

## Calendar No. 754

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2d Session }

SENATE

{ REPORT  
{ 108-382

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### ECONOMIC DEVELOPMENT ADMINISTRATION REAUTHORIZATION ACT OF 2004

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OCTOBER 1, 2004.—Ordered to be printed  
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Mr. INHOFE, from the Committee on Environment and Public  
Works, submitted the following

### REPORT

[To accompany S. 1134]

TOGETHER WITH

### ADDITIONAL VIEWS

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1134) to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965, having considered the same reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

### GENERAL STATEMENT

S. 1134 provides for the reauthorization and improvement of the Economic Development Administration programs authorized by the Public Works and Economic Development Act of 1965. The bill strengthens the agency's ability to assist economically distressed communities by providing increased flexibility and a focus on performance.

### BACKGROUND

The Public Works and Economic Development Act of 1965 (PWEDA) established the Economic Development Administration

(EDA) to assist economically distressed areas address conditions of substantial and persistent unemployment. Initial authorization of the agency and its programs expired in 1970 and was not renewed until 1980. Authorization again expired in 1982, and the agency survived on yearly appropriations until 1998. At that time, EDA was reauthorized for 5 years by enactment of the Economic Development Administration and Appalachian Regional Development Act of 1998. The Act also reinforced already underway management and administrative reforms, such as efforts to target the most distressed areas and encourage regional cooperation.

Since its establishment in 1965, EDA has invested more than \$18.4 billion in more than 52,000 projects in all 50 States and in U.S. territories. These EDA investments have been supplemented by approximately \$8.3 billion in matching funds from investment partners and have leveraged approximately \$90.6 billion in private sector investment. In total, these investments have created more than 2.9 million jobs and saved more than 830,000 jobs.

EDA investments are made under six main assistance programs: Public Works, Economic Adjustment, Planning, Technical Assistance, Research and Trade Adjustment Assistance. Five of these programs are authorized under PWEDA; Trade Adjustment Assistance is authorized under the Trade Act of 1974, as amended. The Federal share for any grant is not to exceed 50 percent, except in limited circumstances of high economic distress or an applicant's inability to provide the matching share. All projects receiving grants under the Public Works or Economic Adjustment programs must be consistent with an EDA-approved Comprehensive Economic Development Strategy (CEDS).

Projects receiving EDA funds must be located in or directly benefit eligible areas experiencing economic distress at the time of application. PWEDA defines eligible areas as those areas that have per capita income of 80 percent or less of the national average; have an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate; or have experienced or are about to experience a special need, as determined by the Secretary.

#### *Public Works*

The Public Works program grants support efforts to attract new industry, encourage business expansion, diversify local economies and generate or retain higher-skill, higher-wage jobs and investments by revitalizing, expanding and upgrading physical infrastructure. Examples of infrastructure and development facility investments supported by this program include water and sewer system improvements, skill-training facilities, industrial and business parks, industrial access roads, port and harbor improvements, business incubator facilities, multi-tenant manufacturing facilities and tourism facilities.

#### *Economic Adjustment*

Grants through the Economic Adjustment program assist communities facing the most severe of economic crises, specifically the temporary or permanent change of the local or regional economic

structural base. These changes may be the result of events such as military base closings, catastrophic natural or terrorist disasters or major plant closings. Three main types of activities are funded through this program: 1) strategy or capacity-building investments that help communities organize and carry out a planning process resulting in a CEDS; 2) implementation investments, including construction of public works facilities, technical assistance, disaster mitigation assistance and local capacity building investments; and 3) revolving loan fund investments that capitalize an intermediary to make loans to local businesses that otherwise cannot access commercial credit.

#### *Planning*

The planning program for Economic Development Districts, Indian Tribes and Redevelopment Areas provides grants to support the formulation and implementation of economic development programs designed to create or retain full-time permanent jobs and income for the unemployed and underemployed in areas of economic distress. The program is designed to build the local capacity for comprehensive and collaborative economic development activities.

#### *Technical Assistance*

Investments funded under the Technical Assistance program are designed to assist communities in analyzing the feasibility of an economic development investment, respond to developmental opportunities and build and expand local organizational capacity in distressed areas. University Centers, which assist in analyzing and implementing economic development projects and programs and provide technology-transfer assistance, are funded under this program.

#### *Research*

Through its Research program, EDA measures the performance of economic development investments and develops and disseminates to practitioners information about economic development issues.

#### *Trade Adjustment Assistance*

The Trade Adjustment Assistance program funds a national network of 12 Trade Adjustment Assistance Centers to provide technical assistance to certified U.S. manufacturing firms and industries economically injured as the result of international trade competition.

### SECTION-BY-SECTION ANALYSIS

#### *Sec. 1. Short Title; Table of Contents*

This section provides that the Act may be cited as the “Economic Development Administration Reauthorization Act of 2004” and provides a table of contents.

## TITLE I—GENERAL PROVISIONS

*Sec. 101. Findings and declarations*

This section amends section 2 of PWEDA to reflect current economic conditions and to emphasize the need to increase innovation, productivity and entrepreneurship and attract private sector investment in order to create jobs and sustained economic growth.

*Sec. 102. Definitions*

This section amends section 3 of PWEDA to clarify the definition of “eligible recipient” to include a special purpose unit of State or local government engaged in economic or infrastructure development activities; define “Regional Commissions” for the purposes of this Act and add a definition of “university center” to name the institutions “University Centers for Economic Development” and clarify that these centers must be institutions of higher education.

*Sec. 103. Establishment of Economic Development partnerships*

This section amends section 101 of PWEDA to add non-profit organizations to the list of organizations with which the Secretary may establish economic development partnerships that might be appropriate to alleviate economic distress or promote investment in infrastructure and technological development. The section also eliminates the requirement that two or more States must be adjoining for the Secretary to enter into an agreement with multiple States.

*Sec. 104. Coordination*

This section amends section 103 of PWEDA to authorize the Secretary to convene meetings with all relevant stakeholders to better coordinate Federal involvement in economic development activities.

## TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

*Sec. 201. Grants for planning**Summary*

This section amends section 203 of PWEDA to clarify that State plans must be developed cooperatively with local officials and Economic Development Districts to the maximum extent practicable and that the Secretary must take into account the extent of that cooperation prior to providing assistance. The section also requires the State planning process to consider the State’s workforce investment strategy and promotion of the use of technology in economic development.

*Discussion*

Economic Development Districts provide valuable planning and technical assistance to help communities build local capacity to focus on long-term economic challenges. This section does not change or eliminate any of the currently authorized uses of funds under this section. These uses include technical assistance, capacity building activities and administrative expenses to support the on-going formulation and implementation of comprehensive economic development strategies. Small, rural areas in particular

often are unable to maintain the professional and technical capacity necessary to efficiently implement a CEDS. Technical assistance provided by the planning organizations funded under section 203 of PWEDA, therefore, is often vital to ensuring timely implementation. Additionally, to ensure that economic development and economic development plans remain locally driven, it is important for local officials to have sufficient representation on the planning boards of Economic Development Districts. Therefore, EDA is expected to continue making planning grants to existing and unfunded Economic Development Districts in a manner consistent with currently authorized uses of funds under this section.

*Sec. 202. Cost sharing*

*Summary*

This section amends section 204 of PWEDA to clarify and consolidate cost-share requirements under the Act.

*Discussion*

This section and section 203 of the bill are primarily administrative in nature; no substantive changes are made to the Act's cost share requirements. Section 204 of PWEDA limits the Federal share of a project to not more than 50 percent of the total cost. That limitation is retained under this bill. Section 205, which authorizes supplementary grants, allows the Secretary to provide a second, supplementary grant to an EDA grant recipient located in a particularly distressed community, in accordance with regulations established by the Secretary. The original grant and the supplementary grant together may not exceed 80 percent of the total project cost. Section 202 of this bill simply consolidates these two authorities so that the Secretary may award a single grant of up to 80 percent Federal share for projects in certain communities. Additionally, cost share provisions currently located in other sections of PWEDA are consolidated in section 204.

*Sec. 203. Supplementary grants*

This section amends section 205 of PWEDA to clarify that supplementary grants are grants awarded to supplement another Federal agency's funds.

*Sec. 204. Regulations on relative needs and allocations*

*Summary*

This section amends section 206 of PWEDA by adding a new paragraph (3) to ensure that rural and urban economically distressed areas are not harmed by or prohibited or discouraged from applying for assistance under this Act by the establishment or implementation of a private sector leveraging goal and to require notification to the relevant Committees of Congress prior to a change in a private sector leveraging goal. The section also adds a new paragraph (4) to require the Secretary to ensure in regulations or procedures that assistance under Title II of PWEDA promotes job creation and will have a high probability of assisting recipients in meeting or exceeding applicable performance measures established in connection with the grants.

*Discussion*

Private sector investment is one leading indicator of future increased job creation, and the Secretary should seek to increase private sector investments in projects funded under PWEDA.

Many rural and urban economically distressed regions are unable to achieve high levels of private sector investment, however, and the Secretary should maintain the necessary flexibility to assist those communities that are taking the first steps toward economic growth.

In establishing investment guidelines related to the amount of private sector investment in projects funded under this Act, the Secretary should take a balanced approach to ensure that these guidelines do not discourage investment in rural or urban economically distressed regions. These guidelines should not be used to discourage applications from such regions nor serve as the sole basis for denial of assistance under this Act to any individual project.

*Sec. 205. Grants for training, research, and technical assistance*

This section amends section 207 of PWEDA to expand the list of activities eligible for assistance under this program to include studies to evaluate the effectiveness of coordinating EDA projects with projects funded under other acts and the assessment, marketing and establishment of business clusters. The section also clarifies that for projects that are national or regional in scope, the Secretary may waive the requirement that a non-profit organization be acting in cooperation with officials of a political subdivision of a State.

*Sec. 206. Prevention of unfair competition**Summary*

This section repeals section 208 of PWEDA.

*Discussion*

Section 208 of PWEDA requires a determination, prior to providing assistance, that the assistance will not increase the production of goods, materials or commodities, or the availability of services or facilities when there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises. In practice, this section requires EDA to perform complex and time-consuming analyses even though its criteria and Investment Policy Guidelines provide safeguards against situations section 208 was originally intended to prevent.

*Sec. 207. Grants for economic adjustment**Summary*

This section amends section 209 of PWEDA to expand the list of particular community assistance to include the loss of manufacturing jobs. The section also provides the Secretary with authority to promulgate regulations to improve the administration of revolving loan funds (RLF's), consolidate RLF's at the grantee's request and transfer RLF portfolio assets to third parties for liquidation.

*Discussion*

The Economic Development Administration's revolving loan fund (RLF) program has proven to be an effective program that works through intermediaries to provide business development capital to new and expanding private sector industries in underserved urban and rural areas.

Currently, EDA oversees more than 600 locally controlled RLF's. The size of this portfolio compared to the size of the agency has made effective oversight a challenge. This section provides EDA with tools to improve and streamline management of the RLF program. The authority to grant a request by local RLF operators to consolidate multiple RLF's should reduce the overall number of RLF's.

New audit and reporting requirements also should help reduce redundant reporting requirements and open resources for EDA staff. When developing these new requirements, EDA should ensure that new audit requirements do not alter the original intent and scope of the RLF program by imposing new cost and administrative burdens on RLF grantees.

Once implemented, these administrative and management improvements should allow EDA to increase its capitalization of new RLF's and recapitalization of existing RLF's in this important economic development program.

*Sec. 208. Use of funds in projects constructed under projected cost**Summary*

This section amends section 211 of PWEDA to provide for the use of funds in projects constructed under projected cost. The section also directs the Comptroller General to review implementation of this section and report the findings to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure.

*Discussion*

Currently excess grant funds from a project being constructed under projected cost can only be used to improve the project. Otherwise, these moneys must be returned to the Federal Treasury. Section 208 of the bill authorizes the Secretary to use the excess grant funds to improve the project, increase the Federal share of the total project cost or make additional investments under the Act. By allowing the Secretary to make additional awards rather than being required to return funds to the Federal Treasury, the bill ensures that all moneys originally designated for economic development activities are used for economic development. The report of the Comptroller General is intended to provide Congress with information on whether this flexibility is encouraging efficient use of Federal grant funds.

*Sec. 209. Special impact areas**Summary*

This section adds a new section 214 to PWEDA to allow the Secretary to designate special impact areas and waive the planning requirements of section 302 of the Act.

*Discussion*

This new authority is limited to situations where the Secretary determines that 1) the eligible recipient is unable to comply with the requirements of section 302; 2) the project will fulfill a pressing need of the area; and 3) the project will be useful in alleviating or preventing conditions of excessive unemployment or underemployment or assist in providing employment opportunities for the unemployed or underemployed residents in the area. The Secretary is required to submit notification and justification to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure at the time of designation.

*Sec. 210. Performance awards**Summary*

This section adds a new section 215 of PWEDA to authorize the Secretary to make performance awards to grant recipients based on performance measures to be established by regulation. The section also directs the Comptroller General to review implementation of this section and report the findings to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure.

*Discussion*

The Secretary is directed to establish by regulation the performance criteria to be used in determining which grant recipients will receive performance awards and how large the awards will be. When formulating these rules, the Secretary shall consider inclusion of measures that assess the recipients performance in meeting or exceeding scheduling and job creation goals, as well as the amount of private sector investment. The performance award may be no greater than 10 percent of the original project grant amount and may be used for any economic development purpose eligible under the Act. When used in combination with funds awarded under other provisions of PWEDA or under another Federal act, the performance award funds shall be treated as non-Federal funds.

*Sec. 211. Planning Performance Awards**Summary*

This section adds a new section 216 of PWEDA to authorize the Secretary to make planning performance awards for projects located in economic development districts.

*Discussion*

The opportunity to receive additional funds may encourage some recipients to work more closely and more efficiently with economic development districts. Therefore, the Secretary is authorized to make an award of no more than 5 percent of the original project grant to a recipient meeting the following four criteria: 1) actively participated in the economic development activities of the district; 2) the project is consistent with the district's CEDS; 3) worked with Federal, State and local economic development entities throughout the development of the project; and 4) the project was completed in accordance with the district's CEDS. The award funds may be used to increase the Federal share of a project funded under this title up to 100 percent.

*Sec. 212. Direct expenditure or redistribution by recipient**Summary*

This section creates a new section 217 of PWEDA to allow a recipient of funds under sections 201, 203, 207 or 209 of the Act to directly expend or redistribute the grant funds.

*Discussion*

Current law allows recipients of funds under section 209 to redistribute the grant funds to other public and private entities in the form of grants, loans, loan guarantees, payments to reduce interest on loans and other appropriate assistance. This section extends the authority to redistribute funds to recipients receiving funds under sections 201, 203, and 207 of PWEDA. Redistributions under this new authority are only allowed in the form of subgrants to other eligible recipients.

*213. Brownfields redevelopment**Summary*

This section adds a new section 218 of PWEDA to specifically authorize the Secretary to make grants for projects at brownfield sites, as the term is defined under current law. The section also provides clarification on how the Secretary should deal with potential remediation activities.

*Discussion*

EDA has provided grants for projects redeveloping potentially contaminated sites since its establishment in 1965. In 2002, the Small Business Liability Relief and Brownfields Revitalization Act established a program to be administered by the Environmental Protection Agency to encourage the clean-up of lightly contaminated sites or brownfield sites. This section complements the EPA brownfields assessment and clean-up program by focusing on the next step - actual redevelopment.

Subsection (a) of the new section 218 defines the term "brownfield site" by referencing section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Subsection (b) authorizes the Secretary to provide grants for projects located at such sites.

Subsection (c)(1) defines the terms “hazardous substance” and “release” by referencing section 101 of CERCLA. It also clarifies that the term “remediation” does not include asbestos abatement, indoor lead-based paint abatement or other activities described under CERCLA 104(a)(3)(B) in response to a release or a threat of release from products that are part of a structure of, and result in exposure within, residential buildings, businesses or community structures.

Subsection (c)(2) establishes a general prohibition on the use of EDA grant funds for remediation. EDA grants for projects at brownfield sites should be for redevelopment, not clean-up, activities. Occasionally, contamination is not apparent until a project is underway or is very minor in the context of the overall project. Therefore, funds may be used for remediation that is incidental to the economic development project, such as removal of intact underground storage tanks. Such incidental remediation shall not exceed \$50,000. The Secretary is authorized to waive that limitation, up to \$200,000, in exceptional circumstances that further the mission of EDA. The annual report required under section 603 of the Act shall include a list of these waivers. When incidental remediation is necessary, the recipient must obtain written approval or clearance from EPA or the appropriate State response program and comply with all applicable Federal and State laws.

Subsection (d) provides limitations on the use of grant funds by referencing section 104(k)(4)(B) of CERCLA. Exceptions are provided for administrative and compliance costs of economic development activities since these are acceptable uses of funds for projects not at brownfield sites. This subsection also clarifies, for the purposes of this Act, the definition of “bona fide prospective purchaser” under CERCLA.

Subsection (e) clarifies that nothing in this section affects the Secretary’s current authority to award economic redevelopment grants for projects on sites excluded from the definition of a “brownfield site.” In other words, the requirements of this section apply to all sites defined as “brownfields” under this section but do not extend to non-brownfield sites.

This section does not authorize new funds or require a particular amount of current funds to be awarded for projects at brownfield sites. EDA’s mission is to create jobs. Therefore, projects at brownfield sites should compete for funds in the same manner as projects at other sites. EDA, however, should continue to give appropriate consideration to the benefits of brownfields redevelopment when selecting which projects to fund.

### TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

#### *Sec. 301. Eligibility of areas*

This section amends section 301 of PWEDA to clarify possible Federal data sources that may be used to determine the eligibility of areas.

#### *Sec. 302. Comprehensive Economic Development strategies*

This sections amends section 302 of PWEDA to clarify that the CEDS should maximize effective development and use of the work-

force, consistent with any applicable State or local workforce investment strategy, and promote the use of technology in economic development. The section also requires that any other plan approved by the Secretary to function as a CEDS should be consistent and coordinated with any existing plan for the area.

#### TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

##### *Sec. 401. Incentives*

This section repeals section 403 of PWEDA. Section 403 of PWEDA authorized the Secretary to increase grant amounts, by up to 10 percent of the project cost, for projects in economic development districts. This incentive served to encourage the establishment of districts, but districts now serve most of the Nation.

##### *Sec. 402. Provisions of comprehensive Economic Development strategies to Regional Commissions*

This section amends section 404 of PWEDA to clarify that an economic development district located within the area of a Regional Commission should provide a copy of its CEDS to the Commission.

#### TITLE V—ADMINISTRATION

##### *Sec. 501. Economic Development information clearinghouse*

This section amends section 502 of PWEDA to clarify that the clearinghouse should be maintained on the Internet. The section also deletes references to links to local laws and information, as this is beyond what is realistically achievable by EDA.

##### *Sec. 502. Businesses desiring Federal contracts*

This section repeals section 505 of PWEDA, which authorized the Secretary to provide Federal procurement officials with the names of businesses in economically distressed areas.

##### *Sec. 503. Performance evaluations of grant recipients*

This section amends section 506 of PWEDA to make technical corrections and to clarify the criteria to be used to evaluate university centers.

##### *Sec. 504. Conforming amendments*

This section amends section 602 of PWEDA to provide the correct U.S. Code citation.

#### TITLE VI—MISCELLANEOUS

##### *Sec. 601. Annual report to Congress*

This section amends section 603 of PWEDA to specify that the annual report sent to Congress should include a list of waivers issued under the new section 218(c)(3)(C) and information related to the private sector investment ratio of grants awarded.

##### *Sec. 602. Relationship to assistance under other law*

This section strikes section 609(a) of PWEDA which relates to assistance previously authorized under the Act.

*Sec. 603. Sense of Congress regarding Economic Development Representatives*

This section declares it to be the sense of Congress that the Secretary should maintain a sufficient number of economic development representatives to ensure that EDA is able to provide effective assistance to distressed communities and foster economic growth and development among the States.

TITLE VII—FUNDING

*Sec. 701. Authorization of appropriations*

This section amends section 701 of PWEDA to authorize the following amounts for economic development assistance programs to carry out the Act: \$400,000,000 in fiscal year 2004; \$425,000,000 in fiscal year 2005; \$450,000,000 in fiscal year 2006; \$475,000,000 in fiscal year 2007; and \$500,000,000 in fiscal year 2008. The section also authorizes \$33,377,000 in fiscal year 2004 and such sums as are necessary thereafter for salaries and expenses.

*Sec. 702. Funding for grants for planning and grants for administrative expenses*

*Summary*

This section adds a new section 704 of PWEDA to establish a minimum funding level of \$27,000,000 for the planning program. This requirement shall not apply in any year in which total appropriations for programs under this Act (not including defense adjustment and disaster recovery assistance) is less than \$255,000,000.

*Discussion*

Appropriations for the planning program have remained level at approximately \$24,000,000 for a decade. This section ensures that funding will increase following enactment of the bill. This increase should allow EDA to provide funding to designated but unfunded districts and new districts and increase funding to currently funded districts. The increase is not required if EDA's overall funding decreases below \$255 million.

APPENDIX

The committee recommends that \$1,250,000 be made available for the 18th Street High Tech Park New Village at Technology Centre in Kansas City, Missouri.

The committee recommends that \$1,250,000 be made available for the Southwest Area Career Center in Monnett, Missouri.

The committee recommends that \$800,000 be made available to the Nevada Commission for the Reconstruction of the V & T Railway for the restoration of the Virginia City and Truckee Railroad.

The committee recommends that \$1,000,000 be made available to the White Pine County Economic Diversification Council (WPCEDC) for the Northern Nevada Railway and Regional Recreation Center. The committee further urges EDA to consider, based on documentation provided by WPCEDC, whether WPCEDC has exhausted its effective borrowing capacity under section 204(c)(2) of

this Act and, therefore, is eligible for grants at 100 percent Federal cost.

The committee recommends that \$200,000 be made available to Nevada's Center for Entrepreneurship and Technology.

The committee recommends that \$2,250,000 be made available to the Elgin Economic Development Authority for development of the Elgin Industrial Park in Elgin, Oklahoma.

The committee recommends that \$500,000 be made available to the city of Miami for economic development activities in Miami, Oklahoma.

The committee recommends that \$750,000 be made available to Rural Enterprises of Oklahoma, Inc. for expansion of Foreign Trade Zone #227 in Durant, Oklahoma.

The committee recommends that \$1,000,000 be made available from Economic Adjustment or Local Technical Assistance funding to the Vermont Council on Rural Development to assist the Vermont wood products industry. The committee further urges EDA to consider, based on documentation provided by VCRD, whether VCRD has exhausted its effective borrowing capacity under section 204 (c)(2) of this Act and, therefore, is eligible for grants at 100 percent Federal cost. The committee also recommends that, for the purposes of assisting the Vermont wood products industry beginning prior to implementation of the new authority under section 214 of PWEDA, EDA proceed as if the State of Vermont had been designated a "Special Impact Area." Participation in this project should not influence any regulations or guidance necessary to implement section 214.

The committee recommends that \$1,500,000 be available for the "Rails to the River" redevelopment in Windsor, Vermont.

The committee recommends that \$3 million be made available for assistance in the construction and operation of a cold storage freezer by the Ketchikan Gateway Borough in Ketchikan, Alaska.

The committee recommends that \$365,000 be made available for a project in the City of Conneaut, Ohio, to develop and market the Eastside Industrial Park, including infrastructure improvements.

The committee recommends that \$735,000 be made available for support of JumpStart, a cooperative effort in Northeast Ohio that works with entrepreneurs to develop high-growth businesses.

The committee recommends that \$300,000 be made available for continued development of an economic development project located in Trumbull and Mahoning Counties in the State of Ohio.

The committee recommends that \$300,000 be made available for development of the Ashtabula City Industrial Park in Ashtabula County, Ohio, including infrastructure development.

The committee recommends that \$400,000 be made available for development/upgrade of the Orwell Industrial Park in Ashtabula County, Ohio, including infrastructure and access improvements.

The committee recommends that \$400,000 be made available for the purchase and redevelopment of a wastewater treatment facility, potable well field, and adjacent property in Kinsman Township, Trumbull County, Ohio.

The committee recommends that \$1.5 million be made available for construction of a sanitary sewer line to connect Wyoming, Minnesota to a regional wastewater treatment facility.

The committee recommends that \$1.25 million be made available to the Natural Resources Research Institute of the University of Minnesota-Duluth to conduct a taconite tailings research and demonstration project.

The committee recommends that \$500,000 be made available to the government of the District of Columbia to finance construction of a retail complex in the predominately low-and moderate-income neighborhood of Columbia Heights, Washington, DC.

The committee recommends that \$500,000 be made available to the government of the District of Columbia for site preparation for commercial redevelopment at The New East Capitol Marketplace, Washington, DC.

The committee recommends that \$1 million be made available to the government of the District of Columbia for land acquisition and site preparation costs for development for a retail center in the Hillcrest neighborhood, Washington, DC.

The committee recommends that \$250,000 be made available to the government of the District of Columbia for development and restoration of an arts center in the low-income neighborhood along H Street, Washington, DC. NE.

#### LEGISLATIVE HISTORY

On May 22, 2003, Senators Bond and Inhofe introduced by request S. 1134, a bill to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965. The bill was read twice and referred to the Committee on Environment and Public Works. The committee met on June 23, 2004, to consider the bill. The bill, as amended, was ordered reported on June 23, 2004.

On October 21, 2003, H.R. 2535 was received in the Senate and read twice and referred to the Committee on Environment and Public Works.

#### HEARINGS

On April 28, 2004, the Committee on Environment and Public Works held a hearing to receive testimony on the reauthorization of the Economic Development Administration. The committee received testimony from Hon. David A. Sampson, Assistant Secretary of Commerce for Economic Development, Economic Development Administration; Mr. Gary Gorshing, President, National Association of Development Organizations; Mr. Jim Saudade, Deputy Commissioner Housing and Community Affairs, Vermont Agency of Commerce and Community Development; Mr. R. Charles Gatson, Vice President and COO, Swope Community Builders; and Dr. Phillip A. Singerman, Executive Director, Maryland Technology Development Corporation, on behalf of the International Economic Development Council.

#### ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1134 on June 23, 2004. The committee agreed by unanimous consent that the Chairman's mark, providing a complete substitute, be considered as original text for purposes of amendment.

A managers amendment making technical and other corrections was offered by Senators Inhofe, Jeffords and Bond. A second degree amendment regarding the Secretary's brownfields waiver was also offered by Senators Inhofe, Jeffords and Bond. The second degree and managers amendments were accepted by voice vote. Two amendments regarding the development of business clusters and the use of technology were offered by Senator Clinton. Both amendments were accepted by unanimous consent. The bill, as amended, was ordered reported by voice vote.

#### REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill.

Section 207 of the bill directs the Secretary to promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

Section 210 of the bill directs the Secretary to promulgate regulations to establish the performance measures to be used in making performance awards established under the section. The bill also directs the Secretary to consider the inclusion of several specific measures.

#### MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 1134 would impose no Federal intergovernmental mandates on State, local or tribal governments. The bill does not impose any private-sector mandates.

#### COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

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#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 1134, Economic Development Administration Reauthorization Act of 2004, as ordered reported by the Senate Committee on Environment and Public Works on June 23, 2004.*

#### *Summary*

S. 1134 would reauthorize the Economic Development Administration (EDA) for an additional 5 years and authorize funding for existing grant programs and new programs established under the bill. CBO estimates that implementing this legislation would cost about \$1.3 billion over the 2005-2009 period and an additional \$700 billion after 2009, assuming appropriation of the necessary amounts. Enacting S. 1134 would not affect direct spending or revenues.

Over the 2005–2009 period, about \$1.12 billion would be used by EDA to provide various types of grants that support activities associated with economic development and assistance for distressed communities, including a new incentive grant program that would reward grant recipients who have met certain performance measures. About \$140 million over the next 5 years would be used for EDA salaries and expenses.

S. 1134 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The grants and incentive awards authorized in the bill would provide financial benefits to State, local, and tribal governments that participate in the economic development and planning programs; any costs to those governments would be incurred voluntarily.

#### *Estimated Cost to the Federal Government*

CBO estimates that implementing the bill would cost about \$1.3 billion over the 2005–2009 period, assuming appropriation of the necessary amounts each year. Those estimated outlays are based on historical patterns for ongoing and similar activities. The estimated budgetary impact of S. 1134 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

By Fiscal Year, in Millions of Dollars

	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
EDA Spending Under Current Law.						
Budget Authority <sup>1</sup> .....	310	0	0	0	0	0
Estimated Outlays .....	381	344	253	171	75	8
Proposed Changes:						
Economic Development Assistance Programs.						
Authorization Level .....	0	425	450	475	500	0
Estimated Outlays .....	0	21	116	216	348	426
EDA Salaries and Expenses.						
Estimated Authorization Level <sup>2</sup> .....	0	34	35	36	37	0
Authorization Outlays .....	0	31	35	36	37	3
Total Proposed Changes.						
Estimated Authorization Level .....	0	459	485	511	537	0
Estimated Outlays .....	0	52	151	252	385	429
EDA Spending Under S. 1134.						
Estimated Authorization Level <sup>1</sup> .....	310	459	485	511	537	0
Estimated Outlays .....	381	396	404	423	460	437

<sup>1</sup>The 2004 level is the amount appropriated for EDA assistance programs and EDA's salaries and expenses.

<sup>2</sup>The bill specifies an authorization level for 2004 administrative costs; amounts over the 2005–2008 period were estimated by adjusting this level for anticipated inflation.

#### *Intergovernmental and Private-Sector Impact*

S. 1134 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments would benefit from additional grant programs for economic development, performance and planning awards, and the changes to the requirements for State and local matches of Federal grants. Such changes would provide additional resources for economic development projects; any costs to those governments would be incurred voluntarily.

*Previous CBO Estimate*

On July 15, 2003, CBO transmitted a cost estimate for H.R. 2535, the Economic Development Administration Reauthorization Act of 2003, as ordered reported by the House Committee on Transportation and Infrastructure on June 25, 2003. H.R. 2532 would authorize the Secretary of Commerce to establish a demonstration program for the redevelopment of brownfield sites using solar energy technologies. CBO estimated that program would cost \$5 million per year over the 5-year period, subject to the appropriation of the authorized amounts. S. 1134 would not authorize the demonstration program.

*Estimate Prepared By:* Federal Costs: Lanette J. Walker; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amina Masood.

*Estimate Approved By:* Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## ADDITIONAL VIEWS OF SENATOR BOXER

I fully support the Economic Development Administration Reauthorization Act of 2004, S. 1134, and its continued authorization, with the exception of section 213, which undermines brownfields cleanups standards and regulations. Section 213 is both unnecessary and unacceptable and should be opposed on both procedural and substantive grounds.

Any EDA brownfields grant program must be fully consistent with EPA brownfields standards. We cannot allow EDA to have weaker standards and less oversight than we fought for under EPA's brownfields program.

Currently, all brownfields cleanups are regulated by United States Environmental Protection Agency (EPA) standards. Allowing EDA to use its grant funds to address truly incidental cleanup issues that are discovered after the cleanup of a brownfields site is completed, such as pulling an in tact underground storage tank, is a laudable goal. However, in crafting such a provision it is critical that we ensure that: the cleanups are truly incidental; EDA is not doing Superfund-caliber clean-ups; EPA, the agency with expertise in hazardous substance remediation, oversees the cleanup; public participation is guaranteed; and, EDA is held to the same standards as a cleanup funded by the EPA.

Unfortunately, section 213 creates a brownfields program within the Economic Development Administration (EDA) that: contains virtually no limit on acceptable projects; is significantly weaker than, and inconsistent with, EPA's brownfields program and standards; contains virtually no checks and balances; undermines the polluter pays principle; provides no guarantees of public participation; and will open the door to other agencies requesting similarly weak brownfields programs and the undermining of the brownfields program.

I will address each of these concerns separately.

First, section 213(b) of the legislation expands the current list of eligibility factors for brownfields grants to allow brownfields grants for six new types of projects, including "any other assistance." This language is so broad as to allow a grant for virtually any type of project.

Second, section 213 is significantly weaker than, and inconsistent with, EPA's brownfields program and standards.

The EDA brownfields program is in no way connected to the requirements of the National Contingency Plan (NCP) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9604 et seq.) (CERCLA), as is EPA's program. The NCP establishes criteria, methods, and procedures used by EPA to respond to releases and threats of release of hazardous substances, pollutants, or contaminants. The goal of the NCP is to select cleanup remedies that protect human health and the environment. The EDA bill includes no such criteria, methods, procedures, or goals.

Further, the savings clause in section 213(c)(3)(D)(ii) of this bill is inadequate, providing protection for Federal and State laws only. In contrast, the EPA's brownfields program requires compliance with all "appropriate, relevant, and applicable regulations" (ARARs), which include guidelines, policies, and goals. For in-

stance, using a drinking water standard as the basis for a groundwater cleanup is standard practice. However, drinking water regulations are not considered “applicable” Federal or State law for groundwater cleanups. Such a standard would be relevant, but not binding, unless EDA grant recipients are required to comply with all ARARs. Under S. 1134, there would be nothing to ensure, or require, that a project comply with drinking water standards. The effect of this omission in the EDA bill is to weaken current EPA cleanup standards.

In addition, while it is clear that the language in this bill allows EDA funds to be used for remediation, it also includes a new definition of “remediation” that blurs the parameters of EDA’s program and responsibilities for cleaning up hazardous waste sites. Section 213(c)(2) prohibits remediation to prevent or minimize *releases* of hazardous substances only. This is a different standard from Superfund authority to address a *release or substantial threat* of release of hazardous substances, pollutants, or contaminants. Thus, under section 213, the cleanup of truly incidental unreleased contamination, such as lead hazard paint around a window, is likely prohibited under this language.

Section 213(c)(3)(D)(i) would require that any recipient of EDA brownfields grants “obtain written approval from the appropriate Federal and State regulatory authority for the hazardous waste remediation.” The use of the term “hazardous *waste* remediation” (emphasis added) is inconsistent with the CERCLA and EPA brownfields terminology, which regulates “hazardous *substances, pollutants and contaminants*,” (emphasis added), and with other portions of this section, which refer to “hazardous *substances*,” (emphasis added). Hazardous waste is regulated in the Solid Waste Disposal Act, which defines it as “a solid waste, or combination of solid wastes,” (Solid Waste Disposal Act, 42 U.S.C. 6903(5)). Thus, the reach of this section is unclear. However, it is clearly inconsistent with, and weaker than, current brownfields cleanup standards.

Even if the definition of “hazardous waste” were correctly referred to as “hazardous substances, pollutants and contaminants” in this subsection, it will only require “approval and clearance” for hazardous substances as defined by CERCLA, which excludes oil, natural gas, and fuels. Thus, it is unclear whether the requirements of Section 213 apply to these sites.

Likewise, it is unclear if these hazardous waste sites are subject to the section 213(c) cleanup spending limits, as they appear to apply only to the remediation of hazardous substances.

Third, section 213 contains virtually no checks and balances due to inadequate oversight.

Section 213(c)(3)(D)(i)’s approval and clearance provision is so vague and confusing as to provide virtually no oversight. It is unclear which agency is required to give “approval and clearance” under this Act. Arguably, but not necessarily, the “appropriate Federal and State hazardous waste authority for the hazardous waste remedial action” when implementing an EDA remedial action is the State or Federal EPA. It is equally likely that the appropriate agencies would be determined to be State and Federal EDA, as EPA is nowhere mentioned in legislation that deals solely with

EDA and its programs. Additionally, the use of the word “appropriate” seems to contemplate more than one Federal entity, further opening the possibility that the “appropriate” agency is not necessarily EPA, but could be EDA. Thus, its reach is unclear at best, limited at worst.

Further, “clearance” as used in this section is vague and undefined. It is not a term used in the lexicon of CERCLA or other environmental laws and this section gives no guidance as to what it means. In addition, the term “Federal and State” contradicts the singular “authority.” It is unclear if clearance is required from both the Federal and State agency or from one only. It is also unclear how grantees would determine to whom to apply for such clearance as no such guidance is offered.

The use of the term “hazardous waste” in this section also undermines appropriate oversight and weakens EDA brownfields cleanup standards, requiring approval and clearance only for hazardous waste cleanups, not CERCLA cleanups.

If the intention is to get sign off by EPA and the appropriate State environmental protection agency, this subsection needs to be clarified to reflect the stated intent of the parties and to guarantee the appropriate oversight by the agencies with cleanup expertise.

Further, section (c)(3) allows EDA to fund cleanups at EPA’s maximum funding level of \$200,000. Section (c)(3)(C)(i) allows EDA to grant up to \$200,000 “in exceptional circumstances that further the mission of the Economic Development Agency.” The mission of EDA is “[t]o lead the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy.” As this is so broad and the bill provides no guidance, it appears that virtually anything would qualify as an exceptional circumstance. Thus, EDA will have the authority to fund and oversee EPA-equivalent cleanups.

This is especially troubling because EDA, an agency with no expertise in remediation, will now be performing brownfields remediation at Superfund-caliber sites. In fact, brownfields sites can be any hazardous waste sites not on the National Priorities List (NPL). Further, many sites eligible for NPL listing have not been listed merely because of decreased funding abilities, not because they are not hazardous. All of these sites are eligible as brownfields. Thus, a brownfields site can be as hazardous as a Superfund site.

Fourth, the polluter pays principles we fought so hard to include in Superfund and the Brownfields law are completely undermined in section 213.

Section 213(d)(2)(B) allows the use of EDA funds for “compliance costs.” Compliance costs may include any cleanup and enforcement costs and administrative and other penalties. For instance, compliance costs would include the fines for failing to comply with a permit for filling in wetlands or mitigating environmental damage as well as the costs of complying with the regulation.

Further, as mentioned above, as CERCLA’s National Contingency Plan does not apply, EPA’s CERCLA cost recovery provisions and mechanisms do not apply. Without these provisions, it is unclear what EDA will do to recoup its costs from polluters or wheth-

er this bill is deigned to waive polluter pays principles and liability altogether.

Section 213(d)(2)(C)'s bona fide prospective purchaser language appears to release an eligible grant recipient from Superfund liability. Notably, the Brownfields Redevelopment and Environmental Restoration Act does not release responsible parties from liability.

Fifth, S. 1134 has no provision for notice or public participation in EDA brownfields cleanups. In contrast, EPA is required to include public participation in its brownfields grants (42 U.S.C. 9628(A)(2)). The public right to know and participate in brownfields cleanups is a critical part of ensuring adequate oversight and the protection of public health and the environment.

Sixth, EDA is the first, but not the last, agency that will be asking for these types of lenient standards. Housing and Urban Development has already approached Congress attempting to secure weaker standards for cleanups than are in place for EPA cleanups. This will likely result in some parties engaging in brownfields cleanup agency forum shopping as they look for weaker oversight and standards. For instance, according to EDA figures, its brownfields-related funding for fiscal year 2004 was \$259 million as compared to EPA's budget of \$171 million. In fiscal year 2005, EDA's budget is projected to be \$269 million, whereas EPA's is projected at \$210 million. Thus, EDA could potentially oversee more brownfields cleanups than EPA.

The weakening of brownfields cleanup standards is all the more perplexing as it is completely unnecessary for EDA reauthorization. It is a rollback attached to this bill without full and adequate discussion and hearings. This committee spent 10 years working out the parameters of brownfields cleanup and regulation. Here, we begin to dismantle it less than 3 years later. And, it is completely unnecessary.

This language was not in the original version of S. 1134, but was inserted into a manager's package at the last moment before the committee vote. The one hearing on S. 1134 had almost no discussion of brownfields. None of the witnesses mentioned it in his remarks and only one Senator briefly mentioned brownfields in his testimony. However, in the comments that were elicited during the questioning of witnesses, the one consistent theme that rang through was that EDA should do economic development, not environmental remediation.

This weak and poorly drafted brownfields provision should be removed, thus, reauthorizing EDA while safeguarding environmental and public health during brownfields cleanups. I urge my colleagues to remove section 213 from S. 1134.

## CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in italic, existing law in which no change is proposed is shown in roman:

**PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF  
1965**

[As Amended Through P.L. 108–204, March 2, 2004]

\* \* \* \* \*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Public Works and Economic Development Act of 1965”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and declarations.
- Sec. 3. Definitions.

**TITLE I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND  
COORDINATION**

- Sec. 101. Establishment of economic development partnerships.
- Sec. 102. Cooperation of Federal agencies.
- Sec. 103. Coordination.

**TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT**

- Sec. 201. Grants for public works and economic development.
- Sec. 202. Base closings and realignments.
- Sec. 203. Grants for planning and grants for administrative expenses.
- Sec. 204. Cost sharing.
- Sec. 205. Supplementary grants.
- Sec. 206. Regulations on relative needs and allocations.
- Sec. 207. Grants for training, research, and technical assistance.
- [Sec. 208. Prevention of unfair competition.] *Repealed***
- Sec. 209. Grants for economic adjustment.
- Sec. 210. Changed project circumstances.
- Sec. 211. Use of funds in projects constructed under projected cost.
- Sec. 212. Reports by recipients.
- Sec. 213. Prohibition on use of funds for attorney’s and consultant’s fees.
- Sec. 214. *Special impact areas.*
- Sec. 215. *Performance awards.*
- Sec. 216. *Planning performance awards.*
- Sec. 217. *Direct expenditure or redistribution by recipient.*
- Sec. 218. *Brownfields redevelopment.*

**TITLE III—ELIGIBILITY; COMPREHENSIVE ECONOMIC DEVELOPMENT  
STRATEGIES**

- Sec. 301. Eligibility of areas.
- Sec. 302. Comprehensive economic development strategies.

**TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS**

- Sec. 401. Designation of economic development districts.
- Sec. 402. Termination or modification of economic development districts.
- [Sec. 403. Incentives.] *Repealed***
- [Sec. 404. Provision of comprehensive economic development strategies to Appalachian Regional Commission.]**

- Sec. 404. *Provision of comprehensive economic development strategies to Regional Commissions.*  
 Sec. 405. Assistance to parts of economic development districts not in eligible areas.

## TITLE V—ADMINISTRATION

- Sec. 501. Assistant Secretary for Economic Development.  
 Sec. 502. Economic development information clearinghouse.  
 Sec. 503. Consultation with other persons and agencies.  
 Sec. 504. Administration, operation, and maintenance.  
 [Sec. 505. Businesses desiring Federal contracts.] *Repealed*  
 Sec. 506. Performance evaluations of grant recipients.  
 Sec. 507. Notification of reorganization.

## TITLE VI—MISCELLANEOUS

- Sec. 601. Powers of Secretary.  
 Sec. 602. Maintenance of standards.  
 Sec. 603. Annual report to Congress.  
 Sec. 604. Delegation of functions and transfer of funds among Federal agencies.  
 Sec. 605. Penalties.  
 Sec. 606. Employment of expeditors and administrative employees.  
 Sec. 607. Maintenance and public inspection of list of approved applications for financial assistance.  
 Sec. 608. Records and audits.  
 Sec. 609. Relationship to assistance under other law.  
 Sec. 610. Acceptance of certifications by applicants.

## TITLE VII—FUNDING

- Sec. 701. General authorization of appropriations.  
 Sec. 702. Authorization of appropriations for defense conversion activities.  
 Sec. 703. Authorization of appropriations for disaster economic recovery activities.  
 Sec. 704. *Funding for grants for planning and grants for administrative expenses.*

\* \* \* \* \*

**【SEC. 2. FINDINGS AND DECLARATIONS.**

**【(a) FINDINGS.—Congress finds that—**

**【(1) while the economy of the United States is undergoing a sustained period of economic growth resulting in low unemployment and increasing incomes, there continue to be areas suffering economic distress in the form of high unemployment, low incomes, underemployment, and outmigration as well as areas facing sudden economic dislocations due to industrial restructuring and relocation, defense base closures and procurement cutbacks, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;**

**【(2) as the economy of the United States continues to grow, those distressed areas contain significant human and infrastructure resources that are underused;**

**【(3) expanding international trade and the increasing pace of technological innovation offer both a challenge and an opportunity to the distressed communities of the United States;**

**【(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private local, regional, and State organizations to ensure that existing resources are not wasted and all Americans have an opportunity to participate in the economic growth of the United States;**

**【(5) in order to avoid wasteful duplication of effort and to limit the burden on distressed communities, Federal, State,**

and local economic development activities should be better planned and coordinated and Federal program requirements should be simplified and made more consistent;

[(6) the goal of Federal economic development activities should be to work in partnership with local, regional, and State public and private organizations to support the development of private sector businesses and jobs in distressed communities;

[(7) Federal economic development efforts will be more effective if they are coordinated with, and build upon, the trade and technology programs of the United States; and

[(8) under this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

[(b) DECLARATIONS.—Congress declares that, in order to promote a strong and growing economy throughout the United States—

[(1) assistance under this Act should be made available to both rural and urban distressed communities;

[(2) local communities should work in partnership with neighboring communities, the States, and the Federal Government to increase their capacity to develop and implement comprehensive economic development strategies to address existing, or deter impending, economic distress; and

[(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to take advantage of the development opportunities afforded by technological innovation and expanding and newly opened global markets.]

**SEC. 2. FINDINGS AND DECLARATIONS.**

(a) *FINDINGS.*—Congress finds that—

(1) *there continue to be areas of the United States experiencing chronic high unemployment, underemployment, out-migration, and low per capita incomes, as well as areas facing sudden and severe economic dislocations because of structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;*

(2) *economic growth in the States, cities, and rural areas of the United States is produced by expanding economic opportunities, expanding free enterprise through trade, developing and strengthening public infrastructure, and creating a climate for job creation and business development;*

(3) *the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging communities to develop a more competitive and diversified economic base by—*

(A) *creating an environment that promotes economic activity by improving and expanding public infrastructure;*

(B) *promoting job creation through increased innovation, productivity, and entrepreneurship; and*

(C) *empowering local and regional communities experiencing chronic high unemployment and low per capita income to develop private sector business and attract increased private sector capital investment;*

(4) *while economic development is an inherently local process, the Federal Government should work in partnership with public and private State, regional, tribal, and local organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;*

(5) *in order to avoid duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal, and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, and simplified and consistent requirements; and*

(6) *Federal economic development efforts will be more effective if the efforts are coordinated with, and build upon, the trade, workforce investment, transportation, and technology programs of the United States.*

(b) *DECLARATIONS.—In order to promote a strong and growing economy throughout the United States, Congress declares that—*

(1) *assistance under this Act should be made available to both rural- and urban-distressed communities;*

(2) *local communities should work in partnership with neighboring communities, the States, Indian tribes, and the Federal Government to increase the capacity of the local communities to develop and implement comprehensive economic development strategies to alleviate economic distress and enhance competitiveness in the global economy; and*

(3) *whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to support entrepreneurship to take advantage of the development opportunities afforded by technological innovation and expanding newly opened global markets.*

\* \* \* \* \*

**SEC. 3. DEFINITIONS.**

In this Act:

(1) \* \* \*

\* \* \* \* \*

(4) **ELIGIBLE RECIPIENT.—**

(A) **IN GENERAL.—**The term “eligible recipient” means—

- [(i)]** an area described in section 301(a);
- [(ii)]** (i) an economic development district;
- [(iii)]** (ii) an Indian tribe;
- [(iv)]** (iii) a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities,
- [(v)]** (iv) a city or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions;

[(vi)](v) an institution of higher education or a consortium of institutions of higher education; or

[(vii)](vi) a public or private nonprofit organization or association acting in cooperation with officials of a political subdivision of a State.

\* \* \* \* \*

(8) *REGIONAL COMMISSIONS.*—The term ‘Regional Commissions’ means—

(A) the Appalachian Regional Commission established under chapter 143 of title 40, United States Code;

(B) the Delta Regional Authority established under subtitle F of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa et seq.);

(C) the Denali Commission established under the Denali Commission Act of 1998 (42 U.S.C. 3121 note; 112 Stat. 2681–637 et seq.); and

(D) the Northern Great Plains Regional Authority established under subtitle G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb et seq.).

[(8)](9) *SECRETARY.*—The term “Secretary” means the Secretary of Commerce.

[(9)](10) *STATE.*—The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the 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.

[(10)](11) *UNITED STATES.*—The term “United States” means all of the States.

(12) *UNIVERSITY CENTER.*—The term ‘university center’ means an institution of higher education or a consortium of institutions of higher education established as a University Center for Economic Development under section 207(a)(2)(D).

\* \* \* \* \*

**SEC. 101. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.**

(a) *IN GENERAL.*— \* \* \*

\* \* \* \* \*

(b) *TECHNICAL ASSISTANCE.*—The Secretary may provide such technical assistance to States, political subdivisions of States, sub-State regional organizations (including organizations that cross State boundaries), [and multi-State regional organizations] *multi-State regional organizations, and nonprofit organizations* as the Secretary determines is appropriate to—

- (1) alleviate economic distress;
- (2) encourage and support public-private partnerships for the formation and improvement of economic development strategies that sustain and promote economic development across the United States; and
- (3) promote investment in infrastructure and technological capacity to keep pace with the changing global economy.

\* \* \* \* \*

(d) COOPERATION AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into a cooperation agreement with any 2 or more [adjoining] States, or an organization of any 2 or more [adjoining] States, in support of effective economic development.

\* \* \* \* \*

**SEC. 103. COORDINATION.**

(a) IN GENERAL.—The Secretary shall coordinate activities relating to the preparation and implementation of comprehensive economic development strategies under this Act with Federal agencies carrying out other Federal programs, States, economic development districts, *Indian tribes*, and other appropriate planning and development organizations.

(b) MEETINGS.—*To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations.*

\* \* \* \* \*

**SEC. 203. GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(d) STATE PLANS.—

(1) DEVELOPMENT.—Any State plan developed with assistance under this section shall be developed, *to the maximum extent practicable*, cooperatively by the State, political subdivisions of the State, and the economic development districts located wholly or partially in the State.

(2) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.—As a condition of receipt of assistance for a State plan under this subsection, the State shall have or develop a comprehensive economic development strategy.

[(3) CERTIFICATION TO THE SECRETARY.—On completion of a State plan developed with assistance under this section, the State shall—

[(A) certify to the Secretary that, in the development of the State plan, local and economic development district plans were considered and, to the maximum extent practicable, the State plan is consistent with the local and economic development district plans; and

[(B) identify any inconsistencies between the State plan and the local and economic development district plans and provide a justification for each inconsistency.]

(3) COORDINATION.—*Before providing assistance for a State plan under this section, the Secretary shall consider the extent to which the State will consider local and economic development district plans.*

(4) COMPREHENSIVE PLANNING PROCESS.—Any overall State economic development planning assisted under this section shall be a part of a comprehensive planning process that shall consider the provision of public works to—

- (A) promote economic development and opportunity;
- (B) foster effective transportation access;
- (C) enhance and protect the environment; **and**
- (D) *assist in carrying out the workforce investment strategy of a State;*
- (E) *promote the use of technology in economic development, including access to high-speed telecommunications;*
- and

**[(D)] (F)** balance resources through the sound management of physical development.

(5) REPORT TO SECRETARY.—Each State that receives assistance for the development of a plan under this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

\* \* \* \* \*

**SEC. 204. COST SHARING.**

**[(a) FEDERAL SHARE.**—Subject to section 205, the amount of a grant for a project under this title shall not exceed 50 percent of the cost of the project.]

*(a) FEDERAL SHARE.—Except as provided in subsection (c), the Federal share of the cost of any project carried out under this title shall not exceed—*

- (1) 50 percent; plus*
- (2) an additional percent that—*
  - (A) shall not exceed 30 percent; and*
  - (B) is based on the relative needs of the area in which the project will be located, as determined in accordance with regulations promulgated by the Secretary.*

**(b) NON-FEDERAL SHARE.**—In determining the amount of the non-Federal share of the cost of a project, the Secretary may provide credit toward the non-Federal share for all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, *assumptions of debt*, and services.

**(c) INCREASE IN FEDERAL SHARE.**—

*(1) INDIAN TRIBES.—In the case of a grant to an Indian tribe for a project under this title, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.*

*(2) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NON-PROFIT ORGANIZATIONS.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted the effective taxing and borrowing capacity of the State or political subdivision, or in the case of a grant to a non-profit organization that the Secretary determines has exhausted the effective borrowing capacity of the nonprofit organization, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.*

*(3) TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.—In the case of a grant provided under section 207, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project if*

*the Secretary determines that the project funded by the grant merits, and is not feasible without, such an increase.*

\* \* \* \* \*

**SEC. 205. SUPPLEMENTARY GRANTS.**

(a) DEFINITION OF DESIGNATED FEDERAL GRANT PROGRAM.—In this section, the term “designated Federal grant program” means any Federal grant program that—

- (1) provides assistance in the construction or equipping of public works, public service, or development facilities;
- (2) the Secretary designates as eligible for an allocation of funds under this section; and
- (3) assists projects that are—
  - (A) eligible for assistance under this title; and
  - (B) consistent with a comprehensive economic development strategy.

[(b) SUPPLEMENTARY GRANTS.—

[(1) IN GENERAL.—On the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the eligible recipient is eligible but, because of the eligible recipient’s economic situation, for which the eligible recipient cannot provide the required non-Federal share.

[(2) PURPOSES OF GRANTS.—Supplementary grants under paragraph (1) may be made for purposes that shall include enabling eligible recipients to use—

- [(A) designated Federal grant programs; and
- [(B) direct grants authorized under this title.]

(b) SUPPLEMENTARY GRANTS.—*Subject to subsection (c), in order to assist eligible recipients in taking advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the recipient is eligible but for which the recipient cannot provide the required non-Federal share because of the economic situation of the recipient.*

(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

[(1) AMOUNT OF SUPPLEMENTARY GRANTS.—Subject to paragraph (4), the amount of a supplementary grant under this title for a project shall not exceed the applicable percentage of the cost of the project established by regulations promulgated by the Secretary, except that the non-Federal share of the cost of a project (including assumptions of debt) shall not be less than 20 percent.

[(2) FORM OF SUPPLEMENTARY GRANTS.—In accordance with such regulations as the Secretary may promulgate, the Secretary shall make supplementary grants by increasing the amounts of grants authorized under this title or by the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs.]

(1) AMOUNT OF SUPPLEMENTARY GRANTS.—*The share of the project cost supported by a supplementary grant under this section may not exceed the applicable Federal share under section 204.*

(2) *FORM OF SUPPLEMENTARY GRANTS.*—*The Secretary shall make supplementary grants by—*

(A) *the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or*

(B) *the provision of funds under this Act, which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary.*

(3) **FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.**—Notwithstanding any requirement as to the amount or source of non-Federal funds that may be applicable to a Federal program, funds provided under this section may be used to increase the Federal share for specific projects under the program that are carried out in areas described in section 301(a) above the Federal share of the cost of the project authorized by the law governing the program.

[(4) **LOWER NON-FEDERAL SHARE.**—

[(A) **INDIAN TRIBES.**—In the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1) or may waive the non-Federal share.

[(B) **CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.**—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted its effective taxing and borrowing capacity, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1).]

\* \* \* \* \*

**SEC. 206. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.**

In promulgating rules, regulations, and procedures for assistance under this title, the Secretary shall ensure that—

(1) the relative needs of eligible areas are given adequate consideration by the Secretary, as determined based on, among other relevant factors—

(A) the severity of the rates of unemployment in the eligible areas and the duration of the unemployment;

(B) the income levels and the extent of underemployment in eligible areas; and

(C) the outmigration of population from eligible areas and the extent to which the outmigration is causing economic injury in the eligible areas; [and]

(2) allocations of assistance under this title are prioritized to ensure that the level of economic distress of an area, rather than a preference for a geographic area or a specific type of economic distress, is the primary factor in allocating the assistance[.];

(3)(A) *rural and urban economically distressed areas are not harmed by the establishment or implementation by the Secretary of a private sector leveraging goal for a project under this title;*

*(B) any private sector leveraging goal established by the Secretary does not prohibit or discourage grant applicants under this title from public works in, or economic development of, rural or urban economically distressed areas; and*

*(C) the relevant Committees of Congress are notified prior to making any changes to any private sector leveraging goal; and*

*(4) grants made under this title promote job creation and will have a high probability of assisting the recipient in meeting or exceeding applicable performance requirements established in connection with the grants.*

\* \* \* \* \*

**SEC. 207. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.**

(a) IN GENERAL.—

(1) GRANTS.—On the application of an eligible recipient, the Secretary may make grants for training, research, and technical assistance, including grants for program evaluation and economic impact analyses, that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment.

(2) TYPES OF ASSISTANCE.—Grants under paragraph (1) may be used for—

- (A) project planning and feasibility studies;
- (B) demonstrations of innovative activities or strategic economic development investments;
- (C) management and operational assistance;
- (D) establishment of university centers;
- (E) establishment of business outreach centers;
- (F) studies evaluating the needs of, and development potential for, economic growth of areas that the Secretary determines have substantial need for the assistance; **[and]**

*(G) studies that evaluate the effectiveness of coordinating projects funded under this Act with projects funded under other Acts;*

*(H) assessment, marketing, and establishment of business clusters; and*

**[(G)]** *(I) other activities determined by the Secretary to be appropriate.*

**[(3) REDUCTION OR WAIVER OF NON-FEDERAL SHARE.—**In the case of a project assisted under this section, the Secretary may reduce or waive the non-Federal share, without regard to section 204 or 205, if the Secretary finds that the project is not feasible without, and merits, such a reduction or waiver.**]**

*(3) COOPERATION REQUIREMENT.—In the case of a project assisted under this section that is national or regional in scope, the Secretary may waive the provision in section 3(4)(A)(vi) requiring a nonprofit organization or association to act in cooperation with officials of a political subdivision of a State.*

\* \* \* \* \*

**[SEC. 208. PREVENTION OF UNFAIR COMPETITION.**

**[No financial assistance under this Act shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises.]**

\* \* \* \* \*

**SEC. 209. GRANTS FOR ECONOMIC ADJUSTMENT.**

**(a) IN GENERAL.—** \* \* \*

\* \* \* \* \*

**(c) PARTICULAR COMMUNITY ASSISTANCE.—**Assistance under this section may include assistance provided for activities identified by communities, the economies of which are injured by—

(1) military base closures or realignments, defense contractor reductions in force, or Department of Energy defense-related funding reductions, for help in diversifying their economies through projects to be carried out on Federal Government installations or elsewhere in the communities;

(2) disasters or emergencies, in areas with respect to which a major disaster or emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), for post-disaster economic recovery;

(3) international trade, for help in economic restructuring of the communities; **[or]**

(4) fishery failures, in areas with respect to which a determination that there is a commercial fishery failure has been made under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a))**[.]**; or

(5) *the loss of manufacturing jobs, for reinvesting in and diversifying the economies of the communities.*

**[(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—**

**[(1) IN GENERAL.—**Subject to paragraph (2), an eligible recipient of a grant under this section may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

**[(2) LIMITATION.—**Under paragraph (1), an eligible recipient may not provide any grant to a private for-profit entity.]

**(d) SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND**

**GRANTS.—**

*(1) IN GENERAL.—The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.*

*(2) EFFICIENT ADMINISTRATION.—The Secretary may—*

*(A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;*

(B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and

(C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

(3) TREATMENT OF ACTIONS.—An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

(4) PRESERVATION OF SECURITIES LAWS.—

(A) NOT TREATED AS EXEMPTED SECURITIES.—No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

(B) PRESERVATION.—Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.

\* \* \* \* \*

**[SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.**

[In any case in which a grant (including a supplementary grant described in section 205) has been made by the Secretary under this title (or made under this Act, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a construction project, and, after the grant has been made but before completion of the project, the cost of the project based on the designs and specifications that was the basis of the grant has decreased because of decreases in costs—

[(1) the Secretary may approve, subject to the availability of appropriations, the use of the excess funds or a portion of the funds to improve the project; and

[(2) any amount of excess funds remaining after application of paragraph (1) shall be deposited in the general fund of the Treasury.]

**SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.**

(a) IN GENERAL.—In the case of a grant to a recipient for a construction project under section 201 or 209, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary

may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

(1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 204; or

(2) to improve the project.

(b) *OTHER USES OF EXCESS FUNDS.*—Any amount of excess funds remaining after application of subsection (a) may be used by the Secretary for providing assistance under this Act.

(c) *TRANSFERRED FUNDS.*—In the case of excess funds described in subsection (a) in projects using funds transferred from other Federal agencies pursuant to section 604, the Secretary shall—

(1) use the funds in accordance with subsection (a), with the approval of the originating agency; or

(2) return the funds to the originating agency.

(d) *REVIEW BY COMPTROLLER GENERAL.*—

(1) *REVIEW.*—The Comptroller General of the United States shall review the implementation of this section for each fiscal year.

(2) *ANNUAL REPORT.*—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller General under this subsection.

\* \* \* \* \*

**SEC. 214. SPECIAL IMPACT AREAS.**

(a) *IN GENERAL.*—On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 302, the Secretary may waive, in whole or in part, the requirements of section 302 and designate the area represented by the recipient as a special impact area.

(b) *CONDITIONS.*—The Secretary may make a designation under subsection (a) only after determining that—

(1) the project will fulfill a pressing need of the area; and

(2) the project will—

(A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or

(B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

(c) *NOTIFICATION.*—At the time of the designation under subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.

\* \* \* \* \*

**SEC. 215. PERFORMANCE AWARDS.**

(a) *IN GENERAL.*—The Secretary may make a performance award in connection with a grant made, on or after the date of en-

actment of this section, to an eligible recipient for a project under section 201 or 209.

(b) *PERFORMANCE MEASURES.*—

(1) *REGULATIONS.*—The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a).

(2) *CONSIDERATIONS.*—In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

(A) whether the recipient meets or exceeds scheduling goals;

(B) whether the recipient meets or exceeds job creation goals;

(C) amounts of private sector capital investments leveraged; and

(D) such other factors as the Secretary determines to be appropriate.

(c) *AMOUNT OF AWARDS.*—

(1) *IN GENERAL.*—The Secretary shall base the amount of a performance award made under subsection (a) in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

(2) *MAXIMUM AMOUNT.*—The amount of a performance award may not exceed 10 percent of the amount of the grant.

(d) *USE OF AWARDS.*—A recipient of a performance award under subsection (a) may use the award for any eligible purpose under this Act, in accordance with section 602 and such regulations as the Secretary may promulgate.

(e) *FEDERAL SHARE.*—Notwithstanding section 204, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

(f) *TREATMENT IN MEETING NON-FEDERAL SHARE REQUIREMENTS.*—For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

(g) *TERMS AND CONDITIONS.*—In making performance awards under subsection (a), the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

(h) *FUNDING.*—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

(i) *REPORTING REQUIREMENT.*—The Secretary shall include information regarding performance awards made under this section in the annual report required under section 603.

(j) *REVIEW BY COMPTROLLER GENERAL.*—

(1) *REVIEW.*—The Comptroller General shall review the implementation of this section for each fiscal year.

(2) *ANNUAL REPORT.*—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller under this subsection.

\* \* \* \* \*

**SEC. 216. PLANNING PERFORMANCE AWARDS.**

(a) *IN GENERAL.*—The Secretary may make a planning performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under this title located in an economic development district.

(b) *ELIGIBILITY.*—The Secretary may make a planning performance award to an eligible recipient under subsection (a) in connection with a grant for a project if the Secretary determines before closeout of the project that—

(1) the recipient actively participated in the economic development activities of the economic development district in which the project is located;

(2) the project is consistent with the comprehensive economic development strategy of the district;

(3) the recipient worked with Federal, State, and local economic development entities throughout the development of the project; and

(4) the project was completed in accordance with the comprehensive economic development strategy of the district.

(c) *MAXIMUM AMOUNT.*—The amount of a planning performance award made under subsection (a) in connection with a grant may not exceed 5 percent of the amount of the grant.

(d) *USE OF AWARDS.*—A recipient of a planning performance award under subsection (a) shall use the award to increase the Federal share of the cost of a project under this title.

(e) *FEDERAL SHARE.*—Notwithstanding section 204, the funds of a planning performance award may be used to pay up to 100 percent of the cost of a project under this title.

(f) *FUNDING.*—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

\* \* \* \* \*

**SEC. 217. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.**

(a) *IN GENERAL.*—Subject to subsection (b), a recipient of a grant under section 201, 203, or 207 may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other eligible recipients to fund required components of the scope of work approved for the project.

(b) *LIMITATION.*—A recipient may not redistribute grant funds received under section 201 or 203 to a for-profit entity.

(c) *ECONOMIC ADJUSTMENT.*—Subject to subsection (d), a recipient of a grant under section 209 may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

(d) *LIMITATION.*—Under subsection (c), a recipient may not provide any grant to a private for-profit entity.

\* \* \* \* \*

**SEC. 218. BROWNFIELDS REDEVELOPMENT.**

(a) *DEFINITION OF BROWNFIELD SITE.*—In this section, the term ‘brownfield site’ has the meaning given the term in section 101(39)

of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39)).

(b) GRANTS.—On the application of eligible recipients, the Secretary may make grants for projects on brownfield sites to alleviate or prevent conditions of inadequate private capital investment, unemployment, underemployment, blight, underutilized or abandoned land, outmigration or population loss, or infrastructure deterioration, including projects consisting of—

(1) acquisition, development, or reuse of land and infrastructure improvements for a public works, service, or facility;

(2) development of public facilities, including design and engineering, construction, rehabilitation, alteration, expansion, or improvement, and related machinery and equipment;

(3) business development (including funding of a revolving loan fund);

(4) planning;

(5) technical assistance; and

(6) any other assistance determined by the Secretary to alleviate the economic impacts of brownfield sites consistent with the objectives of this title.

(c) PROHIBITION ON REMEDIATION.—

(1) DEFINITIONS.—In this subsection:

(A) HAZARDOUS SUBSTANCE.—The term ‘hazardous substance’ has the meaning given the term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(B) RELEASE.—The term ‘release’ has the meaning given the term in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

(C) REMEDIATION.—The term ‘remediation’ does not include response activities described in section 104(a)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(a)(3)).

(2) PROHIBITION.—Except as provided in paragraph (3), a grant made under this section shall not be used for remediation to prevent or minimize the release of hazardous substances.

(3) EXCEPTION FOR INCIDENTAL REMEDIATION.—

(A) IN GENERAL.—Paragraph (2) does not apply to remediation that is incidental to the economic redevelopment project.

(B) LIMITATION.—Except as provided in subparagraph (C), incidental remediation shall not exceed \$50,000 at any individual project.

(C) EXCEPTIONAL CIRCUMSTANCES.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary may waive subparagraph (B) in exceptional circumstances that further the mission of the Economic Development Administration.

(ii) LIMITATION.—If the Secretary waives subparagraph (B) for a project, the cost of the incidental remediation at the project shall not exceed \$200,000.

(D) *STANDARDS.*—A recipient of a grant under this section that is used for incidental remediation shall—

(i) obtain written approval or clearance from the appropriate Federal and State regulatory authority for the hazardous waste remediation; and

(ii) comply with all applicable Federal and State laws.

(4) *EFFECT ON FEDERAL AND STATE LAWS.*—Nothing in this section affects any liability, obligation, or response authority under Federal or State law.

(d) *ADDITIONAL LIMITATIONS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), a grant made under this section shall be subject to section 104(k)(4)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(4)(B)).

(2) *EXCEPTIONS.*—

(A) *ADMINISTRATIVE COSTS.*—A recipient of a grant made under this section may use grant funds for the administrative costs of economic development activities.

(B) *COMPLIANCE COSTS.*—A recipient of a grant made under this section may use grant funds for the compliance costs of economic development activities.

(C) *BONA FIDE PROSPECTIVE PURCHASER.*—For purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), a recipient of a grant under this section that otherwise satisfies the definition of ‘bona fide prospective purchaser’ under section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(40)) shall be considered to be within that definition regardless of the date on which the grant recipient acquires ownership of a facility.

(e) *ASSISTANCE AT OTHER SITES.*—Nothing in this section affects the authority of the Secretary to provide assistance to eligible recipients under this Act for economic development projects at a site other than a brownfield site.

\* \* \* \* \*

**SEC. 301. ELIGIBILITY OF AREAS.**

(a) *IN GENERAL.*— \* \* \*

\* \* \* \* \*

(c) *DOCUMENTATION.*—

(1) *IN GENERAL.*—A determination of eligibility under subsection (a) shall be supported by the most recent Federal data available (including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate), or, if no recent Federal data is available, by the most recent data available through the government of the State in which the area is located.

\* \* \* \* \*

**SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3)(A) a comprehensive economic development strategy for addressing the economic problems identified under paragraph (1) in a manner that promotes economic development and opportunity, fosters effective transportation access, *maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications)*, enhances and protects the environment, and balances resources through sound management of development; and

\* \* \* \* \*

(c) APPROVAL OF OTHER PLAN.—**[The Secretary]**

(1) *IN GENERAL.*—*The Secretary* may accept as a comprehensive economic development strategy a satisfactory plan developed under another federally supported program.

(2) *EXISTING STRATEGY.*—*To the maximum extent practicable, a plan submitted under this paragraph shall be consistent and coordinated with any existing comprehensive economic development strategy for the area.*

\* \* \* \* \*

**[SEC. 403. INCENTIVES.**

**[(a) IN GENERAL.**—Subject to the non-Federal share requirement under section 205(c)(1), the Secretary may increase the amount of grant assistance for a project in an economic development district by an amount that does not exceed 10 percent of the cost of the project, in accordance with such regulations as the Secretary shall promulgate, if—

**[(1)** the project applicant is actively participating in the economic development activities of the district; and

**[(2)** the project is consistent with the comprehensive economic development strategy of the district.

**[(b) REVIEW OF INCENTIVE SYSTEM.**—In promulgating regulations under subsection (a), the Secretary shall review the current incentive system to ensure that the system is administered in the most direct and effective manner to achieve active participation by project applicants in the economic development activities of economic development districts.]

\* \* \* \* \*

**[SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO APPALACHIAN REGIONAL COMMISSION.**

**[If any part of an economic development district is in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)), the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the Appalachian Regional Commission established under that Act.]**

**SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.**

*If any part of an economic development district is in a region covered by 1 or more of the Regional Commissions, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected Regional Commission.*

\* \* \* \* \*

**SEC. 502. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.**

In carrying out this Act, the Secretary shall—

**[(1) maintain a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal and State governments, including political subdivisions of States;]**

*(1) maintain a central information clearinghouse on the Internet with—*

*(A) information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government;*

*(B) links to State economic development organizations; and*

*(C) links to other appropriate economic development resources;*

**[(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal, State, and local laws in locating and applying for the assistance; and]**

*(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;*

**(3) assist areas described in section 301(a) and other areas by providing to interested persons, communities, industries, and businesses in the areas any technical information, market research, or other forms of assistance, information, or advice that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment in the areas[.]; and**

*(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.*

\* \* \* \* \*

**[SEC. 505. BUSINESSES DESIRING FEDERAL CONTRACTS.**

**[The Secretary may provide the procurement divisions of Federal agencies with a list consisting of—**

**[(1) the names and addresses of businesses that are located in areas described in section 301(a) and that wish to obtain Federal Government contracts for the provision of supplies or services; and**

[(2) the supplies and services that each business provides.]

\* \* \* \* \*

**SEC. 506. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(c) TIMING OF EVALUATIONS.—Evaluations under subsection (a) shall be conducted on a continuing basis so that each grantee is evaluated within 3 years after the first award of assistance to the grantee [after the effective date of the Economic Development Administration Reform Act of 1998], and at least once every 3 years thereafter, so long as the grantee receives the assistance.

(d) EVALUATION CRITERIA.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for use in conducting evaluations under subsection (a).

(2) EVALUATION CRITERIA FOR UNIVERSITY CENTERS.—The criteria for evaluation of a university center shall, at a minimum, provide for an assessment of the center's contribution to providing technical assistance, conducting applied research, *program performance*, and disseminating results of the activities of the center.

\* \* \* \* \*

**SEC. 602. MAINTENANCE OF STANDARDS.**

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor [in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5)] *in accordance with subchapter IV of chapter 31 of title 40, United States Code*. The Secretary shall not extend any financial assistance under this Act, for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z–15), and [section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)] *section 3145 of title 40, United States Code*.

\* \* \* \* \*

**SEC. 603. ANNUAL REPORT TO CONGRESS.**

[Not later]

(a) IN GENERAL.—*Not later* than July 1, 2000, and July 1 of each year thereafter, the Secretary shall submit to Congress a comprehensive and detailed annual report on the activities of the Secretary under this Act during the most recently completed fiscal year.

(b) INCLUSIONS.—*Each report required under subsection (a) shall—*

(1) *include a list of the waivers issued under section 218(c)(3)(C);*

(2) include a list of all grant recipients by State, including the projected private sector dollar to Federal dollar investment ratio for each grant recipient;

(3) include a discussion of any private sector leveraging goal with respect to grants awarded to—

- (A) rural and urban economically distressed areas; and
- (B) highly distressed areas; and

(4) after the completion of a project, include the realized private sector dollar to Federal dollar investment ratio for the project.

\* \* \* \* \*

**SEC. 609. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.**

[(a) PREVIOUSLY AUTHORIZED ASSISTANCE.—Except as otherwise provided in this Act, all financial and technical assistance authorized under this Act shall be in addition to any Federal assistance authorized before the effective date of the Economic Development Administration Reform Act of 1998.]

[(b) ASSISTANCE UNDER OTHER ACTS.—]Nothing in this Act authorizes or permits any reduction in the amount of Federal assistance that any State or other entity eligible under this Act is entitled to receive under any other Act.

\* \* \* \* \*

**[SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.**

[There are authorized to be appropriated to carry out this Act \$397,969,000 for fiscal year 1999, \$368,000,000 for fiscal year 2000, \$335,000,000 for fiscal year 2001, \$335,000,000 for fiscal year 2002, and \$335,000,000 for fiscal year 2003, to remain available until expended.]

**SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.**

(a) *ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.*—There are authorized to be appropriated for economic development assistance programs to carry out this Act, to remain available until expended—

- (1) \$400,000,000 for fiscal year 2004;
- (2) \$425,000,000 for fiscal year 2005;
- (3) \$450,000,000 for fiscal year 2006;
- (4) \$475,000,000 for fiscal year 2007; and
- (5) \$500,000,000 for fiscal year 2008.”

(b) *SALARIES AND EXPENSES.*—There are authorized to be appropriated for salaries and expenses of administering this Act, to remain available until expended—

- (1) \$33,377,000 for fiscal year 2004; and
- (2) such sums as are necessary for each fiscal year thereafter.

\* \* \* \* \*

**SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.**

(a) *IN GENERAL.*—Of the amounts made available under section 701 for each fiscal year, not less than \$27,000,000 shall be made available for grants provided under section 203.

*(b) WAIVER.—Subsection (a) shall not apply in any case in which the total amount made available for a fiscal year for all programs under this Act (excluding programs described in paragraphs (1) and (2) of section 209(c)) is less than \$255,000,000.*

