor shall compile”;

(B) by striking “The Secretary shall make such list available” and inserting “The Secretary of Labor shall make such list available”;

(C) by striking “The Secretary of Labor shall review such an application” and inserting “The Attorney General shall review such an application”;

(D) by amending the last sentence to read as follows: “The Attorney General shall treat such an application as being filed for purposes of section 101(a)(15)(H)(i)(b) unless the Attorney General finds that the application is incomplete or obviously inaccurate within 7 days of the date of its filing.”; and

(E) by adding at the end the following: “The employer shall file the application with the employer’s petition for a nonimmigrant visa for the alien under section 214(c)(1), and the Attorney General shall transmit a copy of such application to the Secretary of Labor.”; and

(3) in the first sentence of paragraph (2)(A), by striking “The Secretary shall establish a process” and inserting “The Secretary of Labor shall establish a process”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications filed on or after such date (not later than April 1, 1999) as the Secretary of Labor and the Attorney General shall publish, at least 30 days in advance of such date, in the Federal Register.

**SEC. 106. COMPUTATION OF PREVAILING WAGE LEVEL.**

(a) IN GENERAL.—Section 212 (8 U.S.C. 1182) is amended by adding at the end the following:

“(p)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of subsections (n)(1)(A)(i)(II) and (a)(5)(A) in the case of an employee of—

“(A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or

“(B) a nonprofit research organization or a Governmental research organization; the prevailing wage level shall only take into account employees at such institutions and organizations in the area of employment.

“(2) With respect to a professional athlete (as defined in subsection (a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers

similarly employed and be considered the prevailing wage.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to prevailing wage computations made for applications filed on or after the date of the enactment of this Act.

**SEC. 107. IMPROVING COUNT OF H-1B AND H-2B NONIMMIGRANTS.**

(a) ENSURING ACCURATE COUNT.—The Attorney General shall take such steps as are necessary to maintain an accurate count of the number of aliens subject to the numerical limitations of section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided nonimmigrant status.

(b) REVISION OF PETITION FORMS.—The Attorney General shall take such steps as are necessary to revise the forms used for petitions for visas or nonimmigrant status under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) so as to ensure that the forms provide the Attorney General with sufficient information to permit the Attorney General accurately to count the number of aliens subject to the numerical limitations of section 214(g)(1) of such Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided nonimmigrant status.

(c) REPORTS.—Beginning with fiscal year 1999, the Attorney General shall provide to the Congress—

(1) on a quarterly basis a report on the numbers of individuals who were issued visas or otherwise provided nonimmigrant status during the preceding 3-month period under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)); and

(2) on an annual basis a report on the countries of origin and occupations of, educational levels attained by, and compensation paid to, individuals issued visas or provided nonimmigrant status under such sections during such period.

Each report under paragraph (2) shall include the number of individuals described in paragraph (1) during the year who were issued visas pursuant to petitions filed by institutions or organizations described in section 212(p)(1) of such Act (as added by section 106 of this title).

**SEC. 108. REPORT ON AGE DISCRIMINATION IN THE INFORMATION TECHNOLOGY FIELD.**

(a) STUDY.—The Director of the Congressional Research Division of the Library of Congress shall enter into a contract with an appropriate entity to conduct a study assessing age discrimination in the information technology field. The study shall consider the following:

(1) The prevalence of age discrimination in the information technology workplace.

(2) The extent to which there is a difference, based on age, in—

- (A) promotion and advancement,
- (B) working hours,
- (C) telecommuting,
- (D) salary, and
- (E) stock options, bonuses, and other benefits.

(3) The relationship between rates of advancement, promotion, and compensation to experience, skill level, education, and age.

(4) Differences in skill level on the basis of age.

(b) REPORT.—Not later than October 1, 2000, such Director shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

**SEC. 109. REPORT ON HIGH-TECHNOLOGY LABOR MARKET NEEDS.**

(a) STUDY.—The National Science Foundation shall conduct a study to assess labor

market needs for workers with high technology skills during the next 10 years. The study shall investigate and analyze the following:

(1) Future training and education needs of companies in the high technology and information technology sectors and future training and education needs of United States students to ensure that students’ skills at various levels are matched to the needs in such sectors.

(2) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer, and engineering since 1998.

(3) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(4) The relative achievement rates of United States and foreign students in secondary school in a variety of subjects, including math, science, computer science, English, and history.

(5) The relative performance, by subject area, of United States and foreign students in postsecondary and graduate schools as compared to secondary schools.

(6) The needs of the high-technology sector for foreign workers with specific skills and the potential benefits and costs to United States employers, workers, consumers, postsecondary educational institutions, and the United States economy, from the entry of skilled foreign professionals in the fields of science and engineering.

(7) The needs of the high-technology sector to adapt products and services for export to particular local markets in foreign countries.

(8) An examination of the amount and trend of moving the production or performance of products and services now occurring in the United States abroad.

(b) REPORT.—Not later than October 1, 2000, the National Science Foundation shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

(c) INVOLVEMENT.—The study under subsection (a) shall be conducted in a manner that assures the participation of individuals representing a variety of points of view.

**TITLE II—SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES**

**SEC. 201. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.**

(a) IN GENERAL.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking “or” at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting “; or”, and

(3) by adding at the end the following new subparagraph:

“(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

“(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

“(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the ‘Protocol on the Status of International Military Headquarters’ set up pursuant to the North Atlantic Treaty, or as a dependent); and

“(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the Temporary Access to Skilled Workers and H-1B Non-immigrant Program Improvement Act of 1998.”.

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(I)(i)”, and

(2) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(I)”.

**TITLE III—MISCELLANEOUS PROVISION**  
**SEC. 301. ACADEMIC HONORARIA.**

(a) IN GENERAL.—Section 212 (8 U.S.C. 1182), as amended by section 106, is further amended by adding at the end the following:

“(q) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by institution or organization described in subsection (p)(l) and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than 5 institutions or organizations in the previous 6-month period.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to activities occurring on or after the date of the enactment of this Act.

H.R. 4276

OFFERED BY: MR. CALLAHAN

AMENDMENT No. 28: Page 53, line 6, after the dollar amount insert “(reduced by \$20,000,000)”.

H.R. 4276

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT No. 29: Page 38, after line 9, insert the following:

**PROHIBITION ON HANDGUN TRANSFER WITHOUT LOCKING DEVICE**

SEC. 112. (a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

“(y)(l) It shall be unlawful for any person to transfer a handgun to another person unless a locking device is attached to, or an integral part of, the handgun, or is sold or delivered to the transferee as part of the transfer.

“(2) Paragraph (1) shall not apply to the transfer of a handgun to the United States, or any department or agency of the United States, or a State, or a department, agency, or political subdivision of a State.”.

(b) LOCKING DEVICE DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

“(34) The term ‘locking device’ means a device which, while attached to or part of a firearm, prevents the firearm from being discharged, and which can be removed or deactivated by means of a key or a mechanically, electronically, or electro-mechanically operated combination lock.”.

H.R. 4276

OFFERED BY: MR. METCALF

AMENDMENT No. 30: Page 38, after line 9, insert the following:

SEC. 112. Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is repealed.

H.R. 4276

OFFERED BY: MR. METCALF

AMENDMENT No. 31: At the end of the bill, insert after the last section (preceding the short title) the following:

**TITLE IX—ADDITIONAL GENERAL PROVISIONS**

SEC. 901. None of the funds made available in this Act may be used to carry out section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note).

H.R. 4276

OFFERED BY: MS. MILLENDER-MCDONALD

AMENDMENT No. 32: Page 101, line 21 insert “(increased by \$250,000 to be used for the National Women’s Business Council as authorized by section 409 of the Women’s Business Ownership Act of 1988 (15 U.S.C. 631 note)” after the dollar amount.

H.R. 4276

OFFERED BY: MR. SCARBOROUGH

AMENDMENT No. 33: At the end of the bill, insert after the last section (preceding the short title) the following:

**TITLE IX—ADDITIONAL GENERAL PROVISIONS**

SEC. 901. None of the funds appropriated to the Federal Communications Commission in this Act may be used by the Commission for implementing or enforcing the requirements for telecommunications carriers to contribute to support mechanisms to provide services to schools, libraries, and health care providers under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)).

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT No. 34: Page 78, line 19, strike “\$475,000,000,” and insert “\$365,800,000.”.

H.R. 4276

OFFERED BY: MR. STEARNS

AMENDMENT No. 35: Page 124, after line 2, add the following new title:

**TITLE IX—INTERNET GAMBLING PROHIBITION**

**SEC. 901. SHORT TITLE.**

This title may be cited as the “Internet Gambling Prohibition Act of 1998”.

**SEC. 902. DEFINITIONS.**

Section 1081 of title 18, United States Code, is amended—

(1) in the matter immediately following the colon, by designating the first 5 undesignated paragraphs as paragraphs (1) through (5), respectively, and indenting each paragraph 2 ems to the right; and

(2) by adding at the end the following:

“(6) BETS OR WAGERS.—The term ‘bets or wagers’—

“(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, sporting event of others, or of any game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

“(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

“(C) includes any scheme of a type described in section 3702 of title 28, United States Code; and

“(D) does not include—

“(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

“(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

“(iii) a contract of indemnity or guarantee;

“(iv) a contract for life, health, or accident insurance; or

“(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

“(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

“(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

“(III) in which the winner or winners may receive a prize or award;

(otherwise known as a ‘fantasy sport league’ or a ‘roisserie league’) if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

“(7) FOREIGN JURISDICTION.—The term ‘foreign jurisdiction’ means a jurisdiction of a foreign country or political subdivision thereof.

“(8) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term ‘information assisting in the placing of a bet or wager’—

“(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; and

“(B) does not include—

“(i) information concerning parimutuel pools that is exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

“(ii) information exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

“(iii) information exchanged between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

“(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

“(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.”.

**SEC. 903. PROHIBITION ON INTERNET GAMBLING.**

(a) IN GENERAL.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

**“§ 1085. Internet gambling**

“(a) DEFINITIONS.—In this section:

“(1) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term ‘closed-loop subscriber-based

service' means any information service or system that uses—

“(A) a device or combination of devices—

“(i) expressly authorized and operated in accordance with the laws of a State for the purposes described in subsection (e); and

“(ii) by which a person located within a State must subscribe to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

“(B) a customer verification system to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

“(C) appropriate data security standards to prevent unauthorized access.

“(2) GAMBLING BUSINESS.—The term ‘gambling business’ means a business that is conducted at a gambling establishment, or that—

“(A) involves—

“(i) the placing, receiving, or otherwise making of bets or wagers; or

“(ii) offers to engage in placing, receiving, or otherwise making bets or wagers;

“(B) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

“(C) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of \$2,000 or more during any 24-hour period.

“(3) INTERACTIVE COMPUTER SERVICE.—The term ‘interactive computer service’ means any information service, system, or access software provider that uses a public communication infrastructure or operates in interstate or foreign commerce to provide or enable computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

“(4) INTERNET.—The term ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

“(5) PERSON.—The term ‘person’ means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity.

“(6) PRIVATE NETWORK.—The term ‘private network’ means a communications channel or channels, including voice or computer data transmission facilities, that use either—

“(A) private dedicated lines; or

“(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

“(7) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

“(b) GAMBLING.—

“(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person knowingly to use the Internet or any other interactive computer service—

“(A) to place, receive, or otherwise make a bet or wager with any person; or

“(B) to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager.

“(2) PENALTIES.—A person who violates paragraph (1) shall be—

“(A) fined in an amount that is not more than the greater of—

“(i) three times the greater of—

“(I) the total amount that the person is found to have wagered through the Internet or other interactive computer service; or

“(II) the total amount that the person is found to have received as a result of such wagering; or

“(ii) \$500;

“(B) imprisoned not more than 3 months; or

“(C) both.

“(c) GAMBLING BUSINESSES.—

“(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

“(A) to place, receive, or otherwise make a bet or wager; or

“(B) to send, receive, or invite information assisting in the placing of a bet or wager.

“(2) PENALTIES.—A person engaged in a gambling business who violates paragraph (1) shall be—

“(A) fined in an amount that is not more than the greater of—

“(i) the amount that such person received in bets or wagers as a result of engaging in that business in violation of this subsection; or

“(ii) \$20,000;

“(B) imprisoned not more than 4 years; or

“(C) both.

“(d) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may, as an additional penalty, enter a permanent injunction enjoining the transmission of bets or wagers or information assisting in the placing of a bet or wager.

“(e) EXCEPTIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), the prohibitions in this section shall not apply to any—

“(A) otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery or a racing or parimutuel activity, or a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries, (if the lottery or activity is expressly authorized, and licensed or regulated, under applicable Federal or State law) on—

“(i) an interactive computer service that uses a private network, if each person placing or otherwise making that bet or wager is physically located at a facility that is open to the general public; or

“(ii) a closed-loop subscriber-based service that is wholly intrastate; or

“(B) otherwise lawful bet or wager for class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) that is placed, received, or otherwise made on a closed-loop subscriber-based service or an interactive computer service that uses a private network, if—

“(i) each person placing, receiving, or otherwise making that bet or wager is physically located on Indian land; and

“(ii) all games that constitute class III gaming are conducted in accordance with an applicable Tribal-State compact entered into under section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2701(d)) by a State in which each person placing, receiving, or otherwise making that bet or wager is physically located.

“(2) INAPPLICABILITY OF EXCEPTION TO BETS OR WAGERS MADE BY AGENTS OR PROXIES.—An exception under subparagraph (A) or (B) of paragraph (1) shall not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service. Nothing in this paragraph shall be construed to prohibit the owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wager-

ing system owned or operated by the parimutuel facility.

“(f) STATE LAW.—Nothing in this section shall be construed to create immunity from criminal prosecution or civil liability under the law of any State.”.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

“1085. Internet gambling.”.

#### SEC. 904. CIVIL REMEDIES.

(a) IN GENERAL.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of section 1085 of title 18, United States Code, as added by section 903, by issuing appropriate orders.

(b) PROCEEDINGS.—

(1) INSTITUTION BY FEDERAL GOVERNMENT.—The United States may institute proceedings under this section. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

(A) IN GENERAL.—Subject to subparagraph (B), the attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by section 903, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this section. Upon application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(B) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by section 903, that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authority under subparagraph (A) shall be limited to the remedies under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), including any applicable Tribal-State compact negotiated under section 11 of that Act (25 U.S.C. 2710).

(3) ORDERS AND INJUNCTIONS AGAINST INTERNET SERVICE PROVIDERS.—Notwithstanding paragraph (1) or (2), the following rules shall apply in any proceeding instituted under this subsection in which application is made for a temporary restraining order or an injunction against an interactive computer service:

(A) SCOPE OF RELIEF.—

(i) If the violation of section 1085 of title 18, United States Code, originates with a customer of the interactive computer service's system or network, the court may require the service to terminate the specified account or accounts of the customer, or of any readily identifiable successor in interest, who is using such service to place, receive or otherwise make a bet or wager, engage in a gambling business, or to initiate a transmission that violates such section 1085.

(ii) Any other relief ordered by the court shall be technically feasible for the system or network in question under current conditions, reasonably effective in preventing a

violation of section 1085, of title 18, United States Code, and shall not unreasonably interfere with access to lawful material at other online locations.

(iii) No relief shall be issued under subparagraph (A)(ii) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

(B) CONSIDERATIONS.—In the case of an application for relief under subparagraph (A)(ii), the court shall consider, in addition to all other factors that the court shall consider in the exercise of its equitable discretion, whether—

(i) such relief either singularly or in combination with such other injunctions issued against the same service under this subsection, would seriously burden the operation of the service's system network compared with other comparably effective means of preventing violations of section 1085 of title 18, United States Code;

(ii) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, by a gambling business (as is defined in such section 1085) located outside the United States, the relief is more burdensome to the service than taking comparably effective steps to block access to specific, identified sites used by the gambling business located outside the United States; and

(iii) in the case of an application for a temporary order or an injunction to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, relating to material or activity located within the United States, whether less burdensome, but comparably effective means are available to block access by a customer of the service's system or network to information or activity that violates such section 1085.

(C) FINDINGS.—In any order issued by the court under this subsection, the court shall set forth the reasons for its issuance, shall be specific in its terms, and shall describe in reasonable detail, and not be reference to the complaint or other document, the act or acts sought to be restrained and the general steps to be taken to comply with the order.

(4) EXPIRATION.—Any temporary restraining order or preliminary injunction entered pursuant to this subsection shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(c) EXPEDITED PROCEEDINGS.—

(1) IN GENERAL.—In addition to proceedings under subsection (b), a district court may enter a temporary restraining order against a person alleged to be in violation of section 1085 of title 18, United States Code, as added

by section 903, upon application of the United States under subsection (b)(1), or the attorney general (or other appropriate State official) of an affected State under subsection (b)(2), without notice and the opportunity for a hearing, if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the transmission at issue violates section 1085 of title 18, United States Code, as added by section 903.

(2) EXPIRATION.—A temporary restraining order entered under this subsection shall expire on the earlier of—

(A) the expiration of the 30-day period beginning on the date on which the order is entered; or

(B) the date on which a preliminary injunction is granted or denied.

(3) HEARINGS.—A hearing requested concerning an order entered under this subsection shall be held at the earliest practicable time.

(d) RULE OF CONSTRUCTION.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by section 903) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for any reasonable course of action taken to comply with a court order issued under subsection (b) or (c) of this section.

(e) PROTECTION OF PRIVACY.—Nothing in this title or the amendments made by this title shall be construed to authorize an affirmative obligation on an interactive computer service—

(1) to monitor use of its service; or

(2) except as required by an order of a court, to access, remove or disable access to material where such material reveals conduct prohibited by this section and the amendments made by this section.

(f) NO EFFECT ON OTHER REMEDIES.—Nothing in this section shall be construed to affect any remedy under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law. The availability of relief under this section shall not depend on, or be affected by, the initiation or resolution of any action under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law.

(g) CONTINUOUS JURISDICTION.—The court shall have continuous jurisdiction under this section to enforce section 1085 of title 18, United States Code, as added by section 903.

**SEC. 905. REPORT ON ENFORCEMENT.**

Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by section 903;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money being used to gamble on the Internet.

**SEC. 906. REPORT ON COSTS.**

Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

(1) an analysis of existing and potential methods or technologies for filtering or screening transmissions in violation of section 1085 of title 18, United States Code, as added by section 903, that originate outside of the territorial boundaries of any State or the United States;

(2) a review of the effect, if any, on interactive computer services of any court ordered temporary restraining orders or injunctions imposed on those services under this section;

(3) a calculation of the cost to the economy of illegal gambling on the Internet, and other societal costs of such gambling; and

(4) an estimate of the effect, if any, on the Internet caused by any court ordered temporary restraining orders or injunctions imposed under this title.

**SEC. 907. SEVERABILITY.**

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

H.R. 4328

OFFERED BY: MR. BARR OF GEORGIA

AMENDMENT NO. 1: At the appropriate place in the bill, insert the following:

SEC. \_\_\_\_\_. None of the funds appropriated by this Act may be used to carry out section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note; 110 Stat. 3009-716 through 3009-719) and any regulation issued to carry out such section.

H.R. 4328

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 2: Page 30, line 10, after "\$59,670,000" insert "(decreased by \$2,000,000)".

Page 30, after line 11, insert the following: \$2,000,000 for a major investment study for an alternative transportation system in the city of Houston;

H.R. 4328

OFFERED BY: MR. NADLER

AMENDMENT NO. 3: At the end of title III, insert the following:

SEC. 347. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City.