time acted quite responsibly and did a public service by creating a safe haven for parents with young children. That is one rerun that most American families want desperately to see again.

We do not want to pass any law or dictate what programs can or can't be shown during the 8 o'clock hour. We just want to reiterate to the people who run the networks that this an issue of grave concern to American families, and that the family hour is a reasonable, commonsense concept that has overwhelming support. A companion resolution in the House has attracted 97 cosponsors, and 20 Senators have already endorsed the family hour movement, having signed a petition we sent to the network presidents in April.

Mr. President, the resonance of this issue was confirmed to me by a conversation I had with a leading network executive last year. He confided in me that he regrets not being able to sit down with his children and watch television together as a family, much as he did with his parents years ago, much as I did with my parents when I was young. This is one of the great joys of the medium, and it is disappointing to many parents today that they cannot share in it with their children.

It doesn't have to be that way, as CBS Entertainment has made clear this fall, when its president pledged publicly that CBS would only air programs at 8 o'clock that the whole family could watch together. Congress can help by adopting this resolution and encouraging—encouraging, not forcing—the television industry to follow CBS's lead and help restore the peace of mind that so many families are seeking. Along with my original cosponsors, Senators HUTCHISON, NUNN, and DEWINE, I strongly urge my colleagues on both sides of the aisle to support it, to make a strong statement on behalf of America's families, and I look forward to its adoption.

AMENDMENTS SUBMITTED

THE TREASURY DEPARTMENT APPROPRIATIONS ACT, 1997

BYRD AMENDMENT NO. 5258

(Ordered to lie on the table.)

Mr. BYRD submitted an amendment intended to be proposed by him to the bill (H.R. 3756) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1997, and for other purposes; as follows:

On page 49, line 18, insert before the colon ": *Provided*, That of such amount provided for non-prospectus construction projects $250,000 shall be available until expended for the acquisition, lease, construction, and equipping of flexiplace work telecommuting centers in the State of West Virginia".

KENNEDY AMENDMENT NO. 5259

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, H.R. 3756, surpa; as follows:

At the appropriate place, add the following new section:

SEC. . (a) None of the funds appropriated under Federal law for fiscal year 1997 to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to, any of the provisions of section 504 of Public Law 104–134 (110 Stat. 1321–53), and all funds appropriated under Federal law for fiscal year 1997 to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such section, except as provided in subsection (b) or as otherwise provided in Federal law.

(b) Notwithstanding subsection (a), subsection (a)(11) of such section 504 shall not be construed to prohibit a recipient from using funds derived from a source other than the Corporation to provide related legal assistance to—

(1) an alien who has been battered or subjected to extreme cruelty in the United States by—

(A)(i) a spouse or parent of the alien; or

(ii) a member of the spouse's or parent's family residing in the same household as the alien (in a case in which the spouse or parent, respectively, consented or acquiesced to such battery or cruelty); or

(B) any other person with whom the alien has a relationship covered by the domestic violence laws of the State in which the alien resides or in which an incident of the battery or cruelty took place; or

(2)(A) an alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (in a case in which the alien did not actively participate in the battery or cruelty); or

(B) a member of the spouse's or parent's family residing in the same household as the alien (in a case in which the spouse or parent, respectively, consented or acquiesced to such battery or cruelty and the alien did not actively participate in the battery or cruelty).

(c) Subsection (b) shall apply, notwithstanding the enactment of Federal law after the date of enactment of this Act, unless such law explicitly excludes such application by reference to this section.

(d) As used in this section:

(1) The term "battered or subjected to extreme cruelty" has the meaning given the term "was battered by or was the subject of extreme cruelty" under regulations issued pursuant to section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) (as amended by subtitle G of the Violence Against Women Act of 1994 (Pub. L. 103–322; 108 Stat. 1953)).

(2) The terms "legal assistance" and "recipient" have the meanings given the terms in section 1002 of the Legal Services Corporation Act (42 U.S.C. 2996a).

(3) The term "related legal assistance" means legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described in subsection (a).

WYDEN (AND KENNEDY) AMENDMENT NO. 5260

(Ordered to lie on the table.)

Mr. WYDEN (for himself, Mr. KENNEDY, and Mr. KYL) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following new title:

TITLE —PROTECTION OF PATIENT COMMUNICATIONS

SEC. 01. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "Patient Communications Protection Act of 1996".

(b) FINDINGS.—Congress finds the following:

(1) Patients need access to all relevant information to make appropriate decisions, with their physicians, about their health care.

(2) Restrictions on the ability of physicians to provide full disclosure of all relevant information to patients making health care decisions violate the principles of informed consent and practitioner ethical standards.

(3) The offering and operation of health plans affect commerce among the States. Health care providers located in one State serve patients who reside in other States as well as that State. In order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in one State as well as those operating among the several States.

SEC. 02. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) IN GENERAL.—

(1) PROHIBITION OF CERTAIN PROVISIONS.—Subject to paragraph (2), an entity offering a health plan (as defined in subsection (d)(2)) may not include any provision that prohibits or restricts any medical communication (as defined in subsection (b)) as part of—

(A) a written contract or agreement with a health care provider,

(B) a written statement to such a provider, or

(C) an oral communication to such a provider.

"(2) CONSTRUCTION.—Nothing in this section shall be construed as preventing an entity from exercising mutually agreed upon terms and conditions not inconsistent with paragraph (1), including terms or conditions requiring a physician to participate in, and cooperate with, all programs, policies, and procedures developed or operated by the person, corporation, partnership, association, or other organization to ensure, review, or improve the quality of health care.

(3) NULLIFICATION.—Any provision described in paragraph (1) is null and void.

(b) MEDICAL COMMUNICATION DEFINED.—In this section, the term "medical communication" means a communication made by a health care provider with a patient of the provider (or the guardian or legal representative of such patient) with respect to the patient's physical or mental condition or treatment options.

(e) ENFORCEMENT THROUGH IMPOSITION OF CIVIL MONEY PENALTY—

(1) IN GENERAL.—Any entity that violates paragraph (1) of subsection (a) shall be subject to a civil money penalty of up to $25,000 for each violation. No such penalty shall be imposed solely on the basis of an oral communication unless the communication is part of a pattern or practice of such communications and the violation is demonstrated by a preponderance of the evidence.

(2) PROCEDURES.—The provisions of subsections (c) through (l) of section 112SA of the Social Security Act (42 U.S.C. 1320a–7a) shall apply to civil money penalties under paragraph (1) in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROVIDER.—The term "health care provider" means anyone licensed or certified under State law to provide health care services.

(2) HEALTH PLAN.—The term ''health plan'' means any public or private health plan or arrangement (including an employee welfare benefit plan) which provides, or pays the cost of, health benefits and includes an organization of health care providers that furnishes health services under a contract or agreement with such a plan.

(3) COVERAGE OF THIRD PARTY ADMINISTRATORS.—In the case of a health plan that is an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974), any third party administrator or other person with responsibility for contracts with health care providers under the plan shall be considered, for purposes of this section, to be an entity offering such health plan.

(e) NON-PREEMPTION OF STATE LAW.—A State may establish or enforce requirements with respect to the subject matter of this section, but only if such requirements are consistent with this title and are more protective of medical communications than the requirements established under this section.

(g) EFFECTIVE DATE.—Subsection (a) shall take effect 180 days after the date of the enactment of this Act and shall apply to medical communications made on or after such date, and shall terminate on September 30, 2001.

(h) OFFSET.—Notwithstanding any other provision of this Act, no more than $1,530,465,000 shall be available for building operations in fiscal year 1997.

GRAMS AMENDMENT NO. 5261

Mr. SHELBY (for Mr. GRAMS) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At appropriate place, insert the following section:

''SEC. . IMPROVEMENT OF THE IRS 1–800 HELP LINE SERVICE.

''(a) Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line for taxpayers.

(b) The Commissioner shall make the improvement of the IRS 1–800 help line service a priority and allocate resources necessary to ensure the increase in phone lines and staff to improve the IRS 1–800 help line service.

FAIRCLOTH AMENDMENT NO. 5262

Mr. SHELBY (for Mr. FAIRCLOTH) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 26, after line 9, insert the following:

SEC. . No funds available by this Act, or any other Act, to the Internal Revenue Service may be used to pay for the design and printing of more than two ink colors on the covers of income tax packages, and such ink colors must be the same colors as used to print the balance of the material in each package.

LEVIN AMENDMENT NO. 5263

Mr. SHELBY (for Mr. LEVIN) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

The Senate finds:

That on June 28, 1995, the United States and Japan finalized the text of the U.S.-Japan Framework Agreement on Autos and Auto Parts in Geneva.

That the 30 page text spells out a wide-ranging set of commitments by the Government of Japan to meet the Framework objective of ''achieving significantly expanded sales opportunities to result in a significant expansion of purchases of foreign parts by Japanese firms in Japan and through their transplants, as well as removing problems which affect market access, and encouraging imports of foreign autos and auto parts in Japan.''

That the commitments to action by the Government of Japan and statements by the Japanese private sector address the major barriers to access that have frustrated U.S. producers of competitive autos and auto parts in their efforts to sell in Japan and to the Japanese transplants, and

That the Framework Agreement represents an unprecedented, enforceable set of commitments to open the Japanese market to foreign competitive autos and auto parts and to increase the opportunities for competitive parts suppliers to sell to the Japanese transplant manufacturers.

Therefore it is the Sense of the United States Senate to fully support the goals set out in the Framework Agreement and support the U.S. negotiators in their first annual consultations with Japan on September 18 and 19 in San Francisco in their efforts to obtain full compliance with the letter and spirit of the Framework Agreement.

THOMPSON AMENDMENT NO. 5264

Mr. SHELBY (for Mr. THOMPSON) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) The Administrator of the General Services Administration is authorized to conduct a pilot program involving up to 10 States to provide FTS 2000 service to a State government, if:

(1) the appropriate authority of such State government makes application to the Administrator to receive FTS 2000 service and, as part of the application, agrees to pay all costs associated with access; and

(2) the Administrator finds that it would be advantageous for the federal government to provide FTS 2000 service to such State government.

(b) Nothing in this section shall be construed to authorize the administrator of the General Services Administration to implement cooperative purchasing under 40 U.S.C. 481(b)(2).

(c) The authority provided in this section shall expire on September 30, 1998.

DORGAN (AND OTHERS) AMENDMENT NO. 5265

(Ordered to lie on the table.)

Mr. DORGAN (for himself, Mr. CONRAD, and Mr. DASCHLE) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, add the following:

Notwithstanding any other provision of law, the Secretary of the Interior, through the Bureau of Indian Affairs, may directly transfer to Indian tribes in North and South Dakota portable housing units at the Grand Forks Air Force base in North Dakota which have been declared excess by the Department of Defense and requested for transfer by the Department of the Interior.

MCCAIN (AND HELMS) AMENDMENT NO. 5266

Mr. MCCAIN (for himself, Mr. HELMS, Mr. COVERDELL, and GRAHAM) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 22, line 14, strike ''$4,085,355,000'' and insert in lieu thereof ''$4,052,586,000'';

On page 42, line 26, strike ''$103,000,000'', and insert in lieu thereof ''$135,769,000''.

MCCAIN (AND OTHERS) AMENDMENT NO. 5267

(Ordered to lie on the table.)

Mr. MCCAIN (for himself, Mr. COATS, Mr. STEVENS, Mr. LOTT, Mr. ABRAHAM, Mr. ASHCROFT, Mr. PRESSLER, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a) Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

''§ 1311. Continuing appropriations

''(a)(1) If any regular appropriation bill for a fiscal year does not become law prior to the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

''(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

''(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

''(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

''(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year,

''(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year,

''(C) the rate of operations provided for in the House or Senate passed appropriation bill for the fiscal year in question, except that the lower of these two versions shall be ignored for any project or activity for which there is a budget request if no funding is provided for that project or activity in either version,

''(D) the rate provided in the budget submission of the President under section 1105(a) of title 31, United States Code, for the fiscal year in question, or

''(E) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year or any funding levels established under the provisions of this Act.

''(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

''(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be, or

''(B) the last day of such fiscal year.

''(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

''(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

''(d) Expenditures made for a project or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

''(e) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

''(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period, or

''(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

''(f) For purposes of this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

''(1) Agriculture, rural development, and related agencies programs.

''(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

''(3) The Department of Defense.

''(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

''(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

''(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

''(7) Energy and water development.

''(8) Foreign assistance and related programs.

''(9) The Department of the Interior and related agencies.

''(10) Military construction.

''(11) The Department of Transportation and related agencies.

''(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

''(13) The legislative branch.''.

(b) CLERICAL AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

''1311. Continuing appropriations.''.

(c) PROTECTION OF OTHER OBLIGATIONS.—Nothing in the amendments made by this section shall be construed to effect Government obligations mandated by other law, including obligations with respect to Social Security, Medicare, and Medicaid.

SEC. 3. EFFECTIVE DATE AND SUNSET.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to fiscal years beginning with fiscal year 1997.

(b) SUNSET.—the amendments made by this Act shall sunset and have no force or effect 6 years after the date of enactment of this Act.

DASCHLE AMENDMENT NO. 5268

(Ordered to lie on the table.)

Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

ESTABLISHING A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

SEC. . NATIONAL REPOSITORY FOR INFORMATION ON EXPLOSIVES INCIDENTS AND ARSON.

(a) Section 846 of Title 18, United States Code, is amended by—

(1) designating the existing section as subsection (a); and

(2) by adding the following new subsection (b) to read as follows:

''(b) The Secretary is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Secretary pursuant to such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also contain information on incidents voluntarily reported to the Secretary by State and local authorities.''

(b) There is authorized to be appropriated such sums as are necessary to establish the repository provided for in subsection (a).

KASSEBAUM AMENDMENT NO. 5269

(Ordered to lie on the table.)

Mrs. KASSEBAUM submitted an amendment intended to be proposed by her to the bill, H.R. 3756, supra; as follows:

Insert before the first section the following:

DIVISION A—GENERAL PROVISIONS

At the end of the bill, add the following:

SEC. ___. REFERENCES.

References in this division to this Act shall be deemed to be references to this division.

DIVISION B—WORKFORCE AND CAREER DEVELOPMENT

SEC. ___001. SHORT TITLE.

This division may be cited as the ''Workforce and Career Development Act of 1996''.

SEC. ___002. TABLE OF CONTENTS.

The table of contents is as follows:

SEC. ___003. PURPOSE AND POLICY.

(a) PURPOSE.—The purpose of this division is to transform the vast array of Federal education, employment, and job training programs from a collection of fragmented and duplicative categorical programs into streamlined, coherent, and accountable statewide systems designed—

(1) to develop more fully the academic, occupational, and literacy skills of all segments of the population of the United States; and

(2) to meet the needs of employers in the United States to be competitive.

(b) POLICY.—It is the sense of the Congress that adult education and literacy activities are a key component of any successful statewide workforce and career development system.

SEC. ___004. DEFINITIONS.

Except as otherwise specified in this division, as used in this division:

(1) ADULT EDUCATION.—The term ''adult education'' means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age;

(B) who are not enrolled or required to be enrolled in secondary school;

(C)(i) who lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society; or

(ii) who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education; and

(D) who lack a mastery of basic skills and are therefore unable to speak, read, or write the English language.

(2) ADULT EDUCATION AND LITERACY ACTIVITIES.—The term ''adult education and literacy activities'' means the activities authorized in section ___124.

(3) ALL ASPECTS OF THE INDUSTRY.—The term ''all aspects of the industry'' means strong experience in, and comprehensive understanding of, the industry that individuals are preparing to enter.

(4) AREA VOCATIONAL EDUCATION SCHOOL.—The term ''area vocational education school'' means—

(A) a specialized secondary school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

(B) the department of a secondary school exclusively or principally used for providing vocational education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institute or school admits as regular students both individuals who have completed secondary school and individuals who have left secondary school; or

(D) the department or division of a junior college, or community college, that operates under the policies of the eligible agency and that provides vocational education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits as regular students both individuals who have completed secondary school and individuals who have left secondary school.

(5) AT-RISK YOUTH.—The term ''at-risk youth'' means an individual who—

(A) is not less than age 15 and not more than age 21;

(B) is low-income, defined as an individual who meets the requirements of subparagraph (A), (B), or (C) of paragraph (31); and

(C) is 1 or more of the following:

(i) A school dropout.

(ii) Homeless, a runaway, or a foster child.

(iii) Pregnant or a parent.

(iv) An offender.

(v) An individual who requires additional education, training, counseling, or related assistance in order to participate successfully in regular schoolwork, to complete an educational program, or to secure and hold employment.

(6) AT-RISK YOUTH ACTIVITIES.—The term ''at-risk youth activities'' means the activities authorized in section ___122, carried out for at-risk youth.

(7) CAREER GRANT.—The term ''career grant'' means a voucher or credit issued to a participant under subsection (e)(3) or (g) of section ___121 for the purchase of training services from eligible providers of such services.

(8) CAREER GUIDANCE AND COUNSELING.—The term ''career guidance and counseling'' means a program that—

(A) pertains to a body of subject matter and related techniques and methods organized for the development of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities, in individuals;

(B) assists such individuals in making and implementing informed educational and occupational choices;

(C) is comprehensive in nature; and

(D) with respect to minors, includes the involvement of parents, where practicable.

(9) CHIEF ELECTED OFFICIAL.—The term ''chief elected official'' means the chief elected executive officer of a unit of general local government in a local workforce development area.

(10) COMMUNITY-BASED ORGANIZATION.—The term ''community-based organization'' means a private nonprofit organization of demonstrated effectiveness that is representative of a community or a significant segment of a community.

(11) COOPERATIVE EDUCATION.—The term ''cooperative education'' means a method of instruction of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required academic courses and related instruction, by alternation of study in school with a job in any occupational field, which alternation shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual, and may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(12) COVERED ACTIVITY.—The term ''covered activity'' means an activity authorized to be carried out under a provision described in section ___501(f) (as such provision was in effect on the day before the date of enactment of this Act).

(13) DISLOCATED WORKER.—The term ''dislocated worker'' means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii) is eligible for or has exhausted entitlement to unemployment compensation; and

(iii) is unlikely to return to a previous industry or occupation;

(B) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(C) has been unemployed long-term and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individual resides;

(D) was self-employed (including a farmer and a rancher) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;

(E) is a displaced homemaker; or

(F) has become unemployed as a result of a Federal action that limits the use of, or restricts access to, a marine natural resource.

(14) DISPLACED HOMEMAKER.—The term ''displaced homemaker'' means an individual who—

(A) has attained 16 years of age; and

(B)(i) has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) not later than 2 years after the date on which the parent applies for assistance under this title.

(15) EDUCATIONAL SERVICE AGENCY.—The term ''educational service agency'' means a

regional public multiservice agency authorized by State statute to develop and manage a service or program and provide the service or program to a local educational agency.

(16) ELIGIBLE AGENCY.—The term ''eligible agency'' means—

(A) in the case of vocational education activities or requirements described in title I—

(i) the individual, entity, or agency in a State responsible for administering or setting policies for vocational education in such State pursuant to State law; or

(ii) if no individual, entity, or agency is responsible for administering or setting such policies pursuant to State law, the individual, entity, or agency in a State responsible for administering or setting policies for vocational education in such State on the date of enactment of this Act; and

(B) in the case of adult education and literacy activities or requirements described in title I—

(i) the individual, entity, or agency in a State responsible for administering or setting policies for adult education and literacy services in such State pursuant to State law; or

(ii) if no individual, entity, or agency is responsible for administering or setting such policies pursuant to State law, the individual, entity, or agency in a State responsible for administering or setting policies for adult education and literacy services in such State on the date of enactment of this Act.

(17) ELIGIBLE INSTITUTION.—The term ''eligible institution'', used with respect to vocational education activities, means a local educational agency, an area vocational education school, an educational service agency, an institution of higher education (as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), a State corrections educational agency, and a consortium of such entities.

(18) ELIGIBLE PROVIDER.—The term ''eligible provider'', used with respect to—

(A) one-stop career centers, means a provider who is designated or certified in accordance with section ____108(d)(2)(A);

(B) training services (other than on-the-job training), means a provider who is identified in accordance with section ____107;

(C) at-risk youth activities, means a provider who is awarded a grant in accordance with subsection (c) or (d) of section ____112;

(D) vocational education activities described in section ____123(b), means a provider determined to be eligible for assistance in accordance with section ____113 or ____114;

(E) adult education activities described in section ____124(b), means a provider determined to be eligible for assistance in accordance with section ____116; or

(F) other workforce and career development activities, means a public or private entity selected to be responsible for such activities, in accordance with this title.

(19) EMPLOYMENT AND TRAINING ACTIVITIES.—The term ''employment and training activities'' means the activities authorized in section ____121.

(20) ENGLISH LITERACY PROGRAM.—The term ''English literacy program'' means a program of instruction designed to help individuals of limited English proficiency achieve full competence in the English language.

(21) FAMILY AND CONSUMER SCIENCES PROGRAMS.—The term ''family and consumer sciences programs'' means instructional programs, services, and activities that prepare students for personal, family, community, and career roles.

(22) FAMILY LITERACY SERVICES.—The term ''family literacy services'' means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents on how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training.

(D) An age-appropriate education program for children.

(23) FLEXIBLE ACTIVITIES.—The term ''flexible activities'' means the activities authorized in section ____125.

(24) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term ''individual of limited English proficiency'' means an individual—

(A) who has limited ability in speaking, reading, or writing the English language; and

(B)(i) whose native language is a language other than English; or

(ii) who lives in a family or community environment where a language other than English is the dominant language.

(25) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term ''individual with a disability'' means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term ''individuals with disabilities'' means more than 1 individual with a disability.

(26) LABOR MARKET AREA.—The term ''labor market area'' means an economically integrated geographic area within which individuals can—

(A) find employment within a reasonable distance from their place of residence; or

(B) readily change employment without changing their place of residence.

(27) LITERACY.—The term ''literacy'', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

(A) to function on the job, in the family of the individual, and in society;

(B) to achieve the goals of the individual; and

(C) to develop the knowledge potential of the individual.

(28) LOCAL BOARD.—The term ''local board'' means a local workforce development board established under section ____108.

(29) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(30) LOCAL WORKFORCE DEVELOPMENT AREA.—The term ''local workforce development area'' means a local workforce development area identified in accordance with section ____104(b)(4).

(31) LOW-INCOME INDIVIDUAL.—The term ''low-income individual'' means an individual who—

(A) receives, or is a member of a family that receives, cash welfare payments under a Federal, State, or local welfare program;

(B) had received an income, or is a member of a family that had received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and payments described in subparagraph (A)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations of the Secretary, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

(32) NONTRADITIONAL EMPLOYMENT.—The term ''nontraditional employment'', refers to occupations or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(33) ON-THE-JOB TRAINING.—The term ''on-the-job training'' means training in the public or private sector that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) provides reimbursement to employers of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained.

(34) OUTLYING AREA.—The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(35) PARTICIPANT.—The term ''participant'', used with respect to an activity carried out under this division, means an individual participating in the activity.

(36) PELL GRANT RECIPIENT.—The term ''Pell Grant recipient'' means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.).

(37) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term ''postsecondary educational institution'' means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) that continues to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.).

(38) RAPID RESPONSE ASSISTANCE.—The term ''rapid response assistance'' means assistance provided by a State, or by an entity designated by a State, with funds provided by the State under section ____111(a)(2)(B), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information and access to available employment and training activities;

(C) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(D) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

(39) SCHOOL DROPOUT.—The term ''school dropout'' means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(40) SECONDARY SCHOOL.—The term ''secondary school'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(41) SECRETARIES.—The term ''Secretaries'' means the Secretary of Labor and the Secretary of Education, in accordance with the interagency agreement described in section ___131.

(42) SEQUENTIAL COURSE OF STUDY.—The term ''sequential course of study'' means an integrated series of courses that are directly related to the educational and occupational skill preparation of an individual for a job, or to preparation for postsecondary education.

(43) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(44) STATE BENCHMARKS.—The term ''State benchmarks'', used with respect to a State, means—

(A) the quantifiable benchmarks required under section ___106(b) and identified in the report submitted under section ___106(c); and

(B) such other quantifiable benchmarks of the statewide progress of the State toward meeting the State goals as the State may identify in the report submitted under section ___106(c).

(45) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(46) STATE GOALS.—The term ''State goals'', used with respect to a State, means—

(A) the goals specified in section ___106(a); and

(B) such other major goals of the statewide system of the State as the State may identify in the report submitted under section ___106(c).

(47) STATEWIDE SYSTEM.—The term ''statewide system'' means a statewide workforce and career development system, referred to in section ___101, that includes employment and training activities, activities carried out pursuant to the Wagner-Peyser Act (29 U.S.C. 49 et seq.), at-risk youth activities, vocational education activities, and adult education and literacy activities, in the State.

(48) SUPPORTIVE SERVICES.—The term ''supportive services'' means services such as transportation, child care, dependent care, and needs-based payments, that are necessary to enable an individual to participate in employment and training activities or at-risk youth activities.

(49) TECH-PREP PROGRAM.—The term ''tech-prep program'' means a program of study that—

(A) combines at least 2 years of secondary education (as determined under State law) and 2 years of postsecondary education in a nonduplicative sequential course of study;

(B) integrates academic and vocational instruction and utilizes worksite learning where appropriate;

(C) provides technical preparation in an area such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, a health occupation, business, or applied economics;

(D) builds student competence in mathematics, science, communications, economics, and workplace skills, through applied academics and integrated instruction in a coherent sequence of courses;

(E) leads to an associate degree or a certificate in a specific career field; and

(F) leads to placement in appropriate employment or further education.

(50) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(51) VETERAN.—The term ''veteran'' has the meaning given such term in section 101(2) of title 38, United States Code.

(52) VOCATIONAL EDUCATION.—The term ''vocational education'' means organized educational programs that—

(A) offer a sequence of courses that provide individuals with the academic knowledge and skills the individuals need to prepare for further education and careers in current or emerging employment sectors; and

(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, and occupation-specific skills, of an individual.

(53) VOCATIONAL EDUCATION ACTIVITIES.—The term ''vocational education activities'' means the activities authorized in section ___123.

(54) VOCATIONAL REHABILITATION PROGRAM.—The term ''vocational rehabilitation program'' means a program assisted under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(55) VOCATIONAL STUDENT ORGANIZATION.—The term ''vocational student organization'' means an organization, for individuals enrolled in programs of vocational education activities, that engages in activities as an integral part of the instructional component of such programs, which organization may have State and national units.

(56) WORKFORCE AND CAREER DEVELOPMENT ACTIVITIES.—The term ''workforce and career development activities'' means employment and training activities, at-risk youth activities, vocational education activities, and adult education and literacy activities.

SEC. ___005. GENERAL PROVISION.

None of the funds made available under this division shall be used—

(1) to require any participant to choose or pursue a specific career path or major;

(2) to require any participant to enter into a specific course of study that requires, as a condition of completion, attainment of a federally funded or endorsed industry-recognized skill or standard; or

(3) to require any participant to attain or obtain a federally funded or endorsed industry-recognized skill, certificate, or standard, unless the participant has selected and is participating in a program or course of study that requires, as a condition of completion, attainment of an industry-recognized skill or standard.

TITLE I—STATEWIDE WORKFORCE AND CAREER DEVELOPMENT SYSTEMS

Subtitle A—State and Local Provisions

SEC. ___101. STATEWIDE WORKFORCE AND CAREER DEVELOPMENT SYSTEMS ESTABLISHED.

For program year 1998 and each subsequent program year, the Secretaries shall make allotments under section ___102 to States to assist the States in paying for the cost of establishing statewide workforce and career development systems and carrying out workforce and career development activities through such statewide systems, in accordance with this title.

SEC. ___102. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretaries shall allot to each State that meets the requirements of subsection (e) an amount equal to the total of the amounts made available under subparagraphs (A), (B), (C), and (D) of subsection (b)(2), adjusted in accordance with subsections (c) and (d).

(b) ALLOTMENTS BASED ON POPULATIONS.—

(1) DEFINITIONS.—As used in this subsection:

(A) ADULT RECIPIENT OF ASSISTANCE.—The term ''adult recipient of assistance'' means a recipient of assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) who is not a dependent child (as defined in section 406(a) of such Act (42 U.S.C. 606(a))).

(B) INDIVIDUAL IN POVERTY.—The term ''individual in poverty'' means an individual who—

(i) is not less than age 16;

(ii) is not more than age 64; and

(iii) is a member of a family (of 1 or more members) with an income that does not exceed the poverty line.

(C) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved, using the most recent available data provided by the Bureau of the Census, prior to the program year for which the allotment is made, and applying the definition of poverty used by the Bureau of the Census in compiling the 1990 decennial census.

(2) CALCULATION.—Except as provided in subsections (c) and (d), from the amount reserved under section ___151(b)(1), the Secretaries—

(A) using funds equal to 60 percent of such reserved amount, shall make available to each State an amount that bears the same relationship to such funds as the total number of individuals who are not less than age 15 and not more than age 65 (as determined by the Secretaries using the most recent available data provided by the Bureau of the Census, prior to the program year for which the allotment is made) in the State bears to the total number of such individuals in all States;

(B) using funds equal to 20 percent of such reserved amount, shall make available to each State an amount that bears the same relationship to such funds as the total number of individuals in poverty in the State bears to the total number of individuals in poverty in all States;

(C) using funds equal to 10 percent of such reserved amount, shall make available to each State an amount that bears the same relationship to such funds as the average number of unemployed individuals (as determined by the Secretary of Labor for the most recent 24-month period for which data are available, prior to the program year for which the allotment is made) in the State bears to the average number of unemployed individuals (as so determined) in all States; and

(D) using funds equal to 10 percent of such reserved amount, shall make available to each State an amount that bears the same relationship to such funds as the average monthly number of adult recipients of assistance (as determined by the Secretary of Health and Human Services for the most recent 12-month period for which data are available, prior to the program year for which the allotment is made) in the State bears to the average monthly number of adult recipients of assistance (as so determined) in all States.

(c) MINIMUM STATE ALLOTMENT.—

(1) DEFINITION.—As used in this subsection, the term ''national average per capita payment'', used with respect to a program year, means the amount obtained by dividing—

(A) the amount reserved under section ___151(b)(1) for the program year; by

(B) the total number of individuals who are not less than age 15 and not more than age 65 (as determined by the Secretaries using the most recent available data provided by the Bureau of the Census, prior to the program year for which the allotment is made) in all States.

(2) MINIMUM ALLOTMENT.—Except as provided in paragraph (3) and subsection (d), no State shall receive an allotment under this section for a program year in an amount that is less than 0.5 percent of the amount reserved under section ___151(b)(1) for the program year.

(3) LIMITATION.—No State that receives an increase in an allotment under this section for a program year as a result of the application of paragraph (2) shall receive an allotment under this section for the program year in an amount that is more than the product obtained by multiplying—

(A) the total number of individuals who are not less than age 15 and not more than age 65 (as determined by the Secretaries using the most recent available data provided by the Bureau of the Census, prior to the program year for which the allotment is made) in the State; and

(B) the product obtained by multiplying—

(i) 1.5; and

(ii) the national average per capita payment for the program year.

(4) ADJUSTMENTS.—In order to increase the allotments of States as a result of the application of paragraph (2), the Secretaries shall reduce, on a pro rata basis, the allotments of the other States (except as provided in subsection (d)).

(d) OVERALL LIMITATIONS.—

(1) DEFINITION.—As used in this subsection, the term ''State percentage'' means—

(A) with respect to the program year preceding program year 1998, the percentage that a State receives of the financial assistance made available to States to carry out covered activities for the year ending on June 30, 1998; and

(B) with respect to program year 1998 and each subsequent program year, the percentage that a State receives of the amount reserved under section ___151(b)(1) for the program year.

(2) LIMITATIONS.—No State shall receive an allotment under this section for a program year in an amount that would make the State percentage for the program year—

(A) less than the product obtained by multiplying—

(i) 0.98; and

(ii) the State percentage of the State for the preceding program year; or

(B) greater than the product obtained by multiplying—

(i) 1.02; and

(ii) the State percentage of the State for the preceding program year.

(e) CONDITIONS.—The Secretaries shall allot funds under subsection (a) to States that—

(1) submit State plans that contain all of the information required under section ___104(b), including the identification of State goals and State benchmarks; and

(2) prepare the plans in accordance with the requirements of sections ___104 and ___105 relating to the development of the State plan.

SEC. ___103. STATE APPORTIONMENT BY ACTIVITY.

(a) ACTIVITIES.—From the funds made available to a State through an allotment received under section ___102 for a program year—

(1) a portion equal to 32 percent of such sum shall be made available for employment and training activities;

(2) a portion equal to 16 percent of such sum shall be made available for at-risk youth activities;

(3) a portion equal to 26 percent of such sum shall be made available for vocational education activities;

(4) a portion equal to 6 percent of such sum shall be made available for adult education and literacy activities; and

(5) a portion equal to 20 percent of such sum shall be made available for flexible activities (which portion may be referred to in this title as the ''flex account'');

carried out through the statewide system.

(b) RECIPIENTS.—Subject to subsection (c), funds allotted to a State under section ___102 shall be distributed—

(1) to the Governor of the State for the portions described in paragraphs (1) and (2) of subsection (a), and such part of the flex account as the Governor may be eligible to receive, as determined under the State plan submitted under section ___104; and

(2) to the eligible agencies in the State for the portions described in paragraphs (3) and (4) of subsection (a), and such part of the flex account as the eligible agencies may be eligible to receive, as determined under the State plan submitted under section ___104.

(c) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to negate or supersede any State law that is not inconsistent with the provisions of this title, including the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official;

(2) to interfere with the authority of such agency, entity, or official to enter into a contract under any provision of law; and

(3) to prohibit any individual, entity, or agency in a State that is administering activities described in section ___123 or ___124 prior to the date of enactment of this Act, or setting education policies consistent with authority under State law for such activities on the day preceding the date of enactment of this Act, from continuing to administer such activities or set such education policies consistent with authority under State law for such activities and in accordance with this title.

(d) SMITH-HUGHES VOCATIONAL EDUCATION ACT.—Notwithstanding any other provision of law, the Secretary of Education shall use funds appropriated under section 1 of the Act of February 23, 1917 (39 Stat. 929; 20 U.S.C. 11) (commonly known as the ''Smith-Hughes Vocational Education Act'') to make allotments to States. Such funds shall be allotted to each State in the same manner and at the same time as allotments are made under section ___102. Section ___103(a) shall not apply with respect to such funds. The requirements of this title (other than section ___103(a)) shall apply to such funds to the same extent that the requirements apply to funds made available under section ___103(a)(3).

SEC. ___104. STATE PLAN.

(a) IN GENERAL.—For a State to be eligible to receive an allotment under section ___102, the Governor of the State shall submit to the Secretaries a single comprehensive State plan that outlines a 3-year strategy for the statewide system of the State and that meets the requirements of section ___105 and this section.

(b) CONTENTS.—The State plan shall include—

(1)(A) a description of the collaborative process described in section ___105 used in developing the plan, including a description of the manner in which the individuals and entities involved in the process collaborated in the development of the plan; and

(B)(i)(I) information demonstrating the support of the individuals and entities participating in the collaborative process for the State plan; and

(II) the comments referred to in section ___105(c)(2)(C), if any; and

(ii) information demonstrating the agreement, if any, of the Governor and the eligible agencies on all elements of the State plan;

(2) a description of the State goals and State benchmarks for workforce and career development activities, that includes—

(A) information identifying the State goals and State benchmarks and how the goals and benchmarks will ensure continuous improvement of the statewide system and make the statewide system relevant and responsive to labor market and education needs at the local level;

(B) information identifying performance indicators that relate to measurement of the State progress toward meeting the State goals and reaching the State benchmarks; and

(C) information describing how the State will coordinate workforce and career development activities to meet the State goals and reach the State benchmarks;

(3) information describing—

(A) the needs of the State with regard to current and projected demands for workers, by occupation;

(B) the skills and economic development needs of the State; and

(C) the type and availability of workforce and career development activities in the State;

(4)(A) an identification of local workforce development areas in the State, including a description of the process used for the designation of such areas, which shall take into consideration labor market areas, service areas in which related Federal programs are provided or historically have been provided, and service areas in which related State programs are provided or historically have been provided; or

(B) if the State receives an increase in an allotment under section ___102 for a program year as a result of the application of section ___102(c)(2), information stating that the State will be treated as a local workforce development area for purposes of the application of this title, at the election of the State;

(5) an identification of criteria for the appointment of members of local workforce development boards, based on the requirements of section ___108;

(6) a description of how the State will utilize the statewide labor market information system described in section ___139(d);

(7) a description of the measures that will be taken by the State to assure coordination and consistency and avoid duplication among activities receiving assistance under this title, programs receiving assistance under title II, and programs carried out under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) or the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), including a description of common data collection and reporting processes;

(8) a description of the process used by the State to provide an opportunity for public comment, and input into the development of the plan, prior to submission of the plan;

(9) information identifying how the State will obtain the active and continuous participation of business, industry, and (as appropriate) labor in the development and continuous improvement of the statewide system;

(10) assurances that the State will provide for fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotment made under section ___102;

(11) information describing the allocation within the State of the funds made available through the flex account for the State;

(12) information identifying how any funds that a State receives through the allotment made under section ___102 will be leveraged with other private and public resources (including funds made available to the State under the Wagner-Peyser Act (29 U.S.C. 49 et seq.)) to maximize the effectiveness of such resources for all activities described in subtitle C, and expand the participation of business, industry, employees, and individuals in the statewide system;

(13) information identifying how the workforce and career development activities to be carried out with funds received through the allotment made under section ___102 will be coordinated with programs carried out by the Veterans' Employment and Training Service with funds received under title 38, United States Code, in order to meet the State goals and reach the State benchmarks related to veterans;

(14) an assurance that the funds made available to the State through the allotment made under section ___102 will supplement and not supplant other public funds expended to provide activities described in subtitle C;

(15) with respect to economic development activities described in section ___121(c)(1)(C), information describing—

(A) any economic development activities that will be carried out with the funds described in section ___111(a)(2)(B);

(B) how the activities will lead directly to increased earnings of nonmanagerial employees in the State; and

(C) whether the nonmanagerial employees (including labor, as appropriate) support the activities;

(16) with respect to employment and training activities, information—

(A) describing the employment and training activities that will be carried out with the funds received by the State through the allotment made under section ___102, including a description of how the State will provide rapid response assistance to dislocated workers;

(B) describing the strategy of the State (including the timeframe for such strategy) for development of a fully operational statewide one-stop career center system as described in section ___121(d), including—

(i) criteria for use by local boards, with respect to the designation or certification of one-stop career center eligible providers, in each local workforce development area in accordance with section ___108(d)(4)(B)(i)(I);

(ii) the steps that the State will take over the 3 years covered by the plan to ensure that all publicly funded labor exchange services described in section ___121(e)(2) or ___139, and all such services authorized in the Wagner-Peyser Act (29 U.S.C. 49 et seq.), are provided through the one-stop career center system of the State; and

(iii) the steps that the State will take over the 3 years covered by the plan to provide information to individuals through the one-stop career center system on the quality of workforce and career development activities, and vocational rehabilitation program activities, as appropriate;

(C) describing the procedures the State will use to identify eligible providers of training services described in section ___121(e)(3), as required under this title;

(D) describing how the State will serve the employment and training needs of dislocated workers, low-income individuals, and other individuals with multiple barriers to employment (as determined by the State); and

(E) describing how the State will establish and implement the required career grant pilot program for dislocated workers pursuant to section ___121(g), including a description of the size, scope, and quality of such program and a description of how the State, after 3 years, will evaluate such program and use the findings of the evaluation to improve the delivery of training services described in section ___121(e)(3) for dislocated workers and other participants under section ___121;

(17) with respect to at-risk youth activities, information—

(A) describing the at-risk youth activities that will be carried out with funds received by the State through the allotment made under section ___102;

(B) describing how the State will adequately address the needs of at-risk youth in alternative education programs that teach to the same challenging academic, occupational, and skill proficiencies as are provided for all other students; and

(C) identifying the types of criteria the Governor and local boards will use to identify effective and ineffective at-risk youth activities and eligible providers of such activities;

(18) with respect to vocational education activities, information—

(A) describing the vocational education activities that will be carried out with funds received by the State through the allotment made under section ___102;

(B) describing the plan of the State to develop the academic and occupational skills of students participating in such vocational education activities, including—

(i) the integration of academic and vocational education;

(ii) the integration of classroom and worksite learning; and

(iii) linkages between secondary and postsecondary education;

(C) describing how the State will improve career guidance and counseling;

(D) describing how the State will promote the active involvement of parents and business (including small- and medium-sized businesses) in the planning, development, and implementation of such vocational education activities;

(E) describing how funds received by the State through the allotment made under section ___102 will be allocated among secondary school vocational education, or postsecondary and adult vocational education, or both;

(F) describing how the State will adequately address the needs of students who participate in such vocational education activities to be taught to the same challenging academic proficiencies as are provided for all other students;

(G) describing how the State will annually evaluate the effectiveness of such vocational education activities;

(H) describing how the State will address the professional development needs of the State with respect to such vocational education activities; and

(I) describing how the State will provide local educational agencies in the State with technical assistance; and

(19) with respect to adult education and literacy activities, information—

(A) describing the adult education and literacy activities that will be carried out with funds received by the State through the allotment made under section ___102;

(B) describing how such adult education and literacy activities described in the State plan and the State allocation of funds received through the allotment made under section ___102 for such activities are an integral part of comprehensive efforts of the State to improve education and training for all individuals; and

(C) describing how the State will annually evaluate the effectiveness of such adult education and literacy activities.

(c) SPECIAL RULES.—

(1) GOVERNOR.—The Governor of a State shall have final authority to determine the content of the portion of the State plan described in paragraphs (1) through (17) of subsection (b).

(2) ELIGIBLE AGENCIES.—An eligible agency in a State shall have final authority to determine the content of the portion of the State plan described in paragraph (18) or (19) of subsection (b), as appropriate.

(d) MODIFICATIONS TO PLAN.—A State may submit modifications to the State plan in accordance with the requirements of this section and section ___105, as necessary, during the 3-year period of the plan.

SEC. ___105. COLLABORATIVE PROCESS.

(a) IN GENERAL.—A State shall use a collaborative process to develop the State plan described in section ___104, through which individuals and entities including, at a minimum—

(1) the Governor;

(2) representatives, appointed by the Governor, of—

(A) business and industry;

(B) local chief elected officials (representing both cities and counties, where appropriate);

(C) local educational agencies (including vocational educators);

(D) postsecondary institutions (including community and technical colleges);

(E) parents; and

(F) employees (which may include labor);

(3) the lead State agency official for—

(A) the State educational agency;

(B) the eligible agency for vocational education;

(C) the eligible agency for adult education and literacy;

(D) the State agency responsible for postsecondary education; and

(E) the State agency responsible for vocational rehabilitation, and where applicable, the State agency providing vocational rehabilitation program activities for the blind;

(4) such other State agency officials, including officials responsible for economic development and employment, as the Governor may designate;

(5) representatives of the State legislature; and

(6) the representative of the Veterans' Employment and Training Service assigned to the State under section 4103 of title 38, United States Code;

shall collaborate in the development of the plan.

(b) ALTERNATIVE PROCESSES.—

(1) IN GENERAL.—For purposes of complying with subsection (a), a State may use any State collaborative process (including any council, State workforce development board, or similar entity) in existence on the date of enactment of this Act that meets or is conformed to meet the requirements of such subsection.

(2) FUNCTIONS OF STATE HUMAN RESOURCES INVESTMENT COUNCILS.—If a State uses a State human resources investment council in existence on the date of enactment of this Act, as described in paragraph (1), the functions of such board shall include—

(A) advising the Governor on the development of the statewide system, the State plan described in section ___104, and the State goals and State benchmarks;

(B) assisting in the development of performance indicators that relate to the measurement of State progress toward meeting the State goals and reaching the State

benchmarks and providing guidance on how such progress may be improved;

(C) assisting the Governor in preparing the annual report to the Secretaries described in section ___106(c);

(D) assisting the Governor in developing the statewide labor market information system described in section ___139(d); and

(E) assisting in the monitoring and continuous improvement of the performance of the statewide system, including evaluation of the effectiveness of workforce and career development activities.

(c) AUTHORITY OF GOVERNOR.—

(1) FINAL AUTHORITY.—If, after a reasonable effort, the Governor is unable to obtain the support of the individuals and entities participating in the collaborative process described in subsection (a) or (b) for the State plan, the Governor shall have final authority to submit the State plan as described in section ___104, except as provided in section ___104(c) and in paragraph (3).

(2) PROCESS.—The Governor shall—

(A) provide such individuals and entities with copies of the State plan;

(B) allow such individuals and entities to submit to the Governor, not later than the end of the 30-day period beginning on the date on which the Governor provides such individuals and entities with copies of such plan under subparagraph (A), comments on such plan; and

(C) include in the State plan any such comments that—

(i) are submitted by an eligible agency and represent disagreement with such plan, with respect to provisions of the State plan described in paragraph (18) or (19) of section ___104(b), as appropriate; or

(ii) are submitted by an individual or entity participating in the collaborative process.

(3) ELIGIBLE AGENCY COMMENTS.—An eligible agency, in submitting comments under paragraph (2)(C)(i), may submit provisions for the portion of the State plan described in paragraph (18) or (19) of section ___104(b), as appropriate. The Governor shall include such provisions in the State plan submitted under section ___104. Such provisions shall be considered to be such portion of the State plan.

SEC. ___106. ACCOUNTABILITY.

(a) GOALS.—Each statewide system supported by an allotment under section ___102 shall be designed to meet—

(1) the goal of assisting participants in obtaining meaningful unsubsidized employment opportunities in the State; and

(2) the goal of enhancing and developing more fully the academic, occupational, and literacy skills of all segments of the population of the State.

(b) BENCHMARKS.—

(1) MEANINGFUL EMPLOYMENT.—To be eligible to receive an allotment under section ___102, a State shall develop and identify in the State plan submitted under section ___104, proposed quantifiable benchmarks to measure the statewide progress of the State toward meeting the goal described in subsection (a)(1), which shall include, at a minimum, measures of—

(A) placement of participants in unsubsidized employment;

(B) retention of the participants in unsubsidized employment (12 months after completion of the participation);

(C) increases in earnings, or in earnings and employer-assisted benefits, for the participants; and

(D) attainment by the participants of industry-recognized occupational skills, as appropriate.

(2) EDUCATION.—To be eligible to receive an allotment under section ___102, a State shall develop and identify in the State plan submitted under section ___104, proposed quantifiable benchmarks to measure the statewide progress of the State toward meeting the goal described in subsection (a)(2), which shall include, at a minimum, measures, for participants, of—

(A) attainment of challenging State academic proficiencies;

(B) attainment of secondary school diplomas or general equivalency diplomas;

(C) attainment of industry-recognized occupational skills according to skill proficiencies for students in career preparation programs;

(D) placement in, retention in, and completion of postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships; and

(E) attainment of the literacy skills and knowledge individuals need to be productive and responsible citizens and to become more actively involved in the education of their children.

(3) POPULATIONS.—

(A) MINIMUM MEASURES.—In developing and identifying, under paragraphs (1) and (2), measures of the progress of the State toward meeting the goals described in subsection (a), a State shall develop and identify in the State plan, in addition to statewide benchmarks, proposed quantifiable benchmarks for populations that include, at a minimum—

(i) low-income individuals;

(ii) dislocated workers;

(iii) at-risk youth;

(iv) individuals with disabilities;

(v) veterans; and

(vi) individuals of limited literacy, as determined by the State.

(B) ADDITIONAL MEASURES.—In addition to the benchmarks described in subparagraph (A), a State may develop and identify in the State plan proposed quantifiable benchmarks to measure the progress of the State toward meeting the goals described in subsection (a) for populations with multiple barriers to employment, which may include older workers, as determined by the State.

(4) APPLICATION.—

(A) MEANINGFUL EMPLOYMENT BENCHMARKS.—Benchmarks described in paragraph (1) shall apply to employment and training activities and, as appropriate, to at-risk youth activities and adult education and literacy activities.

(B) EDUCATION BENCHMARKS.—Benchmarks described in paragraph (2) shall apply to vocational education activities, at-risk youth activities, and, as appropriate, adult education and literacy activities.

(5) SPECIAL RULE.—If a State adopts for all students in the State performance indicators, attainment levels, or assessments for skills according to challenging academic, occupational, or industry-recognized skill proficiencies, the State shall, at a minimum, use such performance indicators, attainment levels, or assessments in measuring the progress of all students who participate in workforce and career development activities.

(6) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretaries shall provide technical assistance to States requesting such assistance, which may include the development, in accordance with subparagraph (B), of model benchmarks for each of the benchmarks described in paragraphs (1) and (2) at achievable levels based on existing (as of the date of the development of the benchmarks) workforce and career development efforts in the States.

(B) COLLABORATION.—Any such model benchmarks shall be developed in collaboration with the States and other appropriate parties.

(7) INCENTIVE GRANTS.—A State that meets the requirements of section ___132(a) (including requirements relating to State benchmarks) shall be eligible to receive an incentive grant under section ___132(a).

(8) SANCTIONS.—A State that has failed to meet the State benchmarks described in paragraphs (1) and (2) for the 3-year period covered by a State plan described in section ___104, as determined by the Secretaries, may be subject to sanctions under section ___132(b).

(c) REPORT.—

(1) IN GENERAL.—Each State that receives an allotment under section ___102 shall annually prepare and submit to the Secretaries a report that states how the State is performing on State benchmarks that relate to workforce and career development activities. The report shall include information on how the local workforce development areas in the State are performing on local benchmarks described in section ___108(d)(4)(A). The report shall also include information on the status and results of any State evaluations specified in subsection (d) that relate to employment and training activities carried out in the State. In preparing the report, the State may include information on such additional benchmarks as the State may establish to meet the State goals.

(2) INFORMATION DISSEMINATION.—The Secretaries shall make the information contained in such reports available to the general public through publication and other appropriate methods, and shall disseminate State-by-State comparisons of the information.

(3) EVALUATION.—In preparing the report for the third year of the 3-year period covered by the State plan, the State shall include the findings of the evaluation described in section ___104(b)(16)(E) of the career grant pilot program described in section ___121(g).

(d) EVALUATION OF STATE PROGRAMS.—

(1) EMPLOYMENT AND TRAINING ACTIVITIES.—Using funds reserved under section ___111(a)(2)(B), a State shall conduct ongoing evaluations of employment and training activities carried out in the State.

(2) METHODS.—The State shall—

(A) conduct such evaluations of employment and training activities through controlled experiments using experimental and control groups chosen by random assignment;

(B) in conducting such evaluations, determine, at a minimum, whether employment and training activities effectively raise the hourly wage rates of individuals receiving services through such activities; and

(C) conduct, or arrange under paragraph (3) for the conduct of, at least 1 such evaluation at any given time during any period in which the State is receiving funding under this title for such activities.

(3) MULTI-STATE AGREEMENTS.—A State may enter into an agreement with 1 or more States to arrange for the conduct of such evaluations in accordance with the requirements of paragraphs (1) and (2).

(e) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEMS.—

(1) IN GENERAL.—Using funds reserved under sections ___111(a)(2)(B) and ___112(a)(2)(C), the State may operate a fiscal and management accountability information system, based on guidelines established by the Secretaries in consultation with the Governors and other appropriate parties. Such guidelines shall promote the efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available to the State for employment and training activities and at-risk youth activities and for use by the

State in preparing the annual report described in subsection (c). In measuring State performance on State benchmarks, a State may, pursuant to State law, utilize quarterly wage records available through the unemployment insurance system.

(2) CONFIDENTIALITY.—In carrying out the requirements of this division, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974). In addition, the State shall protect the confidentiality of information obtained through the fiscal and management accountability information system through the use of recognized security procedures.

SEC. ___107. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), to be eligible to receive funds made available under section ___111 to provide training services described in section ___121(e)(3) (referred to in this section as ''training services'') and be identified as an eligible provider of such services, a provider of such services shall meet the requirements of this section.

(2) POSTSECONDARY EDUCATIONAL INSTITUTIONS.—A postsecondary educational institution shall automatically be eligible to receive such funds for—

(A) a program that leads to an associate, baccalaureate, professional, or graduate degree;

(B) a program that—

(i) is at least 2 academic years in length; and

(ii) is acceptable for academic credit toward a baccalaureate degree; or

(C) a program that—

(i) is at least 1 academic year in length;

(ii) is a training program;

(iii) leads to a certificate, degree, or other recognized educational credential; and

(iv) prepares a student for gainful employment in a recognized occupation.

(3) OTHER ELIGIBLE PROVIDERS.—

(A) PROCEDURE.—The Governor shall establish a procedure for determining the eligibility of public and private providers not described in paragraph (2) (including eligibility of postsecondary educational institutions for programs not described in paragraph (2)) to receive such funds. In determining the eligibility, the Governor shall solicit and take into consideration recommendations of the local boards concerning the identification of eligible providers of training services in local workforce development areas.

(B) LEVELS OF PERFORMANCE.—At a minimum, the Governor shall establish a procedure that requires such a provider to meet minimum acceptable levels of performance based on—

(i) verifiable program-specific performance information described in subparagraph (C) and submitted to the State agency designated under subsection (b), as required under paragraphs (2) and (3) of subsection (b); and

(ii) performance criteria relating to the rates and percentages described in subparagraph (C)(i).

(C) PERFORMANCE INFORMATION.—

(i) REQUIRED INFORMATION.—To be eligible to receive such funds, a provider shall submit information on—

(I) program completion rates for participants in the applicable program conducted by the provider;

(II) the percentage of the participants obtaining employment in an occupation related to the program conducted;

(III) where appropriate, the rates of licensure or certification of graduates of the program; and

(IV) where appropriate, the percentage of the participants who demonstrate significant gains in literacy and basic skills.

(ii) ADDITIONAL INFORMATION.—In addition to the performance information described in clause (i), the Governor may require that a provider described in this paragraph submit such other performance information as the Governor determines to be appropriate, which may include information relating to—

(I) the adequacy of space, staff, equipment, instructional materials, and student support services offered by the provider through a program conducted by the provider;

(II) the earnings of participants completing the program; and

(III) the percentage of graduates of the program who attain industry-recognized occupational skills in the subject, occupation, or industry for which training is provided.

(b) ADMINISTRATION.—

(1) DESIGNATION.—The Governor shall designate a State agency to collect and disseminate the performance information described in subsection (a)(3)(C) and submitted pursuant to this subsection and carry out other duties described in this subsection.

(2) APPLICATION.—To be eligible to receive funds as described in subsection (a), a provider shall submit an application at such time, in such manner, and containing such information as the designated State agency may require.

(3) SUBMISSION.—To be eligible to receive funds as described in subsection (a), a provider described in subsection (a)(3) shall submit the performance information described in subsection (a)(3)(C) annually to the designated State agency at such time and in such manner as the designated State agency may require. The designated State agency may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) from such a provider for purposes of enabling the provider to fulfill the applicable requirements of this paragraph.

(4) LIST OF ELIGIBLE PROVIDERS.—The designated State agency, after reviewing the performance information described in subsection (a)(3)(C) and using the procedure described in subsection (a)(3)(B), shall identify eligible providers of training services described in paragraph (2) or (3) of subsection (a), compile a list of such eligible providers, accompanied by the performance information described in subsection (a)(3)(C) for each such provider described in subsection (a)(3), and disseminate such list and information to one-stop career centers and to local boards. Such list and information shall be made widely available to participants in workforce and career development activities and others through the one-stop career center system described in section ___121(d).

(c) ENFORCEMENT.—

(1) ACCURACY OF INFORMATION.—If the designated State agency determines that a provider or individual supplying information on behalf of a provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the eligible provider to receive funds described in subsection (a) for a period of time, but not less than 2 years, as prescribed in regulations issued by the Governor.

(2) COMPLIANCE WITH CRITERIA OR REQUIREMENTS.—If the designated State agency determines that an eligible provider or a program of training services carried out by an eligible provider fails to meet the required performance criteria described in subsection (a)(3)(B)(ii) or materially violates any provision of this title or the regulations promulgated to implement this title, the agency may terminate the eligibility of the eligible provider to receive funds described in subsection (a) for such program or take such other action as the agency determines to be appropriate.

(3) ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965.—If the designated State agency determines that the eligibility of an eligible provider described in subsection (a)(2) under title IV of the Higher Education Act of 1965 has been terminated, the agency shall—

(A) terminate the automatic eligibility of the provider under subsection (a)(2); and

(B) require the provider to meet the requirements of subsection (a)(3) to be eligible to receive funds as described in subsection (a).

(4) REPAYMENT.—Any provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

(5) APPEAL.—The Governor shall establish a procedure for an eligible provider to appeal a determination by the designated State agency that results in termination of eligibility under this subsection. Such procedure shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(d) ON-THE-JOB TRAINING EXCEPTION.—

(1) IN GENERAL.—Providers of on-the-job training shall not be subject to the requirements of subsection (a), (b), or (c).

(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop career center eligible provider in a local workforce development area shall collect such performance information from on-the-job training providers as the Governor may require, and disseminate such information through the delivery of core services described in section ___121(e)(2), as appropriate.

SEC. ___108. LOCAL WORKFORCE DEVELOPMENT BOARDS.

(a) ESTABLISHMENT.—There shall be established in each local workforce development area of a State, and certified by the Governor of the State, a local workforce development board, reflecting business and community interests in workforce and career development activities.

(b) MEMBERSHIP.—

(1) STATE CRITERIA.—The Governor of the State shall establish criteria for the appointment of members of the local boards for local workforce development areas in the State in accordance with the requirements of paragraph (2). Information identifying such criteria shall be included in the State plan submitted under section ___104.

(2) COMPOSITION.—Such criteria shall require at a minimum, that the membership of each local board—

(A) shall include—

(i) a majority of members who are representatives of business and industry in the local workforce development area, appointed from among individuals nominated by local business organizations and trade associations;

(ii) representatives of local secondary schools, representatives of postsecondary educational institutions (including representatives of community colleges), representatives of vocational educators, and representatives of providers of adult education and literacy services, where such schools, institutions, educators, or providers, as appropriate, exist; and

(iii) representatives of employees, which may include labor; and

(B) may include—

(i) individuals with disabilities;

(ii) parents;

(iii) veterans; and

(iv) representatives of community-based organizations.

(3) CHAIRPERSON.—The local board shall elect a chairperson from among the members of the board.

(c) APPOINTMENT AND CERTIFICATION OF BOARD.—

(1) APPOINTMENT OF BOARD MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.—

(A) IN GENERAL.—The chief elected official in a local workforce development area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established under subsection (b).

(B) MULTIPLE UNITS OF LOCAL GOVERNMENT IN AREA.—

(i) IN GENERAL.—In a case in which a local workforce development area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (b); and

(II) in carrying out any other responsibilities assigned to such officials.

(ii) LACK OF AGREEMENT.—If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local board from individuals so nominated or recommended.

(2) CERTIFICATION.—

(A) IN GENERAL.—The Governor may annually certify 1 local board for each local workforce development area in the State.

(B) CRITERIA.—Such certification shall be based on factors including the criteria established under subsection (b) and, for a second or subsequent certification, the extent to which the local board has ensured that employment and training activities and at-risk youth activities carried out in the local workforce development area have met expected levels of performance with respect to the local benchmarks required under subsection (d)(4)(A).

(C) FAILURE TO ACHIEVE CERTIFICATION.—Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local workforce development area pursuant to the process described in paragraph (1) and this paragraph.

(3) DECERTIFICATION.—Notwithstanding paragraph (2), the Governor may decertify a local board at any time for fraud or abuse, or failure to carry out the functions specified for the local board in paragraphs (1) through (3) of subsection (d), after providing notice and an opportunity for comment. If the Governor decertifies a local board for a local workforce development area, the Governor may require that a local board be appointed and certified for the local workforce development area pursuant to a plan developed by the Governor in consultation with the chief elected official in the local workforce development area and in accordance with the criteria established under subsection (b).

(4) EXCEPTION.—Notwithstanding subsection (b) and paragraphs (1) and (2), if a State described in section ___104(b)(4)(B) indicates in the State plan that the State will be treated as a local workforce development area for purposes of the application of this title, the Governor may designate the individuals and entities involved in the collaborative process described in section ___105 to carry out any of the functions described in subsection (d).

(d) FUNCTIONS OF LOCAL BOARD.—The functions of the local board shall include the following:

(1) LOCAL PLAN.—

(A) IN GENERAL.—Each local board shall develop and submit to the Governor a comprehensive multiyear strategic local plan. The local plan shall be consistent with the State goals and State plan described in section ___104.

(B) CONTENTS.—The local plan shall include—

(i) an identification of the workforce development needs of local industries, jobseekers, and workers;

(ii) a description of employment and training activities and at-risk youth activities to be carried out in the local workforce development area as required under sections ___121 and ___122, that, with activities authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), will contribute to the coherent delivery of workforce and career development activities;

(iii) a description of the local benchmarks negotiated with the Governor pursuant to paragraph (4)(A), to be used by the local board for measuring the performance of eligible providers, and the performance of the one-stop career center system, in the local workforce development area;

(iv) a description of the process negotiated with the Governor pursuant to paragraph (4)(B) that the local board will use to designate or certify, and to conduct oversight with respect to, one-stop career center eligible providers in the local workforce development area, that will—

(I) ensure that the most effective and efficient providers will be chosen; and

(II) ensure the continuous improvement of such providers and ensure that such providers will continue to meet the labor market needs of local employers and participants;

(v) a description of how the local board will ensure the continued participation of the chief elected official in the local workforce development area in carrying out the duties of the local board, including the participation of such official in carrying out the oversight responsibilities of the board;

(vi) a description of how the local board will obtain the active and continuous participation of representatives of business and industry, employees (which may include labor), local educational agencies, postsecondary educational institutions, providers of adult education and literacy services, vocational educators, other providers of workforce and career development activities, community-based organizations, parents, and consumers (including individuals with disabilities, older workers, and veterans), where appropriate, in the development and continuous improvement of the employment and training activities to be carried out in the local workforce development area;

(vii) a description of the steps the local board will take to work with local educational agencies, postsecondary educational institutions, vocational educators, providers of adult education and literacy services, and other representatives of the educational community to address local employment, education, and training needs;

(viii) a description of the process that will be used to fully involve representatives of business, employees (which may include labor), the local education community (including vocational educators and teachers), parents, and community-based organizations in the development and implementation of at-risk youth activities in the local workforce development area, including a description of the process used to ensure that the most effective and efficient providers are chosen to carry out the activities; and

(ix) such other information as the Governor may require.

(C) CONSULTATION.—The local board shall—

(i) consult with the chief elected official in the appropriate local workforce development area in the development of the local plan; and

(ii) provide the chief elected official with a copy of the local plan.

(D) APPROVAL.—

(i) IN GENERAL.—The chief elected official shall—

(I) approve the local plan; or

(II) reject the local plan and make recommendations to the local board on how to improve the local plan.

(ii) SUBMISSION.—If, after a reasonable effort, the local board is unable to obtain the approval of the chief elected official for the local plan, the local board shall submit the plan to the Governor for approval under subparagraph (A), and shall submit the recommendations of the chief elected official to the Governor along with the plan.

(2) SELECTION AND OVERSIGHT RESPONSIBILITIES.—

(A) ONE-STOP CAREER CENTERS.—Consistent with section ___111(c)(1)(A) and the agreement negotiated with the Governor under paragraph (4)(B)(i), the local board is authorized to designate or certify one-stop career center eligible providers, and conduct oversight with respect to such providers, in the local workforce development area.

(B) AT-RISK YOUTH ACTIVITIES.—Consistent with section ___112(d), the local board is authorized to award grants on a competitive basis to eligible providers of at-risk youth activities, and conduct oversight with respect to such providers, in the local workforce development area.

(3) IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.—Consistent with section ___107, the local board is authorized to make recommendations to the Governor concerning the identification of eligible providers of training services described in section ___121(e)(3) in the local workforce development area.

(4) NEGOTIATIONS.—

(A) LOCAL BENCHMARKS.—The local board and the Governor shall negotiate and reach agreement on local benchmarks designed to meet the goals described in section ___106(a) for the local workforce development area. In determining such benchmarks, the Governor and the local board shall take into account the State benchmarks described in section ___106(b)(1) with respect to employment and training activities and as appropriate, at-risk youth activities, the State benchmarks described in section ___106(b)(2) with respect to at-risk youth activities, and specific economic, demographic, and other characteristics of the populations to be served in the local workforce development area.

(B) LOCAL ONE-STOP DELIVERY OF SERVICES.—

(i) IN GENERAL.—Consistent with criteria identified in the State plan information submitted under section ___104(b)(16)(B)(i), the local board and the Governor shall negotiate and reach agreement on a process to be used by the local board that meets the requirements of subclauses (I) and (II) of paragraph (1)(B)(iv) for—

(I) the designation or certification of one-stop career center eligible providers in the local workforce development area, including a determination of the role of providers of activities authorized under the Wagner-Peyser Act in the one-stop delivery of services in the local workforce development area; and

(II) the continued role of the local board in conducting oversight with respect to one-stop ca-

reer center eligible providers, including the ability of the local board to terminate for cause the eligibility of a provider of such services.

(ii) ESTABLISHED ONE-STOP CAREER CENTERS.—Notwithstanding section ___111(c)(1)(B), if a one-stop career center has been established in a local workforce development area prior to the date of enactment of this Act, or if approval has been obtained for a plan for a one-stop career center under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) prior to the date of enactment of this Act, the local board and the Governor involved may agree to certify the one-stop career center provider for purposes of this subparagraph.

(e) SUNSHINE PROVISION.—The local board shall make available to the public, on a regular basis, information regarding the activities of the local board, including information regarding membership, the designation and certification of one-stop career center eligible providers, and the award of grants to eligible providers of at-risk youth activities.

(f) OTHER ACTIVITIES.—

(1) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no local board may directly carry out an employment and training activity.

(B) WAIVERS.—The Governor of the State in which the local board is located may grant to the local board a written waiver of the prohibition set forth in subparagraph (A).

(2) CONFLICT OF INTEREST.—No member of a local board may—

(A) vote on a matter under consideration by the local board—

(i) regarding the provision of services by such member (or by an organization that such member represents); or

(ii) that would provide direct financial benefit to such member or the immediate family of such member; or

(B) engage in any other activity determined by the Governor to constitute a conflict of interest.

(g) TECHNICAL ASSISTANCE.—If a local workforce development area fails to meet expected levels of performance on negotiated benchmarks described in subsection (d)(4)(A), the Governor may provide technical assistance to the local board to improve the level of performance of the local workforce development area.

Subtitle B—Allocation

SEC. ___111. DISTRIBUTION FOR EMPLOYMENT AND TRAINING ACTIVITIES.

(a) RESERVATIONS FOR STATE AND LOCAL ACTIVITIES.—

(1) IN GENERAL.—The sum of the funds made available to a State for any program year under paragraphs (1) and (5) of section ___103(a) for employment and training activities shall be made available in accordance with this section.

(2) DISTRIBUTION.—Of the sum described in paragraph (1) that is made available to a State for a program year—

(A) not less than 75 percent shall be made available to local workforce development areas under subsection (b) to carry out employment and training activities described in subsections (e) and (f) of section ___121;

(B) not less than 20 percent shall be made available to the Governor to carry out State employment and training activities described in subsections (b) and (c) of section ___121; and

(C) not more than 5 percent shall be made available for administrative expenses at the State level.

(b) WITHIN STATE FORMULA.—

(1) IN GENERAL.—The Governor shall develop a formula for the allocation of the funds described in subsection (a)(2)(A) to local workforce development areas, taking into account—

(A) the poverty rate, among individuals who are not less than age 18 and not more than age 64, as determined by the Bureau of the Census, within each local workforce development area;

(B) the unemployment rate within each local workforce development area;

(C) the proportion of the State population of individuals who are not less than age 18 and not more than age 64, residing within each local workforce development area; and

(D) such additional factors as the Governor (in consultation with local boards and local elected officials) determines to be necessary.

(2) EQUITABLE ALLOCATION.—In developing such formula, the Governor shall ensure that—

(A) the funds described in subsection (a)(2)(A) are allocated in a geographically equitable manner throughout the State; and

(B) the factors described in paragraph (1) do not receive disproportionate weight in the allocation.

(c) ELIGIBILITY.—

(1) ELIGIBILITY FOR DESIGNATION OR CERTIFICATION AS A ONE-STOP CAREER CENTER ELIGIBLE PROVIDER.—

(A) IN GENERAL.—To be eligible to receive funds made available under this section to provide employment and training activities through a one-stop career center system and be designated or certified as a one-stop career center eligible provider for a local workforce development area, an entity shall—

(i) be selected in accordance with section ___108(d)(2)(A); and

(ii) be a public or private entity, or consortium of entities, located in the local workforce development area, which entity or consortium may include an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), a local employment service office established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), a local government agency, a private for-profit entity, a private nonprofit entity, or other interested entity, of demonstrated effectiveness, such as a local chamber of commerce or other business organization.

(B) EXCEPTION.—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop career center eligible providers.

(2) ELIGIBILITY FOR IDENTIFICATION AS AN ELIGIBLE PROVIDER OF TRAINING SERVICES.—Except as provided in section ___107(d), to be eligible to receive funds made available under this section to provide training services described in section ___121(e)(3) and be identified as an eligible provider of such services, an entity shall meet the requirements of section ___107.

SEC. ___112. DISTRIBUTION FOR AT-RISK YOUTH ACTIVITIES.

(a) RESERVATIONS FOR STATE AND LOCAL ACTIVITIES.—

(1) IN GENERAL.—The sum of the funds made available to a State for any program year under paragraphs (2) and (5) of section ___103(a) for at-risk youth activities shall be made available in accordance with this section.

(2) DISTRIBUTION.—Of the sum described in paragraph (1) that is made available to a State for a program year—

(A) not less than 75 percent shall be made available to local workforce development areas under subsection (b) to carry out at-risk youth activities;

(B) not more than 21 percent shall be made available to the Governor to carry out at-risk youth activities; and

(C) not more than 4 percent shall be made available for administrative expenses at the State level.

(b) WITHIN STATE FORMULA.—

(1) IN GENERAL.—The Governor, using the collaborative process described in subsection (a) or (b) of section ___105, shall develop a formula for the allocation of the funds described in subsection (a)(2)(A) to local workforce development areas, taking into account—

(A) the poverty rate, as determined by the Bureau of the Census, within each local workforce development area;

(B) the proportion of the State at-risk youth population residing within each local workforce development area; and

(C) such additional factors as are determined to be necessary.

(2) EQUITABLE ALLOCATION.—In developing such formula, the Governor shall ensure that—

(A) the funds described in subsection (a)(2)(A) are allocated in a geographically equitable manner throughout the State; and

(B) the factors described in paragraph (1) do not receive disproportionate weight in the allocation.

(c) STATE GRANTS.—

(1) IN GENERAL.—The Governor shall use the funds described in subsection (a)(2)(B) to award grants, on a competitive basis, to eligible providers to carry out at-risk youth activities under section ___122.

(2) ELIGIBLE PROVIDERS.—Providers eligible to receive grants under this subsection to carry out such activities include—

(A) local educational agencies, area vocational education schools, educational service agencies, institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), State corrections educational agencies, or consortia of such entities;

(B) units of general local government;

(C) private nonprofit organizations (including community-based organizations);

(D) private for-profit entities; and

(E) other organizations or entities of demonstrated effectiveness that are approved by the Governor.

(3) APPLICATION.—To be eligible to receive a grant under this subsection from the State to carry out such activities, a provider shall prepare and submit an application to the Governor of the State at such time, in such manner, and containing such information as the Governor may require.

(4) AWARD OF GRANTS.—

(A) PROCESS.—

(i) IN GENERAL.—The Governor shall develop a peer review process for reviewing the applications and awarding the grants on a competitive basis.

(ii) CRITERIA.—The Governor shall establish criteria described in section ___104(b)(17)(C) to be used in reviewing the applications.

(B) AWARDS.—

(i) IN GENERAL.—Using the process referred to in subparagraph (A), and taking into consideration the criteria referred to in subparagraph (A), the Governor shall award the grants to eligible providers.

(ii) PRIORITY.—In awarding the grants, the Governor shall give priority to providers submitting applications to serve communities, or combinations of communities, that contain a large number or a high concentration of at-risk youth.

(iii) EQUITABLE DISTRIBUTION.—In awarding the grants, the Governor shall ensure that—

(I) the funds made available through the grants are distributed in a geographically equitable manner throughout the State; and

(II) no factor receives disproportionate weight in the distribution.

(d) LOCAL GRANTS.—

(1) IN GENERAL.—From the funds made available under subsection (a)(2)(A) to a local workforce development area (other than funds described in section ___122(c)), the local board for such local workforce development area shall award grants, on a competitive basis, to eligible providers to carry out at-risk youth activities under section ___122.

(2) ELIGIBLE PROVIDERS.—Providers eligible to receive grants under this subsection to carry out such activities in a local workforce development area include the providers described in subparagraphs (A) through (D) of subsection (c)(2) and other organizations or entities of demonstrated effectiveness that are approved by the local board.

(3) APPLICATION.—To be eligible to receive a grant under this subsection from the local board to carry out such activities in a local workforce development area, a provider shall prepare and submit an application to the board at such time, in such manner, and containing such information as the board may require.

(4) AWARD OF GRANTS.—

(A) PROCESS.—

(i) IN GENERAL.—The local board shall develop a peer review process for reviewing the applications and awarding the grants on a competitive basis.

(ii) CRITERIA.—The local board shall establish criteria described in section ___104(b)(17)(C) to be used in reviewing the applications.

(B) AWARDS.—

(i) IN GENERAL.—Using the process referred to in subparagraph (A), and taking into consideration the criteria referred to in subparagraph (A), the local board shall award the grants to eligible providers.

(ii) PRIORITY.—In awarding the grants, the local board shall give priority to providers submitting applications to serve communities, or combinations of communities, that contain a large number or a high concentration of at-risk youth.

(iii) EQUITABLE DISTRIBUTION.—In awarding the grants, the local board shall ensure that—

(I) the funds made available through the grants are distributed in a geographically equitable manner throughout the local workforce development area; and

(II) no factor receives disproportionate weight in the distribution.

(5) LIMITATION.—No local board may directly carry out an at-risk youth activity.

(e) TECHNICAL ASSISTANCE.—The Governor, in consultation with the chief elected officials in a local workforce development area, shall provide technical assistance to the local board for the local workforce development area to improve the level of performance of the local workforce development area with respect to at-risk youth activities if—

(1) the local board requests such technical assistance; or

(2) the Governor, in carrying out the certification requirements of section ___108(c)(2), determines that the local board requires such technical assistance.

SEC. ___113. FUNDING FOR STATE VOCATIONAL EDUCATION ACTIVITIES AND DISTRIBUTION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

(a) RESERVATIONS FOR STATE AND LOCAL ACTIVITIES.—

(1) IN GENERAL.—The sum of the funds made available to a State for any program year under paragraphs (3) and (5) of section ___103(a) for vocational education activities shall be made available in accordance with this section and sections ___114 and ___115.

(2) DISTRIBUTION.—Of the sum described in paragraph (1) that is made available to an eligible agency for vocational education for a program year—

(A) not less than 85 percent shall be made available to eligible providers to carry out vocational education activities under this section or section ___114;

(B) not more than 11 percent shall be made available to carry out State activities described in section ___123(a); and

(C) not more than 4 percent shall be made available for administrative expenses at the State level.

(3) STATE DETERMINATIONS.—From the amount available to an eligible agency in a State for distribution to eligible providers under paragraph (2)(A) for a program year, such agency shall determine the percentage of such amount that will be distributed in accordance with this section and section ___114 for such year for vocational education activities in such State in the area of secondary school vocational education, or postsecondary and adult vocational education, or both.

(b) ALLOCATION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.—

(1) IN GENERAL.—Except as otherwise provided in this section and section ___115, each eligible agency for vocational education in a State shall distribute the portion of the funds made available for any program year (from funds made available for the corresponding fiscal year, as determined under section ___151(c)) by such agency for secondary school vocational education under subsection (a)(3) to local educational agencies within the State as follows:

(A) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the number of children who are described in paragraph (2) and reside in the school district served by such agency for the preceding fiscal year bears to the total number of such children who reside in the school districts served by all local educational agencies in the State for such preceding year.

(B) THIRTY PERCENT.—From 30 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 30 percent as the number of students enrolled in schools, and adults enrolled in training programs, under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools, and adults enrolled in training programs, under the jurisdiction of all local educational agencies in the State for such preceding year.

(2) NUMBER OF CHILDREN.—

(A) IN GENERAL.—The number of children referred to in paragraph (1)(A) is the number of children aged 5 through 17, inclusive, from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the fiscal year for which the determination is made.

(B) POPULATION UPDATES.—In fiscal year 1999 and every 2 years thereafter, the Secretary of Education shall use updated data on the number of children aged 5 through 17, inclusive, from families with incomes below the poverty line for local educational agencies, published by the Department of Commerce, unless the Secretary of Education and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable, taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences pursuant to section 1124(c)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(4)). If the Secretary of Education and the Secretary of Commerce determine that some or all of the data referred to in this subparagraph are inappropriate or unreliable, they shall jointly issue a report setting forth their reasons in detail. In determining the families with incomes below the poverty line, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

(3) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—Subject to subsection (c), the Secretary of Education may waive the application of paragraph (1) in the case of any eligible agency that submits to the Secretary an application for such waiver that—

(A) demonstrates that an alternative formula will result in a greater distribution of funds to local educational agencies within the State that serve the highest number or greatest percentage of children described in paragraph (2) than the formula described in paragraph (1); and

(B) includes a proposal for such an alternative formula.

(c) MINIMUM ALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no local educational agency shall receive an allocation under subsection (b) for a program year unless the amount allocated to such agency under subsection (b) is $15,000 or more. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) WAIVER.—The eligible agency may waive the application of paragraph (1) in any case in which the local educational agency—

(A) is located in a rural, sparsely populated area; and

(B) demonstrates that such agency is unable to enter into a consortium for purposes of providing services under this section.

(3) REDISTRIBUTION.—Any amounts that are not allocated by reason of paragraph (1) for a program year shall be redistributed for such program year—

(A) to a local educational agency—

(i) that did not receive an allocation under subsection (b) or pursuant to paragraph (2) for such program year;

(ii) that is located in a rural, sparsely populated area; and

(iii) for which at least 15 percent of the children in the school district served by such agency are children described in subsection (b)(2); and

(B) for vocational education services and activities of sufficient, size, scope, and quality to be effective.

(d) LIMITED JURISDICTION AGENCIES.—

(1) IN GENERAL.—In applying the provisions of subsection (b), no eligible agency receiving assistance under this title shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) SPECIAL RULE.—The amount to be distributed under paragraph (1) for a program year to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(e) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available for any program year by such agency for secondary school vocational education under subsection (a)(3) to the appropriate area vocational education school or educational service agency in any case in which the area vocational education school or educational service agency, and the local educational agency concerned—

(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

(B) have entered into or will enter into a cooperative arrangement for such purpose.

(2) ALLOCATION BASIS.—If an area vocational education school or educational service agency meets the requirements of paragraph (1), then—

(A) the amount that would otherwise be distributed to the local educational agency for a program year under this section shall be allocated to the area vocational education school, the educational service agency, and the local educational agency, based on each school's or agency's relative share of students who are attending vocational education programs (based, if practicable, on the average enrollment for the prior 3 years); or

(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or educational service agency.

(3) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

(4) CONSORTIUM REQUIREMENTS.—

(A) IN GENERAL.—Notwithstanding the provisions of paragraphs (1), (2), and (3), any local educational agency receiving an allocation that is not sufficient to conduct a secondary school vocational education program of sufficient size, scope, and quality to be effective may—

(i) form a consortium or enter into a cooperative agreement with an area vocational education school or educational service agency offering secondary school vocational education programs of sufficient size, scope, and quality to be effective; and

(ii) transfer such allocation to the area vocational education school or educational service agency.

(B) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this paragraph shall be used only for purposes and activities that are mutually beneficial to all members of the consortium. Such funds may not be reallocated to individual members of the consortium for purposes or activities benefiting only one member of the consortium.

(f) DATA.—The Secretary of Education shall collect information from States regarding how funds made available by the eligible agency for vocational education under subsection (a)(3) are distributed to local educational agencies in accordance with this section.

SEC. ___114. DISTRIBUTION FOR POSTSECONDARY AND ADULT VOCATIONAL EDUCATION.

(a) ALLOCATION.—

(1) IN GENERAL.—Except as provided in subsection (b) and section ___115, each eligible agency for vocational education in a State, using the portion of the funds made available for any program year by such agency for postsecondary and adult vocational education under section ___113(a)(3), shall distribute such portion to eligible institutions or consortia of eligible institutions within the State.

(2) FORMULA.—Each eligible institution or consortium of eligible institutions shall receive an amount for the program year (from funds made available for the corresponding fiscal year, as determined under section ___151(c)) from such portion that bears the same relationship to such portion as the number of individuals who are Pell Grant recipients or recipients of assistance from the Bureau of Indian Affairs and are enrolled in programs offered by such eligible institution or consortium of eligible institutions, respectively, for the preceding fiscal year bears to the number of all such individuals who are enrolled in any such program within the State for such preceding year.

(3) CONSORTIUM REQUIREMENTS.—

(A) IN GENERAL.—In order for a consortium of eligible institutions described in paragraph (1) to receive assistance pursuant to such paragraph such consortium shall operate joint projects that—

(i) provide services to all postsecondary institutions participating in the consortium; and

(ii) are of sufficient size, scope, and quality to be effective.

(B) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and activities that are mutually beneficial to all members of the consortium. Such funds may not be reallocated to individual members of the consortium for purposes or activities benefiting only one member of the consortium.

(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary of Education may waive the application of subsection (a) in the case of any eligible agency that submits to the Secretary of Education an application for such a waiver that—

(1) demonstrates that an alternative formula will result in a greater distribution of funds to the eligible institutions or consortia of eligible institutions within the State that serve the highest numbers of low-income individuals than the formula described in subsection (a)(2); and

(2) includes a proposal for such an alternative formula.

(c) MINIMUM AMOUNT.—

(1) IN GENERAL.—No distribution of funds provided to any eligible institution or consortium of eligible institutions for a program year under this section shall be for an amount that is less than $50,000.

(2) REDISTRIBUTION.—Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia of eligible institutions in accordance with the provisions of this section.

SEC. ___115. SPECIAL RULES FOR VOCATIONAL EDUCATION.

(a) SPECIAL RULE FOR MINIMAL ALLOCATION.—

(1) GENERAL AUTHORITY.—Notwithstanding the provisions of section ___113 or ___114 and in order to make a more equitable distribution of funds for programs serving the highest numbers or greatest percentages of low-income individuals, for any program year for which a minimal amount is made available by an eligible agency for distribution under section ___113 or ___114 such agency may distribute such minimal amount for such year—

(A) on a competitive basis; or

(B) through any alternative method determined by the eligible agency.

(2) MINIMAL AMOUNT.—For purposes of this section, the term ''minimal amount'' means not more than 15 percent of the total amount made available by the eligible agency under section ___113(a)(3) for sections ___113 and ___114 for a program year.

(b) REDISTRIBUTION.—

(1) IN GENERAL.—In any program year that an eligible provider receiving financial assistance under section ___113 or ___114 does not expend all of the amounts distributed to such provider for such year under section ___113 or ___114, respectively, such provider shall return any unexpended amounts to the eligible agency for distribution under section ___113 or ___114, respectively. The eligible agency may waive the requirements of the preceding sentence, on a case-by-case basis, for good cause as determined by such agency.

(2) REDISTRIBUTION OF AMOUNTS RETURNED LATE IN A PROGRAM YEAR.—In any program year in which amounts are returned to the eligible agency under paragraph (1) for programs described in section ___113 or ___114 and the eligible agency is unable to redistribute such amounts according to section ___113 or ___114, respectively, in time for such amounts to be expended in such program year, the eligible agency shall retain such amounts for distribution in combination with amounts made available under such section for the following program year.

(c) CONSTRUCTION.—Nothing in section ___113 or ___114 shall be construed—

(1) to prohibit a local educational agency (or a consortium thereof) that receives assistance under section ___113, from working with an eligible provider (or consortium thereof) that receives assistance under section ___114, to carry out secondary school vocational education activities in accordance with this title; or

(2) to prohibit an eligible provider (or consortium thereof) that receives assistance under section ___114, from working with a local educational agency (or consortium thereof) that receives assistance under section ___113, to carry out postsecondary and adult vocational education activities in accordance with this title.

(d) LOCAL APPLICATION FOR VOCATIONAL EDUCATION ACTIVITIES.—

(1) APPLICATION REQUIRED.—Each provider in a State desiring financial assistance under this subtitle for vocational education activities shall submit an application to the eligible agency for vocational education at such time, in such manner, and accompanied by such information as such agency (in consultation with other educational entities as the eligible agency determines appropriate) may require. Such application shall cover the same period of time as the period of time applicable to the State plan submitted under section ___104.

(2) CONTENTS.—Each application described in paragraph (1) shall, at a minimum—

(A) describe how the vocational education activities required under section ___123 will be carried out with funds received under this subtitle;

(B) describe how the activities to be carried out relate to meeting the State goals, and reaching the State benchmarks, concerning vocational education activities;

(C) describe how the provider will address the needs of students who participate in vocational education activities to be taught to the same challenging academic proficiencies as all students;

(D) describe the process that will be used to independently evaluate and continuously improve the performance of the provider;

(E) describe how the provider will coordinate the activities of the provider with the activities of the local board in the local workforce development area; and

(F) describe how parents, teachers, and the community are involved in the development and implementation of activities under this section.

SEC. ___116. DISTRIBUTION FOR ADULT EDUCATION AND LITERACY.

(a) RESERVATIONS FOR STATE AND LOCAL ACTIVITIES.—

(1) IN GENERAL.—The sum of the funds made available to a State for any program year under paragraphs (4) and (5) of section ___103(a) for adult education and literacy activities shall be made available in accordance with this section.

(2) DISTRIBUTION.—Of the sum described in paragraph (1) that is made available to an eligible agency for adult education and literacy for a program year—

(A) not less than 85 percent shall be made available to award grants in accordance with this section to carry out adult education and literacy activities;

(B) not more than 10 percent shall be made available to carry out State activities described in section ___124(a); and

(C) subject to subparagraph (A), not more than 5 percent, or $50,000, whichever is greater, shall be made available for administrative expenses at the State level.

(b) GRANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), from the amount made available to an eligible agency for adult education and literacy under subsection (a)(2)(A) for a program year, such agency shall award grants, on a competitive basis, to local educational agencies, correctional education agencies, community-based organizations of demonstrated effectiveness, volunteer literacy organizations, libraries, public or private nonprofit agencies, postsecondary educational institutions, public housing authorities, and other nonprofit institutions, that have the ability to provide literacy services to adults and families, or consortia of agencies, organizations, or institutions described in this subsection, to enable such agencies, organizations, institutions, and consortia to carry out adult education and literacy activities.

(2) CONSORTIA.—An eligible agency may award a grant under this section to a consortium that includes a provider described in paragraph (1) and a for-profit agency, organization, or institution, if such agency, organization, or institution—

(A) can make a significant contribution to carrying out the objectives of this title; and

(B) enters into a contract with such provider to carry out adult education and literacy activities.

(c) GRANT REQUIREMENTS.—

(1) EQUITABLE ACCESS.—Each eligible agency awarding a grant under this section for adult education and literacy activities shall ensure that the providers described in subsection (b) will be provided direct and equitable access to all Federal funds provided under this section.

(2) SPECIAL RULE.—Each eligible agency awarding a grant under this section shall not use any funds made available under this title for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section ___004(1), except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services.

(3) CONSIDERATIONS.—In awarding grants under this section, the eligible agency shall consider—

(A) the past effectiveness of a provider described in subsection (b) in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by such adults);

(B) the degree to which the provider will coordinate services with other literacy and social services available in the community, including coordination with one-stop career center systems established in section ___121(d); and

(C) the commitment of the provider to serve individuals in the community who are most in need of literacy services.

(d) LOCAL ADMINISTRATIVE COST LIMITS.—

(1) IN GENERAL.—Except as provided in paragraph (2), of the funds provided under this section by an eligible agency to a provider described in subsection (b), not less than 95 percent shall be expended for provision of adult education and literacy activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

(2) SPECIAL RULE.—In cases where the cost limits described in paragraph (1) will be too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination supported under this section, the eligible agency shall negotiate with the provider described in subsection (b) in order to determine an adequate level of funds to be used for noninstructional purposes.

SEC. ___117. DISTRIBUTION FOR FLEXIBLE ACTIVITIES.

(a) EMPLOYMENT AND TRAINING ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out employment and training activities shall distribute such funds in accordance with section ___111.

(b) AT-RISK YOUTH ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out at-risk youth activities shall distribute such funds in accordance with section ___112.

(c) VOCATIONAL EDUCATION ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out vocational education activities shall distribute such funds in accordance with sections ___113, ___114, and ___115.

(d) ADULT EDUCATION AND LITERACY ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out adult education and literacy activities shall distribute such funds in accordance with section ___116.

Subtitle C—Use of Funds

SEC. ___121. EMPLOYMENT AND TRAINING ACTIVITIES.

(a) IN GENERAL.—Funds made available to States and local workforce development areas under this title for employment and training activities—

(1) shall be used to carry out the activities described in subsections (b), (e), and (g); and

(2) may be used to carry out the activities described in subsections (c) and (f).

(b) REQUIRED STATE ACTIVITIES.—A State shall use funds made available for State employment and training activities under section ___111(a)(2)(B)—

(1) to provide rapid response assistance;

(2) to provide labor market information as described in section ___139; and

(3) to conduct evaluations, under section ___106(d), of activities authorized in this section.

(c) PERMISSIBLE STATE ACTIVITIES.—A State may use funds made available for State employment and training activities under section ___111(a)(2)(B)—

(1) to provide services that may include—

(A) providing professional development and technical assistance;

(B) making incentive grants to local workforce development areas for exemplary performance in reaching or exceeding benchmarks described in section ___108(d)(4)(A);

(C) providing economic development activities (to supplement other funds provided by the State, a local agency, or the private sector for such activities) that consist of—

(i) providing services to upgrade the skills of employed workers who are at risk of being permanently laid off;

(ii) retraining employed workers in new technologies and work processes that will facilitate the conversion and restructuring of business to assist in the avoidance of a permanent closure or substantial layoff at a plant, facility, or enterprise;

(iii) providing customized assessments of the skills of workers and an analysis of the skill needs of employers;

(iv) assisting consortia of small- and medium-size employers in upgrading the skills of their workforces;

(v) providing productivity and quality improvement training programs for the workforces of small- and medium-size employers; and

(vi) establishing and implementing an employer loan program to assist employees in skills upgrading;

(D) implementing efforts to increase the number of participants trained and placed in nontraditional employment; and

(E) carrying out other activities authorized in this section that the State determines to be necessary to assist local workforce development areas in carrying out activities described in subsection (e) or (f) through the statewide system;

(2) to operate a fiscal and management accountability information system under section ___106(e);

(3) to assist in the establishment of the one-stop career center system described in subsection (d); and

(4) to carry out the career grant pilot program described in subsection (g).

(d) ESTABLISHMENT OF ONE-STOP CAREER CENTER SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section ___102 a one-stop career center system, which—

(A) shall provide the core services described in subsection (e)(2);

(B) shall provide access to the activities (if any) carried out under subsection (f);

(C) shall make labor market information described in section ___139 and subsection (e)(2)(D) available and shall provide all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.); and

(D)(i) shall provide access to training services as described in subsection (e)(3), which may include serving as the point of distribution of career grants for training services to participants in accordance with subsection (e)(3); and

(ii) may serve as the point of distribution of career grants for training services to participants in accordance with subsection (g).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop career center system shall make the services described in paragraph (1) available—

(A) through a network of eligible providers that assures participants that the core services described in subsection (e)(2) will be available regardless of where the participants initially enter the statewide system, including the availability of such services through multiple, connected access points, linked electronically or technologically;

(B) through a network of career centers that can provide the services described in paragraph (1) to participants;

(C) at not less than 1 physical, co-located career center in each local workforce development area of the State, that provides the services described in paragraph (1) to participants seeking such services; or

(D) through a combination of the options described in subparagraphs (A) through (C).

(e) REQUIRED LOCAL ACTIVITIES.—

(1) IN GENERAL.—Funds made available to local workforce development areas under section ___111(a)(2)(A) shall be used—

(A) to establish the one-stop career center described in subsection (d);

(B) to provide the core services described in paragraph (2) (referred to in this section as ''core services'') to participants through the one-stop career center system; and

(C) to provide training services described in paragraph (3) (referred to in this section as ''training services'') to participants described in such paragraph.

(2) CORE SERVICES.—Funds made available to local workforce development areas under section ___111(a)(2)(A) shall be used to provide core services, which shall be available to all individuals through a one-stop career center system and shall, at a minimum, include—

(A) outreach, intake, and orientation to the information and other services available through the one-stop career center system;

(B) initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(C) job search and placement assistance, and, where appropriate, career counseling;

(D) provision of accurate labor market information relating to—

(i) local, State, and, if appropriate, regional or national, occupations in demand; and

(ii) skill requirements for such occupations, where available;

(E)(i) provision of accurate information relating to the quality and availability of activities authorized in this section, at-risk youth activities, vocational education activities, adult education and literacy activities, and vocational rehabilitation program activities;

(ii) provision of information relating to adult education and literary activities, through cooperative efforts with eligible providers of adult education and literacy activities described in section ___116(b); and

(iii) referral to appropriate activities described in clauses (i) and (ii);

(F) provision of eligibility information relating to unemployment compensation, publicly funded education and training programs (including registered apprenticeships), and forms of public financial assistance, such as student aid programs, that may be available in order to enable individuals to participate in workforce and career development activities;

(G) dissemination of lists of providers and performance information in accordance with paragraph (3)(E)(ii); and

(H) provision of information regarding how the local workforce development area is performing on the local benchmarks described in section ___108(d)(4)(A), and any additional performance information provided by the local board.

(3) REQUIRED TRAINING SERVICES.—

(A) SERVICES.—Funds made available to local workforce development areas under section ___111(a)(2)(A) shall be used to provide training services to individuals who are unable to obtain employment through the core services, who after an interview, evaluation or assessment, and counseling by an eligible provider have been determined to be in need of training services, and who meet the requirements of subparagraph (B). Training services may include—

(i) occupational skills training;

(ii) on-the-job training;

(iii) skills upgrading and retraining for persons not in the workforce; and

(iv) basic skills training when provided in combination with services described in clause (i), (ii), or (iii).

(B) QUALIFICATION.—

(i) REQUIREMENT.—Except as provided in clause (ii), provision of such training services shall be limited to participants who—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(II) who require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

(ii) REIMBURSEMENTS.—Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local workforce development area from such Federal Pell Grant.

(C) PRIORITY.—In the event that funds are limited within a local workforce development area, priority shall be given to dislocated workers and other unemployed individuals for receipt of training services provided under this paragraph. The appropriate local board and the Governor shall provide policy guidance to one-stop career center eligible providers in the local workforce development area for making determinations related to such priority.

(D) DELIVERY OF SERVICES.—Training services provided under this paragraph shall be provided—

(i) except as provided in section ___107(d), through eligible providers of such services identified in accordance with section ___107; and

(ii) in accordance with subparagraph (E).

(E) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph may be provided through the use of career grants, contracts, or other methods (which may include performance-based contracting) and shall, to the extent practicable, maximize consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local workforce development area, through one-stop career centers, shall make available—

(I) the list of eligible providers of training services required under section ___107(b)(4), with a description of the training courses available from such providers and a list of the names of on-the-job training providers; and

(II) the performance information described in subsections (b)(4) and (d)(2) of section ___107 relating to such providers.

(iii) PURCHASE OF SERVICES.—An individual eligible for receipt of training services under this paragraph may select an eligible provider of training services from the lists of providers described in clause (ii)(I). Upon such selection, the operator of the one-stop career center shall, to the extent practicable, refer such individual to the eligible provider of training services, and arrange for payment for such services.

(F) USE OF CAREER GRANTS.—A State or a local workforce development area may deliver all training services authorized in this paragraph through the use of career grants.

(f) PERMISSIBLE LOCAL ACTIVITIES.—

(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds made available to local workforce development areas under section ___111(a)(2)(A) may be used to provide, through one-stop delivery described in subsection (d)(2)—

(A) co-location of services related to workforce and career development activities, such as unemployment insurance, vocational rehabilitation program activities, veterans' employment services, or other public assistance;

(B) intensive employment-related services for participants who are unable to obtain employment through the core services, as determined by the State;

(C) dissemination to employers of information on activities carried out through the statewide system;

(D) customized screening and referral of qualified participants to employment; and

(E) customized employment-related services to employers on a fee-for-service basis.

(2) SUPPORTIVE SERVICES.—Funds made available to local workforce development areas under section ___111(a)(2)(A) may be used to provide supportive services to participants—

(A) who are receiving training services; and

(B) who are unable to obtain such supportive services through other programs providing such services.

(3) FOLLOWUP SERVICES.—Funds made available to local workforce development areas under section ___111(a)(2)(A) may be used to provide followup services for participants in activities authorized in this section who are placed in unsubsidized employment.

(4) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds made available to local workforce development areas under section ___111(a)(2)(A) may be used to provide needs-related payments to dislocated workers who are unemployed and do not qualify for, or have ceased to qualify for, unemployment compensation, for the purpose of enabling such individuals to participate in training services.

(B) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 8th week of the worker's initial unemployment compensation benefits period; or

(ii) if later, by the end of the 8th week after the worker is informed that a short-term layoff will, in fact, exceed 6 months.

(C) LEVEL OF PAYMENTS.—The level of a needs-related payment made under this paragraph—

(i) shall not exceed the greater of—

(I) the applicable level of unemployment compensation; or

(II) an amount equal to the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved, for an equivalent period; and

(ii) shall be adjusted to reflect changes in total family income.

(5) CAREER GRANT PILOT PROGRAM.—Funds made available to local workforce development areas under section ___111(a)(2)(A) may be used to carry out the career grant pilot program described in subsection (g), which may be carried out in conjunction with the provision of training services under subsection (e)(3).

(g) CAREER GRANT PILOT PROGRAM FOR DISLOCATED WORKERS.—The State shall carry out (using funds made available under section ___111(a)(2)(B) or by making funds available to local workforce development areas under section ___111(a)(2)(A)) a career grant pilot program for dislocated workers that is of sufficient size, scope, and quality to measure the effectiveness of the use of career grants for the provision of training services under subsection (e)(3).

(h) LOCAL ADMINISTRATION.—Not more than 10 percent of the funds made available under section ___111(a)(2)(A) to a local workforce development area may be used for administrative expenses.

SEC. ___122. AT-RISK YOUTH ACTIVITIES.

(a) REQUIRED ACTIVITIES.—Funds made available to Governors and local workforce development areas under this title for at-risk youth activities shall be used to carry out, for at-risk youth, activities that—

(1) provide strong linkages between academic, occupational, and worksite learning;

(2) provide postsecondary educational opportunities, where appropriate;

(3) involve business and parents in the design and implementation of the activities;

(4) provide adult mentoring;

(5) provide career guidance and counseling; and

(6) are of sufficient size, scope, and quality to be effective.

(b) PERMISSIBLE ACTIVITIES.—Funds made available to Governors and local workforce development areas under this title for at-risk youth activities may be used to carry out, for at-risk youth, activities that provide—

(1) tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(2) alternative secondary school services;

(3) paid and unpaid work experience, including summer employment opportunities, that are directly linked to academic, occupational, and worksite learning; and

(4) training-related supportive services.

(c) LOCAL ADMINISTRATION.—Not more than 10 percent of the funds made available under section ___112(a)(2)(A) to a local workforce development area may be used for administrative expenses. The local board for the local workforce development area may use not more than 4 percent of the funds made available under section ___112(a)(2)(A) for the administrative expenses of the local board. The remainder of the 10 percent may be used for administrative expenses of eligible providers of at-risk youth activities in the local workforce development area.

SEC. ___123. VOCATIONAL EDUCATION ACTIVITIES.

(a) PERMISSIBLE STATE ACTIVITIES.—The eligible agency for vocational education shall use not more than 11 percent of the funds made available to the eligible agency under subtitle A for activities that may include—

(1) an assessment of the activities authorized in this section;

(2) support for tech-prep programs;

(3) support for activities authorized in this section for single parents, displaced homemakers, and single pregnant women;

(4) professional development activities, including—

(A) inservice and preservice training in state-of-the-art vocational education programs and techniques; and

(B) support of education programs for teachers of vocational education in public schools to ensure such teachers stay current with the needs, expectations, and methods of industry;

(5) support for programs that offer experience in, and understanding of, all aspects of the industry students are preparing to enter;

(6) leadership and instructional programs in technology education;

(7) support for cooperative education;

(8) support for family and consumer sciences programs;

(9) support for vocational student organizations;

(10) improvement of career guidance and counseling;

(11) technical assistance; and

(12) performance awards for 1 or more eligible providers that the eligible agency determines have achieved exceptional performance in providing activities described in this section.

(b) REQUIRED LOCAL ACTIVITIES.—The eligible agency for vocational education shall use not less than 85 percent of the funds made available to the eligible agency under subtitle A to provide financial assistance under sections ___113 and ___114 to eligible providers to enable such providers to carry out activities authorized in this section that include—

(1)(A) integrating academic and vocational education;

(B) integrating classroom and worksite learning; and

(C) linking secondary and postsecondary education, including implementing tech-prep programs;

(2) providing career guidance and counseling;

(3) providing vocational education programs of sufficient size, scope, and quality to be effective;

(4) improving and expanding access to quality, state-of-the-art activities authorized in this section;

(5) providing professional development; and

(6) involving business and parents in the design and implementation of activities authorized in this section.

SEC. ___124. ADULT EDUCATION AND LITERACY ACTIVITIES.

(a) PERMISSIBLE STATE ACTIVITIES.—The eligible agency for adult education and literacy may use not more than 10 percent of the funds made available to the eligible agency under subtitle A for activities that may include—

(1) the establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities authorized in this section, including instruction provided by volunteers;

(2) the provision of technical assistance to eligible providers of activities authorized in this section;

(3) the provision of technology assistance to eligible providers of activities authorized in this section to enable the providers to improve the quality of such activities;

(4) the support of State or regional networks of literacy resource centers; and

(5) the monitoring and evaluation of the quality of and the improvement in activities authorized in this section.

(b) REQUIRED LOCAL ACTIVITIES.—The eligible agency for adult education and literacy shall require that each eligible provider receiving a grant under section ___116 use the grant to establish or operate 1 or more programs that provide instruction or services in 1 or more of the following categories:

(1) Adult education and literacy services.

(2) Family literacy services.

(3) English literacy programs.

SEC. ___125. FLEXIBLE ACTIVITIES.

(a) IN GENERAL.—A State may use the funds made available to the State under this title through the flex account to carry out—

(1) employment and training activities;

(2) at-risk youth activities;

(3) vocational education activities; and

(4) adult education and literacy activities.

(b) USE OF FUNDS.—

(1) EMPLOYMENT AND TRAINING ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out employment and training activities shall expend such funds in accordance with sections ___121 and ___126.

(2) AT-RISK YOUTH ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out at-risk youth activities shall expend such funds in accordance with sections ___122 and ___126.

(3) VOCATIONAL EDUCATION ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out vocational education activities shall expend such funds in accordance with sections ___123 and ___126.

(4) ADULT EDUCATION AND LITERACY ACTIVITIES.—A State that uses funds made available to the State under this title through the flex account to carry out adult education and literacy activities shall expend such funds in accordance with sections ___124 and ___126.

SEC. ___126. REQUIREMENTS AND RESTRICTIONS RELATING TO USE OF FUNDS.

(a) FISCAL REQUIREMENTS FOR VOCATIONAL EDUCATION ACTIVITIES AND ADULT EDUCATION AND LITERACY ACTIVITIES.—

(1) SUPPLEMENT NOT SUPPLANT.—Funds made available under this title for vocational education activities or adult education and literacy activities shall supplement, and may not supplant, other public funds expended to carry out activities described in section ___123 or ___124, respectively.

(2) MAINTENANCE OF EFFORT.—

(A) DETERMINATION.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), and subparagraph (B), no payments shall be made under this title for any program year to a State for vocational education activities or adult education and literacy activities unless the Secretary of Education determines that the fiscal effort per student or the aggregate expenditures of such State for activities described in section ___123 or ___124, respectively, for the program year preceding the program year for which the determination is made, equaled or exceeded such effort or expenditures for activities described in section ___123 or ___124, respectively, for the second program year preceding the fiscal year for which the determination is made.

(ii) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to clause (i), the Secretary of Education shall exclude capital expenditures, special one-time project costs, similar windfalls, and the cost of pilot programs.

(iii) DECREASE IN FEDERAL SUPPORT.—If the amount made available for vocational education activities or adult education and literacy activities under this title for a fiscal year is less than the amount made available for vocational education activities or adult education and literacy activities, respectively, under this title for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by clause (i) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(B) SPECIAL RULE.—Notwithstanding any provision of the Carl D. Perkins Vocational Education Act (as such Act was in effect on September 24, 1990), a State shall be deemed to have met the requirements of section 503 of such Act with respect to decisions appealed by applications filed on April 30, 1993 and October 29, 1993 under section 452(b) of the General Education Provisions Act.

(C) WAIVER.—The Secretary of Education may waive the requirements of subparagraph (A) (with respect to not more than 5 percent of expenditures required for the preceding fiscal year by any eligible agency) for 1 program year only, after making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No

level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this paragraph for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(3) EXPENDITURES OF NON-FEDERAL FUNDS FOR ADULT EDUCATION AND LITERACY ACTIVITIES.—For any program year for which an allotment is made to the State under this title, the State shall expend, on programs and activities relating to adult education and literacy activities, an amount, derived from sources other than the Federal Government, equal to 25 percent of the amount made available to a State under paragraphs (4) and (5) of section ___103(a) for adult education and literacy activities.

(b) LIMITATIONS ON ACTIVITIES THAT IMPACT EMPLOYEES.—

(1) WAGES.—No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities described in section ___121(c)(1)(C) provided through the statewide system.

(2) RELOCATION.—

(A) IN GENERAL.—No funds provided under this title for an employment and training activity shall be used or proposed for use to encourage or induce the relocation, of a business or part of a business, that results in a loss of employment for any employee of such business at the original location, if such original location is within the United States.

(B) REPAYMENT.—If the Secretary of Labor determines that a violation of this paragraph or paragraph (3) has occurred, the Secretary of Labor shall require the State that has violated this paragraph or paragraph (3), respectively, to repay to the United States an amount equal to the amount expended in violation of this paragraph or paragraph (3), respectively.

(3) TRAINING AND ASSESSMENTS FOLLOWING RELOCATION.—No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business, that has relocated, until 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business, results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(4) DISPLACEMENT.—

(A) PROHIBITION ON DISPLACEMENT.—A participant in an activity authorized in section ___121 or ___122 (referred to in this section as a ''specified activity'') shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(C) PROHIBITION ON REPLACEMENT.—A participant in a specified activity shall not be employed in a job—

(i) when any other individual is on temporary layoff, with the clear possibility of recall, from the same or any substantially equivalent job with the participating employer; or

(ii) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant.

(5) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(6) EMPLOYMENT CONDITIONS.—Participants employed or assigned to work in positions subsidized for specified activities shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(7) EFFECT ON OTHER LAWS.—Nothing in this division shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

(8) NONDISCRIMINATION.—Except as otherwise permitted in law, no individual may be discriminated against with respect to participation in specified activities because of race, color, religion, sex, national origin, age, or disability.

(9) GRIEVANCE PROCEDURE.—A State that receives an allotment under section ___102 shall establish and maintain a grievance procedure for resolving complaints alleging violations of any of the prohibitions or requirements described in this subsection.

(10) EXCLUSIVE REMEDY.—Except as provided in paragraph (7), nothing in this division shall be construed to provide an individual with an entitlement to a service or to establish a right for an individual to bring any action for a violation of a prohibition or requirement of this title or to obtain services through an activity established under this title, except that a participant in specified activities under this title may pursue a complaint alleging a violation of any of the prohibitions or requirements described in this subsection through the grievance procedure described in paragraph (9).

(c) LIMITATIONS ON PARTICIPANTS IN TRAINING SERVICES.—

(1) DIPLOMA OR EQUIVALENT.—

(A) IN GENERAL.—No individual may participate in training services described in section ___121(e)(3) until the individual has obtained a secondary school diploma or its recognized equivalent, or is enrolled in a program or course of study to obtain a secondary school diploma or its recognized equivalent.

(B) EXCEPTION.—Nothing in subparagraph (A) shall prevent participation in such training services by an individual for whom the requirement described in subparagraph (A) has been determined to be inappropriate, pursuant to the interview, evaluation or assessment, and counseling described in section ___121(e)(3)(A).

(2) SERVICES.—

(A) REFERRAL.—If an individual who has not obtained a secondary school diploma or its recognized equivalent applies to participate in such training services, and a determination described in paragraph (1)(B) has not been made for such individual, such individual shall be referred to State-approved adult education and literacy activities that provide instruction designed to help such individual obtain a secondary school diploma or its recognized equivalent.

(B) PROVISION OF SERVICES.—Funds made available under section ___111(a)(2)(A) and allocated within the local workforce development area for the provision of such training services may be used to provide State-approved adult education and literacy activities that provide instruction designed to help individuals obtain a secondary school diploma or its recognized equivalent, to individuals who—

(i) are seeking to participate in such training services; and

(ii) are otherwise unable to obtain such services.

(d) DRUG TESTING LIMITATIONS ON PARTICIPANTS IN TRAINING SERVICES.—

(1) FINDING.—Congress finds that—

(A) the possession, distribution, and use of drugs by participants in training services should not be tolerated, and that such use prevents participants from making full use of the benefits extended through such training services at the expense of taxpayers; and

(B) applicants and participants should be tested for illegal drug use, in order to maximize the training services and assistance provided under this title.

(2) DRUG TESTS.—Each eligible provider of training services described in section ___121(e)(3) shall administer a drug test—

(A) on a random basis, to individuals who apply to participate in such training services; and

(B) to a participant in such training services, on reasonable suspicion of drug use by the participant.

(3) ELIGIBILITY OF APPLICANTS.—In order for such an applicant to be eligible to participate in such training services, the applicant shall agree to submit to a drug test administered as described in paragraph (2)(A) and, if the test is administered to the applicant, shall pass the test.

(4) ELIGIBILITY OF PARTICIPANTS.—In order for such a participant to remain eligible to participate in such training services, the participant shall agree to submit to a drug test administered as described in paragraph (2)(B) and, if the test is administered to the participant, shall pass the test. If a participant refuses to submit to the drug test, or fails the drug test, the eligible provider shall dismiss the participant from participation in such training services.

(5) REAPPLICATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an individual who is an applicant and is disqualified from eligibility under paragraph (3), or who is a participant and is dismissed under paragraph (4), may reapply, not earlier than 6 months after the date of the disqualification or dismissal, to participate in such training services. If the individual demonstrates that the individual has completed a drug treatment program and passed a drug test within the 30-day period prior to the date of the reapplication, the individual may participate in such training services, under the same terms and conditions as apply to other applicants and participants, including submission to drug tests administered as described in paragraph (2).

(B) SECOND DISQUALIFICATION OR DISMISSAL.—If the individual reapplies to participate in such training services and fails a drug test administered under paragraph (2) by the eligible provider, while the individual is an applicant or a participant, the eligible provider shall disqualify the individual from eligibility for, or dismiss the individual from participation in, such training services. The individual shall not be eligible to reapply for participation in the such training services for 2 years after such disqualification or dismissal.

(6) APPEAL.—A decision by an eligible provider to disqualify an individual from eligibility for participation in such training services under paragraph (3) or (5), or to dismiss a participant as described in paragraph (4) or (5), shall be subject to expeditious appeal in accordance with procedures established by the State in which the eligible provider is located.

(7) NATIONAL UNIFORM GUIDELINES.—

(A) IN GENERAL.—The Secretary of Labor shall develop voluntary guidelines to assist eligible providers concerning the drug testing required under this subsection.

(B) PRIVACY.—The guidelines shall promote, to the maximum extent practicable, individual privacy in the collection of specimen samples for such drug testing.

(C) LABORATORIES AND PROCEDURES.—With respect to standards concerning laboratories and procedures for such drug testing, the guidelines shall incorporate the Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 Fed. Reg. 11970 (1988) (or a successor to such guidelines), including the portion of the mandatory guidelines that—

(i) establishes comprehensive standards for all aspects of laboratory drug testing and laboratory procedures, including standards that require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimen samples;

(ii) establishes the minimum list of drugs for which individuals may be tested; and

(iii) establishes appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform such drug testing.

(D) SCREENING AND CONFIRMATION.—The guidelines described in subparagraph (A) shall provide that, for drug testing conducted under this subsection—

(i) each laboratory involved in the drug testing of any individual shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(ii) all tests that indicate the use, in violation of law (including Federal regulation) of a drug by the individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding the drug;

(iii) each specimen sample shall be subdivided, secured, and labeled in the presence of the individual; and

(iv) a portion of each specimen sample shall be retained in a secure manner to prevent the possibility of tampering, so that if the confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory, if the individual requests the independent test not later than 3 days after being advised of the results of the first confirmation test.

(E) CONFIDENTIALITY.—The guidelines shall provide for the confidentiality of the test results and medical information (other than information relating to a drug) of the individuals tested under this subsection, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection.

(F) SELECTION FOR RANDOM TESTS.—The guidelines shall ensure that individuals who apply to participate in the training services described in paragraph (2) are selected for drug testing on a random basis, using nondiscriminatory and impartial methods.

(8) NONLIABILITY OF LOCAL BOARDS.—A local board, and the individual members of a local board, shall be immune from civil liability with respect to any claim based in whole or part on activities carried out to implement this subsection.

(9) REPORTING REQUIREMENTS.—An eligible provider shall make records of drug testing conducted under this subsection available for inspection by other eligible providers, including eligible providers in other local workforce development areas, for the sole purpose of enabling the providers to determine the eligibility status of an applicant pursuant to this subsection.

(10) USE OF DRUG TESTS.—No Federal, State, or local prosecutor may use drug test results obtained under this subsection in a criminal action.

(11) DEFINITIONS.—As used in this subsection:

(A) DRUG.—The term ''drug'' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(B) DRUG TEST.—The term ''drug test'' means a biochemical drug test carried out by a facility that is approved by the eligible provider administering the test.

(C) RANDOM BASIS.—For purposes of the application of this subsection in a State, the term ''random basis'' has the meaning determined by the Governor of the State, in the sole discretion of the Governor.

(e) SUPPORTIVE SERVICES.—Supportive services may be provided with funds provided through the allotment described in section ___102 only to the extent that such services are not available through alternative funding sources specifically designated for such services.

(f) SPECIAL RULE FOR CRIMINAL OFFENDERS.—Notwithstanding subtitle B and this subtitle, a portion of the funds made available under subtitle A may be distributed to 1 or more State corrections agencies to enable the State corrections agencies to carry out any activity described in this subtitle for juvenile and adult criminal offenders in correctional institutions in the State, including correctional institutions operated by local authorities.

(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this title should be made in the United States.

Subtitle D—National Activities

SEC. ___131. COORDINATION PROVISIONS.

(a) COLLABORATIVE ADMINISTRATION.—The Secretary of Labor and the Secretary of Education (referred to in this section as ''the Secretaries'') shall enter into an interagency agreement to administer the provisions of this title (other than sections ___103(d), ___113, ___114, ___126(a), ___126(b), ___138, and ___139 (referred to in this section as the ''excluded provisions'')).

(b) RESPONSIBILITIES OF SECRETARIES.—Such agreement shall specify the manner in which the Secretaries shall administer this title (other than the excluded provisions), including—

(1) making allotment determinations under section ___102;

(2) reviewing State plans submitted in accordance with section ___104;

(3) carrying out the duties assigned to the Secretaries under section ___106;

(4)(A) establishing uniform procedures, including grantmaking procedures; and

(B) issuing uniform guidelines and regulations, subject to subsection (e);

(5) carrying out the duties assigned to the Secretaries under this subtitle (other than sections ___138 and ___139);

(6) preparing and submitting to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate an annual report on the absolute and relative performance of States in reaching State benchmarks; and

(7) reviewing federally funded education, employment, and job training programs, other than activities authorized under this title, and submitting recommendations to the Committees described in paragraph (6) regarding the integration of such programs into the statewide systems.

(c) CONTENTS.—The interagency agreement shall include, at a minimum—

(1) a description of the methods the Secretaries will use to work together to carry out their duties and responsibilities under this title in a manner that will ensure that neither the Department of Labor nor the Department of Education duplicates the work of the other department; and

(2) a description of the manner in which the Secretaries will utilize personnel and other resources of the Department of Labor and the Department of Education to administer this title (other than the excluded provisions).

(d) ADMINISTRATION OF THE ACT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretaries shall prepare and submit to the President, the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, the interagency agreement. Such agreement shall also be available to the public through publication in the Federal Register.

(2) APPROVAL.—Not later than 200 days after the date of enactment of this Act, the President shall—

(A) approve or disapprove the interagency agreement made by the Secretaries; and

(B) if the agreement is disapproved, make recommendations to the Secretaries with respect to an alternative plan and require the Secretaries to submit such a plan in accordance with this section not later than 30 days after the date of the disapproval.

(e) LIMITATION ON FEDERAL REGULATIONS.—The Secretary of Labor or the Secretary of Education may issue regulations under this title only to the extent necessary to administer and ensure compliance with the specific requirements of this title.

(f) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—The Secretaries shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to ensure that the positions of personnel that relate to a covered activity and are not otherwise minimally necessary to carry out this division are terminated.

(2) SCOPE.—

(A) INITIAL REDUCTIONS.—Not later than July 1, 1998, the Secretaries shall take the actions described in paragraph (1), including reduction in force actions, with respect to not less than ⅓ of the number of positions of personnel that relate to a covered activity.

(B) SUBSEQUENT REDUCTIONS.—Not later than July 1, 2003, the Secretaries shall take the actions described in paragraph (1)—

(i) with respect to not less than 60 percent of the number of positions of personnel that relate to a covered activity, unless the Secretaries submit (prior to July 1, 2003) a report to Congress demonstrating why such actions have not occurred; or

(ii) with respect to not less than 40 percent of the number of positions of personnel that relate to a covered activity, if the Secretaries submit the report referred to in clause (i).

(C) CALCULATION.—For purposes of calculating, under this paragraph, the number of positions of personnel that relate to a covered activity, such number shall include the number of positions of personnel that are terminated under paragraph (1).

SEC. ___132. INCENTIVE GRANTS AND SANCTIONS.

(a) INCENTIVE GRANTS.—

(1) AWARD OF GRANTS.—From amounts reserved under section ___151(b)(5) for any fiscal year, the Secretaries may award incentive grants to States, each of which shall be awarded for not more than $15,000,000 per fiscal year to a State that—

(A)(i) reaches or exceeds, during the most recent 12-month period for which data are available, State benchmarks required under section ___106(b), including the benchmarks required under section ___106(b)(3); or

(ii) demonstrates continuing progress toward reaching or exceeding, during the 3-year period covered by the State plan submitted under section ___104, the benchmarks described in clause (i);

(B) obtains an eligibility determination described in paragraph (2)(A) for such benchmarks; and

(C) demonstrates, in the State plan information submitted under section ___104(b)(1)(B)(ii), that the Governor and eligible agencies have agreed on all elements of the State plan.

(2) ELIGIBILITY DETERMINATIONS.—

(A) INITIAL DETERMINATIONS.—

(i) DETERMINATION.—Not later than 30 days after receipt of the State plan submitted under section ___104, the Secretaries shall—

(I) compare the proposed State benchmarks identified in the State plan with State benchmarks proposed in other State plans; and

(II) determine if the proposed State benchmarks, taken as a whole, are sufficient to make the State eligible to qualify for an incentive grant under this subsection, if the State meets the requirements of subparagraphs (A) and (C) of paragraph (1).

(ii) NOTIFICATION, REVISION, AND TECHNICAL ASSISTANCE.—If the Secretaries determine that a State is not eligible to qualify for an incentive grant pursuant to clause (i)(II), the Secretaries shall provide, upon request, technical assistance to the State regarding the necessary action to be taken to make the State eligible to qualify for such grant under this subsection. Such State shall have 30 days after the date on which the State receives notification of ineligibility or the date on which the State receives technical assistance, whichever is later, to revise the State benchmarks in order to become eligible to qualify for an incentive grant under this subsection, if the State meets the requirements of subparagraphs (A) and (C) of paragraph (1).

(B) GRANT DETERMINATIONS.—Not later than 30 days after receipt of an annual report submitted under section ___106(c) that contains an application for such an incentive grant from a State that meets the requirements of paragraph (1), the Secretaries shall—

(i) compare the progress the State has made toward reaching or exceeding the State benchmarks, as described in such annual report, with the progress made by the other States towards reaching or exceeding their State benchmarks, as described in such annual reports of the other States; and

(ii) determine if the progress the State has made toward reaching or exceeding the State benchmarks, taken as a whole, is sufficient to enable the State to receive an incentive grant under this subsection.

(3) USE OF FUNDS.—A State that receives an incentive grant may use funds made available through the grant only to carry out workforce and career development activities. Determinations concerning the distribution of such funds shall be made by the individuals and entities participating in the collaborative process described in subsection (a) or (b) of section ___105.

(b) SANCTIONS.—

(1) FINDING.—If a State fails to meet the State benchmarks required under section ___106(b) for the 3 years covered by a State plan described in section ___104, the Secretaries shall determine whether the failure is attributable to—

(A) employment and training activities;

(B) at-risk youth activities;

(C) vocational education activities; or

(D) adult education and literacy activities.

(2) TECHNICAL ASSISTANCE OR REDUCTION OF ALLOTMENTS.—

(A) IN GENERAL.—The Secretaries may—

(i) provide technical assistance to the State to improve the level of performance of the State; or

(ii) on making a determination described in paragraph (1), reduce, by not more than 10 percent, the portion of the allotment made under section ___102 for the category of activities to which the failure is attributable.

(B) PORTION OF THE ALLOTMENT.—For purposes of subparagraph (A), in determining a portion of an allotment for a category of activities, the Secretaries shall include in such portion any funds allocated to such category from the flex account.

(3) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretaries may use an amount retained as a result of a reduction in an allotment made under paragraph (2)(A)(ii) to award an incentive grant under subsection (a).

SEC. ___133. NATIONAL EMERGENCY GRANTS.

(a) IN GENERAL.—From the amounts reserved under section ___151(b)(5), the Secretary of Labor, in accordance with the interagency agreement developed pursuant to section ___131, is authorized to award national emergency grants, in a timely manner—

(1) to an entity described in subsection (b) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations; and

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(1) and (2)) (referred to in this section as the ''disaster area'').

(b) EMPLOYMENT AND TRAINING ASSISTANCE REQUIREMENTS.—

(1) APPLICATION.—To be eligible to receive a grant under subsection (a)(1), an entity shall submit an application to the Secretary of Labor at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

(2) ELIGIBLE ENTITY.—For purposes of this section, the term ''entity'' means a State, unit of general local government, or public or private local entity, including a for profit or nonprofit entity.

(c) DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—Funds made available under subsection (a)(2)—

(1) shall be used exclusively to provide employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area; and

(2) may be expended through public and private agencies and organizations engaged in such projects.

SEC. ___134. EVALUATION; RESEARCH, DEMONSTRATIONS, DISSEMINATION, AND TECHNICAL ASSISTANCE.

(a) SINGLE PLAN.—

(1) IN GENERAL.—The Secretaries, as part of the interagency agreement required under section ___131, shall develop a single plan for evaluation and assessment, research, demonstrations, dissemination, and technical assistance activities with regard to the activities assisted under this title.

(2) PLAN.—Such plan shall—

(A) identify the activities the Secretaries will carry out under this section;

(B) describe how such activities will be carried out collaboratively;

(C) describe how the Secretaries will evaluate such activities in accordance with subsection (b); and

(D) include such other information as the Secretaries determine to be appropriate through the interagency agreement.

(b) EVALUATION AND ASSESSMENT.—

(1) IN GENERAL.—From amounts made available under paragraph (3), the Secretaries shall provide for the conduct of an independent evaluation and assessment of employment and training activities, at-risk youth activities, vocational education activities, and adult education and literacy activities, through studies and analyses conducted independently through grants and contracts awarded on a competitive basis.

(2) CONTENTS.—Such evaluation and assessment shall include descriptions of—

(A) the extent to which State, local, and tribal entities have developed, implemented, or improved the statewide system;

(B) the degree to which the expenditures at the Federal, State, local, and tribal levels address improvement in employment and training activities, at-risk youth activities, vocational education activities, and adult education and literacy activities, including the impact of funds provided under this title on the delivery of such activities;

(C) the extent to which vocational education activities and at-risk youth activities succeed in preparing individuals participating in such activities for entry into postsecondary education, further learning, or high-skill, high-wage careers;

(D) the effect of benchmarks, performance measures, and other measures of accountability on the delivery of employment and training activities, at-risk youth activities, vocational education activities, and adult education and literacy activities, including family literacy services;

(E) the extent to which employment and training activities enhance the employment and earnings of participants in such activities, reduce income support costs, improve the employment competencies of such participants, and increase the level of employment of program participants over the level of employment that would have existed in the absence of such activities, which may be evaluated using experimental and control groups chosen by scientific random assignment; and

(F) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults, and of children in the case of family literacy services, lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes such as reductions in recidivism in the case of prison-based adult education and literacy activities.

(3) AUTHORIZATION.—There are authorized to be appropriated $15,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2002 to carry out this subsection.

(c) RESEARCH.—

(1) IN GENERAL.—The Secretaries, pursuant to the interagency agreement, shall award

grants, on a competitive basis, to an institution of higher education, a public or private organization or agency, or a consortium of such institutions, organizations, or agencies to establish a national research center or centers—

(A) to carry out research for the purpose of developing, improving, and identifying the most successful methods and techniques for addressing the education, employment, and training needs of adults;

(B) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the education, employment, and training needs of at-risk youth;

(C) to carry out research to increase the effectiveness and improve the implementation of vocational education activities, including conducting research and development, and providing technical assistance, with respect to—

(i) combining academic, vocational education, and worksite learning;

(ii) identifying ways to establish effective linkages among employment and training activities, at-risk youth activities, and vocational education activities, at the State and local levels; and

(iii) conducting studies providing longitudinal information or formative evaluation with respect to vocational education activities;

(D) to carry out research to increase the effectiveness of and improve the quality of adult education and literacy activities, including family literacy services;

(E) to provide technical assistance to State and local recipients of assistance under this title in developing and using benchmarks and performance measures for improvement of workforce and career development activities; and

(F) to carry out such other activities as the Secretaries determine to be appropriate to achieve the purposes of this title.

(2) SUMMARY.—The Secretaries shall provide an annual report summarizing the evaluations and assessments described in subsection (b), and the research conducted pursuant to this subsection, and the findings of such evaluations and assessments, and research, to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(3) AUTHORIZATION.—There are authorized to be appropriated $15,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2002 to carry out this subsection.

(d) DEMONSTRATIONS, DISSEMINATION, AND TECHNICAL ASSISTANCE.—

(1) AUTHORITY.—

(A) PROGRAMS AND ASSISTANCE AUTHORIZED.—The Secretaries, pursuant to the interagency agreement, are authorized to carry out demonstration programs, to replicate model programs, to disseminate best practices information, and to provide technical assistance, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing the activities assisted under this title.

(B) ACTIVITIES.—Such activities may be carried out directly or through grants, contracts, cooperative agreements, or through the national center or centers, and may include projects—

(i) conducted jointly with the Department of Defense to develop training programs utilizing computer-based and other innovative learning technologies;

(ii) which promote the use of distance learning—

(I) to enable students to take courses through the use of media technology, such as video, teleconferencing, computers, or the Internet; and

(II) to deliver continuing education, skills upgrading and retraining services, and postsecondary education, directly to the community or to individuals who would not otherwise have access to such education and services; and

(iii) conducted through partnerships with national organizations which have special expertise in developing, organizing, and administering employment and training services for individuals with disabilities at the national, State, and local levels.

(2) CLEARINGHOUSE.—The Secretaries shall maintain a clearinghouse, through the national center or centers, that will collect and disseminate to Federal, State, and local organizations, agencies, and service providers data and information, including information on best practices, about the condition of statewide systems and employment and training activities, at-risk youth activities, vocational education activities, and adult education and literacy activities.

(3) TECHNICAL ASSISTANCE.—The Secretaries shall provide technical assistance to States and local areas to enhance the capacity of such States and local areas to develop and deliver effective activities under this title.

(4) AUTHORIZATION.—There are authorized to be appropriated $30,000,000 for fiscal year 1998 and such sums as may be necessary for each of fiscal years 1999 through 2002 to carry out this subsection.

(e) TRANSITION PERIOD.—Notwithstanding any other provision of law, the Secretaries may use funds made available under section 404 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2404) to prepare, during the period beginning on January 1, 1998, and ending June 30, 1998, to award a grant under subsection (c) on July 1, 1998.

(f) DEFINITION.—As used in this section, the term ''institution of higher education'' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(g) CONFORMING AMENDMENTS.—Section 404(a)(2) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2404(a)(2)) is amended—

(1) in subparagraph (A), by striking ''for a period of 5 years'' and inserting ''until June 30, 1998''; and

(2) in the first sentence of subparagraph (B), by striking ''5''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section shall take effect on July 1, 1998.

(2) TRANSITION PROVISIONS.—Subsection (e) shall take effect on January 1, 1998.

(3) AMENDMENTS.—The amendments made by subsection (g) shall take effect on the date of enactment of this Act.

SEC. ___135. MIGRANT AND SEASONAL FARMWORKER PROGRAM.

(a) IN GENERAL.—From amounts reserved under section ___151(b)(2), the Secretaries shall make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of migrant farmworkers or seasonal farmworkers, a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce and career development activities for migrant farmworkers or seasonal farmworkers, respectively.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretaries a plan that describes a 3-year strategy for meeting the needs of migrant farmworkers or seasonal farmworkers, and the dependents of such farmworkers, in the area to be served by such entity.

(2) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the population to be served and the manner in which the services to be provided will strengthen the ability of the individuals served to obtain or be retained in unsubsidized employment;

(B) describe the services to be provided and the manner in which such services are to be integrated with other appropriate services; and

(C) describe the goals and benchmarks to be used to assess the performance of such entity in carrying out the activities assisted under this section.

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section shall be used to carry out comprehensive workforce and career development activities and related services for migrant farmworkers or seasonal farmworkers which may include employment, training, educational assistance, literacy assistance, an English literacy program, worker safety training, housing, supportive services, and the continuation of the case management database on participating migrant farmworkers or seasonal farmworkers.

(e) CONSULTATION WITH GOVERNORS AND LOCAL BOARDS.—In making grants and entering into contracts under this section, the Secretaries shall consult with the Governors and local boards of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretaries shall consult with migrant and seasonal farmworker groups and States in establishing regulations to carry out this section, including performance standards for eligible entities which take into account the economic circumstances of migrant farmworkers and seasonal farmworkers.

(g) DEFINITIONS.—As used in this section:

(1) MIGRANT FARMWORKER.—The term ''migrant farmworker'' means a seasonal farmworker whose farm work requires travel such that the worker is unable to return to a permanent place of residence within the same day.

(2) SEASONAL FARMWORKER.—The term ''seasonal farmworker'' means a person who during the eligibility determination period (12 consecutive months out of 24 months prior to application) has been primarily employed in farm work that is characterized by chronic unemployment or under employment.

SEC. ___136. NATIVE AMERICAN PROGRAM.

(a) PURPOSE AND POLICY.—

(1) PURPOSE.—The purpose of this section is to support workforce and career development activities for Indian and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) INDIAN POLICY.—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) DEFINITIONS.—As used in this section:

(1) ALASKA NATIVE.—The term ''Alaska Native'' means a Native as such term is defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms ''Indian'', ''Indian tribe'', and ''tribal organization'' have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(4) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms ''Native Hawaiian'' and ''Native Hawaiian organization'' have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(5) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term ''tribally controlled community college'' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

(6) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTION.—The term ''tribally controlled postsecondary vocational institution'' means an institution of higher education that—

(A) is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or Indian tribes;

(B) offers a technical degree or certificate granting program;

(C) is governed by a board of directors or trustees, a majority of whom are Indians;

(D) demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(E) has been in operation for at least 3 years;

(F) holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(G) enrolls the full-time equivalent of not fewer than 100 students, of whom a majority are Indians.

(c) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From amounts reserved under section ___151(b)(3), the Secretaries shall make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, tribally controlled community colleges, tribally controlled postsecondary vocational institutions, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) TRANSFER OF AUTHORITY FOR VOCATIONAL EDUCATION ACTIVITIES.—In carrying out paragraph (1), the Secretaries may agree that the Secretary of Education may provide any portion of assistance under paragraph (1) devoted to vocational education activities, including assistance provided to entities described in paragraph (1) that are not eligible for funding pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(3) SPECIAL AUTHORITY RELATING TO SECONDARY SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—An Indian tribe, a tribal organization, or an Alaska Native entity, that receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affairs to enable such school to carry out vocational education activities.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under this section shall be used to carry out the activities described in paragraphs (2) and (3) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, renter, or retain unsubsidized employment.

(2) WORKFORCE AND CAREER DEVELOPMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under this section shall be used for—

(i) comprehensive workforce and career development activities for Indians or Native Hawaiians; or

(ii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under subparagraph (A)(i).

(3) VOCATIONAL EDUCATION ACTIVITIES AND ADULT EDUCATION AND LITERACY ACTIVITIES.—Funds made available under this section shall be used for—

(A) vocational education activities and adult education and literacy activities conducted by entities described in subsection (c); or

(B) the support of tribally controlled postsecondary vocational institutions in order to ensure continuing and expanded educational opportunities for Indian students.

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretaries a plan that describes a 3-year strategy for meeting the needs of Indian or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan—

(1) shall be consistent with the purposes of this section;

(2) shall identify the population to be served;

(3) shall identify the education and employment needs of the population to be served and the manner in which the services to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;

(4) shall describe the services to be provided and the manner in which such services are to be integrated with other appropriate services; and

(5) shall describe the goals and benchmarks to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this title; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretaries shall designate a single organizational unit that shall have as the unit's primary responsibility the administration of the activities authorized in this section.

(2) REGULATIONS.—The Secretaries shall consult with the entities described in subsection (c)—

(A) in establishing regulations to carry out this section, including performance standards for entities receiving assistance under this section, that take into account the economic circumstances of such entities; and

(B) in developing a funding distribution plan that takes into consideration previous levels of funding, and sources of funds not provided pursuant to this title.

(3) TECHNICAL ASSISTANCE.—The Secretaries, through the unit established under paragraph (1), are authorized to provide technical assistance to entities described in subsection (c) that receive assistance under this section to enable such entities to improve the workforce and career development activities provided by such entities.

SEC. ___137. GRANTS TO OUTLYING AREAS.

(a) APPLICABILITY OF TITLE TO OUTLYING AREAS.—The provisions of this title (other than this section) shall apply to each outlying area to the extent practicable in the same manner and to the same extent as the provisions apply to a State.

(b) ALLOTMENT.—

(1) IN GENERAL.—For each program year the Secretaries shall allot funds in accordance with paragraph (2) for each outlying area that meets the applicable requirements of this title to enable the outlying area to carry out workforce and career development activities.

(2) POPULATION DATA.—Except as provided in subsection (c), from the amount reserved under section ___151(b)(4), the Secretaries shall allot for each outlying area an amount that bears the same relationship to such funds as the total number of individuals who are not less than age 15 but not more than age 65 (as determined by the Secretaries using the most recent census data prior to the program year for which the allotment is made) in the outlying area bears to the total number of such individuals in all outlying areas.

(c) GRANT AWARDS.—

(1) UNITED STATES TERRITORIES.—The Secretaries shall award grants from allotments under subsection (b) to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(2) LIMITATION FOR FREELY ASSOCIATED STATES.—

(A) COMPETITIVE GRANTS.—Using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under subsection (b), the Secretaries shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out workforce and career development activities.

(B) AWARD BASIS.—The Secretaries shall award grants pursuant to subparagraph (A) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(C) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this paragraph for any program year that begins after September 30, 2001.

(D) ADMINISTRATIVE COSTS.—The Secretaries may provide not more than 5 percent of the amount made available for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this section.

SEC. ___138. NATIONAL INSTITUTE FOR LITERACY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the ''Institute''). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the ''Interagency Group''). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services whose purpose is determined by the Interagency Group to be related to the purpose of the Institute.

(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

(3) BOARD RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the ''Board'') established under subsection (d) in planning the goals of the Institute and in the implementation of any programs to achieve such goals.

(4) DAILY OPERATIONS.—The daily operations of the Institute shall be carried out by the Director of the Institute appointed under subsection (g).

(b) DUTIES.—

(1) IN GENERAL.—The Institute shall improve the quality and accountability of the adult basic skills and literacy delivery system by—

(A) providing national leadership for the improvement and expansion of the system for delivery of literacy services;

(B) coordinating the delivery of such services across Federal agencies;

(C) identifying effective models of basic skills and literacy education for adults and families that are essential to success in job training, work, the family, and the community;

(D) supporting the creation of new methods of offering improved literacy services;

(E) funding a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services;

(ii) carrying out evaluations of the effectiveness of adult education and literacy activities;

(iii) enhancing the capacity of State and local organizations to provide literacy services; and

(iv) serving as a reciprocal link between the Institute and providers of workforce and career development activities for the purpose of sharing information, data, research, expertise, and literacy resources;

(F) supporting the development of models at the State and local level of accountability systems that consist of goals, performance measures, benchmarks, and assessments that can be used to improve the quality of adult education and literacy activities;

(G) providing technical assistance, information, and other program improvement activities to national, State, and local organizations, such as—

(i) providing information and training to local boards and one-stop career centers concerning how literacy and basic skills services can be incorporated in a coordinated workforce development model;

(ii) improving the capacity of national, State, and local public and private organizations that provide literacy and basic skills services, professional development, and technical assistance, such as the State or regional adult literacy resource centers referred to in subparagraph (E); and

(iii) establishing a national literacy electronic database and communications network;

(H) working with the Interagency Group, Federal agencies, and the Congress to ensure that such Group, agencies, and the Congress have the best information available on literacy and basic skills programs in formulating Federal policy with respect to the issues of literacy, basic skills, and workforce and career development; and

(I) assisting with the development of policy with respect to literacy and basic skills.

(2) GRANTS, CONTRACTS, AND AGREEMENTS.—The Institute may make grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

(c) LITERACY LEADERSHIP.—

(1) FELLOWSHIPS.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances as the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) USE OF FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

(d) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established a National Institute for Literacy Advisory Board. The Board shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate, from individuals who—

(i) are not otherwise officers or employees of the Federal Government; and

(ii) are representative of entities or groups described in subparagraph (B).

(B) ENTITIES OR GROUPS DESCRIBED.—The entities or groups referred to in subparagraph (A) are—

(i) literacy organizations and providers of literacy services, including—

(I) nonprofit providers of literacy services;

(II) providers of programs and services involving English language instruction; and

(III) providers of services receiving assistance under this title;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students;

(iv) experts in the area of literacy research;

(v) State and local governments; and

(vi) representatives of employees.

(2) DUTIES.—The Board—

(A) shall make recommendations concerning the appointment of the Director and staff of the Institute;

(B) shall provide independent advice on the operation of the Institute; and

(C) shall receive reports from the Interagency Group and the Director.

(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(4) TERMS.—

(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

(e) GIFTS, BEQUESTS, AND DEVISES.—The Institute may accept, administer, and use gifts or donations of services, money, or property, both real and personal.

(f) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) DIRECTOR.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(h) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum rate payable under section 5376 of title 5, United States Code.

(i) EXPERTS AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(j) REPORT.—The Institute shall submit a report biennially to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

(2) a description of how plans for the operation of the Institute for the succeeding two fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

(3) any additional minority, or dissenting views submitted by members of the Board.

(k) FUNDING.—Any amounts appropriated to the Secretary of Education, the Secretary of Labor, or the Secretary of Health and Human Services for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this section.

SEC. ___139. LABOR MARKET INFORMATION.

(a) SYSTEM CONTENT.—

(1) IN GENERAL.—The Secretary of Labor, in accordance with the provisions of this section, shall oversee the maintenance and continuous improvement of the system of labor market information that includes—

(A) statistical programs of data collection, compilation, estimation, and publication conducted in cooperation with the Bureau of Labor Statistics;

(B) State and local employment information, including other appropriate statistical data related to labor market dynamics (compiled by and for States and localities with technical assistance provided by the Secretary) that will—

(i) assist individuals to make informed choices relating to employment and training; and

(ii) assist employers to locate and train individuals who are seeking employment and training;

(C) technical standards for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

(D) analysis of data and information described in subparagraphs (A) and (B) for uses such as State and local policymaking;

(E) wide dissemination of such data, information, and analysis, training for users of the data, information, and analysis, and voluntary technical standards for dissemination mechanisms; and

(F) programs of—

(i) research and demonstration; and

(ii) technical assistance for States and localities.

(2) INFORMATION TO BE CONFIDENTIAL.—

(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—

(i) use the information furnished under the provisions of this section for any purpose other than the statistical purposes for which such information is furnished;

(ii) make any publication from which the data contained in the information so furnished under this section can be used to identify any individual; or

(iii) permit any individual other than the sworn officers, employees, or agents of any Federal department or agency to examine individual reports through which the information is furnished.

(B) IMMUNITY FROM LEGAL PROCESS.—

(i) IN GENERAL.—Any information that is collected and retained for purposes of this section shall be immune from the legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as providing immunity from the legal process for information that is independently collected or produced for purposes other than for purposes of this section.

(b) SYSTEM RESPONSIBILITIES.—

(1) IN GENERAL.—The labor market information system shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government, States, and local entities.

(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor market information for the system, shall carry out the following duties:

(A) Assign responsibilities within the Department of Labor for elements of the system content described in subsection (a) to ensure that all statistical and administrative data collected is consistent.

(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

(D) In collaboration with the States and the Bureau of Labor Statistics, develop and maintain the necessary elements of the system described in subsection (a), including the development of consistent definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1) and the development of the annual plan under subsection (c).

(c) ANNUAL PLAN.—

(1) IN GENERAL.—The Secretary, in collaboration with the States and the Bureau of Labor Statistics, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan that shall describe the cooperative Federal-State governance structure for the labor market information system. The plan shall—

(A) describe the elements of the system, including consistent definitions, formats, collection methodologies, and other necessary system elements, for use in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1);

(B) describe how the system will ensure that—

(i) such data are timely;

(ii) administrative records are consistent in order to facilitate aggregation of such data;

(iii) paperwork and reporting are reduced to a minimum; and

(iv) States and localities are fully involved in the maintenance and continuous improvement of the system at the State and local levels;

(C) evaluate the performance of the system and recommend needed improvements; and

(D) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section.

(2) COOPERATION WITH THE STATES.—The Secretary and the Bureau of Labor Statistics, in cooperation with the States, shall develop the plan by holding formal consultations, which shall be held on not less than a semiannual basis, with—

(A) State representatives who have expertise in labor market information, selected by the Governors of each State;

(B) representatives from each of the ten Federal regions of the Department of Labor, elected by and from among individuals who perform the duties described in subsection (d)(2) pursuant to a process agreed upon by the Secretary and the States; and

(C) employers or representatives of employers, elected pursuant to a process agreed upon by the Secretary and the States.

(d) STATE RESPONSIBILITIES.—

(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State—

(A) shall designate a single State agency or entity within the State to be responsible for the management of the portions of the system described in subsection (a) that comprise a statewide labor market information system; and

(B) may establish a process for the oversight of such system.

(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency or entity designated under paragraph (1)(A) shall—

(A) consult with employers and local boards, where appropriate, about the labor market relevance of the data to be collected and disseminated through the statewide labor market information system;

(B) maintain and continuously improve the portions of the system described in subsection (a) that comprise a statewide labor market information system in accordance with this section;

(C) ensure the performance of contract and grant responsibilities for data collection, analysis, and dissemination for such system;

(D) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide labor market information system; and

(E) participate in the development of the annual plan described in subsection (c).

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of a State agency or entity to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2002.

Subtitle E—Transition Provisions

SEC. ___141. WAIVERS.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law, and except as provided in subsection (d), the Secretary may waive any requirement under any provision of law relating to a covered activity, or of any regulation issued under such a provision, for—

(A) a State that requests such a waiver and submits an application as described in subsection (b); or

(B) a local entity that requests such a waiver and complies with the requirements of subsection (c);

in order to assist the State or local entity in planning or developing a statewide system or workforce and career development activities

to be carried out through the statewide system.

(2) TERM.—Each waiver approved pursuant to this section shall be for a period beginning on the date of the approval and ending on June 30, 1998.

(b) STATE REQUEST FOR WAIVER.—

(1) IN GENERAL.—A State may submit to the Secretary a request for a waiver of 1 or more requirements referred to in subsection (a). The request may include a request for different waivers with respect to different areas within the State.

(2) APPLICATION.—To be eligible to receive a waiver described in subsection (a), a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including information—

(A) identifying the requirement to be waived and the goal that the State (or the local entity applying to the State under subsection (c)) intends to achieve through the waiver;

(B) identifying, and describing the actions that the State will take to remove, similar State requirements;

(C) describing the activities to which the waiver will apply, including information on how the activities may be continued, or related to activities carried out, under the statewide system of the State;

(D) describing the number and type of persons to be affected by such waiver; and

(E) providing evidence of support for the waiver request by the State agencies or officials with jurisdiction over the requirement to be waived.

(c) LOCAL ENTITY REQUEST FOR WAIVER.—

(1) IN GENERAL.—A local entity that seeks a waiver of 1 or more requirements referred to in subsection (a) shall submit to the State a request for the waiver and an application containing sufficient information to enable the State to comply with the requirements of subsection (b)(2). The State shall determine whether to submit a request and an application for a waiver to the Secretary, as provided in subsection (b).

(2) TIME LIMIT.—

(A) IN GENERAL.—The State shall make a determination concerning whether to submit the request and application for a waiver as described in paragraph (1) not later than 30 days after the date on which the State receives the application from the local entity.

(B) DIRECT SUBMISSION.—

(i) IN GENERAL.—If the State does not make a determination to submit or does not submit the request and application within the 30-day time period specified in subparagraph (A), the local entity may submit the request and application to the Secretary.

(ii) REQUIREMENTS.—In submitting such a request, the local entity shall obtain the agreement of the State involved to comply with the requirements of this section that would otherwise apply to a State submitting a request for a waiver. In reviewing an application submitted under this section by a local entity, the Secretary shall comply with the requirements of this section that would otherwise apply to the Secretary with respect to review of such an application submitted by a State.

(d) WAIVERS NOT AUTHORIZED.—The Secretary may not waive any requirement of any provision referred to in subsection (a), or of any regulation issued under such provision, relating to—

(1) the allocation of funds to States, local entities, or individuals;

(2) public health or safety, civil rights, occupational safety and health, environmental protection, displacement of employees, or fraud and abuse;

(3) the eligibility of an individual for participation in a covered activity, except in a case in which the State or local entity can demonstrate that the individuals who would have been eligible to participate in such activity without the waiver will participate in a similar covered activity; or

(4) a required supplementation of funds by the State or a prohibition against the State supplanting such funds.

(e) ACTIVITIES.—Subject to subsection (d), the Secretary may approve a request for a waiver described in subsection (a) that would enable a State or local entity to use the assistance that would otherwise have been used to carry out 2 or more covered activities (if the State or local entity were not using the assistance as described in this section)—

(1) to address the high priority needs of unemployed persons and at-risk youth in the appropriate State or community for workforce and career development activities;

(2) to improve efficiencies in the delivery of the covered activities; or

(3) in the case of overlapping or duplicative activities—

(A) by combining the covered activities and funding the combined activities; or

(B) by eliminating 1 of the covered activities and increasing the funding to the remaining covered activity.

(f) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove any request submitted pursuant to subsection (b) or (c), not later than 60 days after the date of the submission, and shall issue a decision that shall include the reasons for approving or disapproving the request.

(g) FAILURE TO ACT.—If the Secretary fails to approve or disapprove the request within the 60-day period described in subsection (f), the request shall be deemed to be approved on the day after such period ends. If the Secretary subsequently determines that the waiver relates to a matter described in subsection (d) and issues a decision that includes the reasons for the determination, the waiver shall be deemed to terminate on the date of issuance of the decision.

(h) DEFINITIONS.—As used in this section:

(1) LOCAL ENTITY.—The term ''local entity'' means—

(A) a local educational agency responsible for carrying out the covered activity at issue; or

(B) the local public or private agency or organization responsible for carrying out the covered activity at issue.

(2) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Labor, with respect to any act relating to a covered activity carried out by the Secretary of Labor;

(B) the Secretary of Education, with respect to any act relating to a covered activity carried out by the Secretary of Education; and

(C) the Secretary of Labor and the Secretary of Education, acting jointly, with respect to a covered activity under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(3) STATE.—The term ''State'' means—

(A) an eligible agency responsible for carrying out the covered activity at issue; or

(B) the Governor, with respect to any act by another State entity responsible for carrying out the covered activity at issue.

SEC. ___142. TECHNICAL ASSISTANCE.

Beginning on the date of the enactment of this Act, the Secretaries shall provide technical assistance to States that request such assistance in—

(1) preparing the State plan required under section ___104; or

(2) developing the State benchmarks required under section ___106(b).

SEC. ___143. APPLICATIONS AND PLANS UNDER COVERED ACTS.

Notwithstanding any other provision of law, no State or local entity shall be required to comply with any provision of law relating to a covered activity that would otherwise require the entity to submit an application or a plan to a Federal agency during fiscal year 1997 for funding of a covered activity. In determining whether to provide funding to the State or local entity for the covered activity, the Secretary of Labor or the Secretary of Education, as appropriate, shall consider the last application or plan, as appropriate, submitted by the entity for funding of the covered activity.

SEC. ___144. INTERIM AUTHORIZATIONS OF APPROPRIATIONS.

(a) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—Section 3(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2302(a)) is amended by striking ''for each of the fiscal years'' and all that follows through ''1995'' and inserting ''for each of fiscal years 1992 through 1998''.

(b) ADULT EDUCATION ACT.—Section 313(a) of the Adult Education Act (20 U.S.C. 1201b(a)) is amended by striking ''for each of the fiscal years'' and all that follows through ''1995'' and inserting ''for each of fiscal years 1993 through 1998''.

Subtitle F—General Provisions

SEC. ___151. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title (except sections ___134, ___138, and ___139) such sums as may be necessary for each of fiscal years 1998 through 2002.

(b) RESERVATIONS.—Of the amount appropriated under subsection (a) for a fiscal year—

(1) 90 percent shall be reserved for making allotments under section ___102;

(2) $70,000,000 shall be reserved for carrying out section ___135;

(3) $90,000,000 shall be reserved for carrying out section ___136;

(4) $14,000,000 shall be reserved for carrying out section ___137; and

(5) the remainder shall be reserved for carrying out sections ___132 and ___133.

(c) PROGRAM YEAR.—

(1) IN GENERAL.—Appropriations for any fiscal year for programs and activities carried out under this title or subtitle C of title II shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(2) ADMINISTRATION.—Funds obligated for any program year for employment and training activities and at-risk youth activities may be expended by each recipient during the program year and the 2 succeeding program years.

SEC. ___152. LOCAL EXPENDITURES CONTRARY TO TITLE.

(a) REPAYMENT BY STATE.—Except as provided in sections ___107(c)(4) and ___126(b)(2)(B), if the Secretaries require a State to repay funds as a result of a determination that an eligible provider of employment and training activities or at-risk youth activities in a local workforce development area of the State has expended funds made available under this title in a manner contrary to the objectives of this title, and such expenditure does not constitute fraud, embezzlement, or other criminal activity, the Governor of the State may use an amount deducted under subsection (b) to repay the funds.

(b) DEDUCTION BY STATE.—The Governor may deduct an amount equal to the expenditure described in subsection (a) from a subsequent program year allocation to the local

workforce development area from funds available for local administration for employment and training activities or at-risk youth activities, as appropriate.

SEC. ___153. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in section ___134 and subsection (b), this title shall take effect on July 1, 1998.

(b) ADMINISTRATION AND NATIONAL INSTITUTE FOR LITERACY.—Sections ___131 and ___138, subtitle E, section ___151, and this section shall take effect on the date of enactment of this Act.

TITLE II—WORKFORCE AND CAREER DEVELOPMENT-RELATED ACTIVITIES

Subtitle A—Amendments to the Wagner-Peyser Act

SEC. ___201. DEFINITIONS.

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1), by striking ''Job Training Partnership Act'' and inserting ''Workforce and Career Development Act of 1996'';

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraphs (3) and (5) as paragraphs (6) and (7), respectively;

(4) by inserting after paragraph (1) the following:

''(2) the term 'local workforce development area' has the meaning given such term in section ___004 of the Workforce and Career Development Act of 1996;

''(3) the term 'local workforce development board' means a local workforce development board established under section ___108 of the Workforce and Career Development Act of 1996;

''(4) the term 'one-stop career center system' means a one-stop career center system established under section ___121(d) of the Workforce and Career Development Act of 1996;

''(5) the term 'public employment office' means an office that provides employment services to the general public and is part of a one-stop career center system;''; and

(5) in paragraph (6) (as redesignated in paragraph (3)), by striking the semicolon and inserting ''; and''.

SEC. ___202. FUNCTIONS.

(a) IN GENERAL.—Section 3(a) of the Wagner-Peyser Act (29 U.S.C. 49b(a)) is amended to read as follows:

''(a) The Secretary of Labor shall—

''(1) assist in the coordination and development of a nationwide system of labor exchange services for the general public, provided as part of the one-stop career center systems of the States;

''(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of jobseekers relating to the system; and

''(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the continuation of any activities in which the individuals are required to participate to receive the compensation.''.

(b) CONFORMING AMENDMENTS.—Section 508(b) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)) is amended—

(1) by striking ''the third sentence of section 3(a)'' and inserting ''section 3(b)''; and

(2) by striking ''49b(a)'' and inserting ''49b(b))''.

SEC. ___203. DESIGNATION OF STATE AGENCIES.

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

(1) by striking ''a State shall, through its legislature,'' and inserting ''a Governor, in consultation with the State legislature, shall''; and

(2) by striking ''United States Employment Service'' and inserting ''Secretary''.

SEC. ___204. APPROPRIATIONS.

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

SEC. ___205. DISPOSITION OF ALLOTTED FUNDS.

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) in subsection (b)(2), by striking ''private industry council'' and inserting ''local workforce development board'';

(2) in subsection (c)(2), by striking ''any program under'' and all that follows and inserting ''any workforce and career development activity carried out under the Workforce and Career Development Act of 1996.'';

(3) in subsection (d)—

(A) by striking ''United States Employment Service'' and inserting ''Secretary''; and

(B) by striking ''Job Training Partnership Act'' and inserting ''Workforce and Career Development Act of 1996''; and

(4) by adding at the end the following:

''(e) All job search, placement, recruitment, labor market information, and other labor exchange services authorized under subsection (a) shall be provided as part of the one-stop career center system established by the State.''.

SEC. ___206. STATE PLANS.

Section 8 of the Wagner-Peyser Act (29 U.S.C. 49g) is amended—

(1) in subsection (a) to read as follows:

''(a) Any State desiring to receive assistance under this Act shall submit to the Secretary, as part of the State plan submitted under section ___104 of the Workforce and Career Development Act of 1996, detailed plans for carrying out the provisions of this Act within such State.'';

(2) by striking subsections (b), (c), and (e); and

(3) by redesignating subsection (d) as subsection (b).

SEC. ___207. REPEAL OF FEDERAL ADVISORY COUNCIL.

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is hereby repealed.

SEC. ___208. REGULATIONS.

Section 12 of the Wagner-Peyser Act (29 U.S.C. 49k) is amended by striking ''The Director, with the approval of the Secretary of Labor,'' and inserting ''The Secretary''.

SEC. ___209. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on July 1, 1998.

Subtitle B—Amendments to the Rehabilitation Act of 1973

SEC. ___211. REFERENCES.

Except as otherwise expressly provided in this subtitle, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

SEC. ___212. FINDINGS AND PURPOSES.

Section 2 (29 U.S.C. 701) is amended—

(1) in subsection (a)(4), by striking ''the provision of individualized training, independent living services, educational and support services,'' and inserting ''implementation of a statewide system that provides meaningful and effective participation for individuals with disabilities in workforce and career development activities and activities carried out through the vocational rehabilitation program established under title I, and through the provision of independent living services, support services,''; and

(2) in subsection (b)(1)(A)—

(A) by striking ''and coordinated''; and

(B) by inserting ''that are coordinated with statewide systems'' after ''vocational rehabilitation''.

SEC. ___213. DEFINITIONS.

Section 7 (29 U.S.C. 706) is amended by adding at the end the following new paragraphs:

''(36) The term 'statewide system' means a statewide system, as defined in section ___004 of the Workforce and Career Development Act of 1996.

''(37) The term 'workforce and career development activities' has the meaning given such term in section ___004 of the Workforce and Career Development Act of 1996.''.

SEC. ___214. ADMINISTRATION.

Section 12(a)(1) (29 U.S.C. 711(a)(1)) is amended by inserting '', including providing assistance to achieve the meaningful and effective participation by individuals with disabilities in the activities carried out through a statewide system'' before the semicolon.

SEC. ___215. REPORTS.

Section 13 (29 U.S.C. 712) is amended in the fourth sentence by striking ''The data elements'' and all that follows through ''age,'' and inserting the following: ''The information shall include all information that is required to be submitted in the report described in section ___106(c) of the Workforce and Career Development Act of 1996 and that pertains to the employment of individuals with disabilities, including information on age,''.

SEC. ___216. EVALUATION.

Section 14(a) (29 U.S.C. 713(a)) is amended in the third sentence by striking ''to the extent feasible,'' and all that follows through the end of the sentence and inserting the following: ''to the maximum extent appropriate, be consistent with the State benchmarks established under paragraphs (1) and (2) of section ___106(b) of the Workforce and Career Development Act of 1996. For purposes of this section, the Secretary may modify or supplement such benchmarks to the extent necessary to address unique considerations applicable to the participation of individuals with disabilities in the vocational rehabilitation program established under title I and activities carried out under other provisions of this Act.''.

SEC. ___217. DECLARATION OF POLICY.

Section 100(a) (29 U.S.C. 720(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (F)—

(i) by inserting ''workforce and career development activities and'' before ''vocational rehabilitation services''; and

(ii) by striking the period and inserting ''; and''; and

(C) by adding at the end the following subparagraph:

''(G) linkages between the vocational rehabilitation program established under this title and other components of the statewide system are critical to ensure effective and meaningful participation by individuals with disabilities in workforce and career development activities.''; and

(2) in paragraph (2)—

(A) by striking ''a comprehensive'' and inserting ''statewide comprehensive''; and

(B) by striking ''program of vocational rehabilitation that is designed'' and inserting ''programs of vocational rehabilitation, each of which is—

''(A) coordinated with a statewide system; and

''(B) designed''.

SEC. ___218. STATE PLANS.

(a) IN GENERAL.—Section 101(a) (29 U.S.C. 721(a)) is amended—

(1) in the first sentence, by striking '', or shall submit'' and all that follows through ''et seq.)'' and inserting '', and shall submit the State plan on the same dates as the

State submits the State plan described in section ___104 of the Workforce and Career Development Act of 1996 to the Secretaries (as defined in section ___004 of such Act)'';

(2) by inserting after the first sentence the following: ''The State designated unit shall also submit the State plan for vocational rehabilitation services for review and comment to the individuals and entities participating in the collaborative process described in subsection (a) or (b) of section ___105 of the Workforce and Career Development Act of 1996 and such individuals and entities shall submit comments on the State plan to the State designated unit.'';

(3) in paragraph (15)—

(A) by striking '', including—'' and all that follows through ''(C) review of'' and inserting '', including review of'';

(B) by striking ''paragraph (9)(C)'' and inserting ''paragraph (9)(D)'';

(C) by striking ''most severe disabilities; and'' and inserting ''most severe disabilities;''; and

(D) by striking subparagraph (D);

(4) by striking paragraphs (10), (27), (28), and (30);

(5) in paragraph (19)—

(A) by striking ''(19)'' and inserting ''(19)(A)''; and

(B) by inserting ''and'' after the semicolon;

(6) in paragraph (20), by striking ''(20)'' and inserting ''(B)'';

(7) by redesignating—

(A) paragraphs (11) through (18) as paragraphs (10) through (17), respectively;

(B) paragraph (19) (as amended by paragraphs (5) and (6)) as paragraph (18);

(C) paragraphs (21) through (26) as paragraphs (19) through (24), respectively;

(D) paragraph (29) as paragraph (25); and

(E) paragraphs (31) through (36) as paragraphs (26) through (31), respectively;

(8) in paragraph (5)—

(A) by striking subparagraph (A) and inserting the following:

''(A) contain the plans, policies, and methods to be followed in carrying out the State plan and in the administration and supervision of the plan, including—

''(i)(I) the results of a comprehensive, statewide assessment of the rehabilitation needs of individuals with disabilities (including individuals with severe disabilities, individuals with disabilities who are minorities, and individuals with disabilities who have been unserved, or underserved, by the vocational rehabilitation system) who are residing within the State; and

''(II) the response of the State to the assessment;

''(ii) a description of the method to be used to expand and improve services to individuals with the most severe disabilities, including individuals served under part C of title VI;

''(iii) with regard to community rehabilitation programs—

''(I) a description of the method to be used (such as a cooperative agreement) to utilize the programs to the maximum extent feasible; and

''(II) a description of the needs of and utilization of the programs, including the community rehabilitation programs funded under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) and such programs funded by State use contracting programs; and

''(iv) an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services, and, in the event that vocational rehabilitation services cannot be provided to all such eligible individuals with disabilities who apply for such services, information showing and providing the justification for the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided (which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first the individuals with the most severe disabilities in accordance with criteria established by the State, and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving individuals with disabilities, established in regulations prescribed by the Commissioner);'';

(B) in subparagraph (B), by striking ''; and'' and inserting a semicolon; and

(C) by striking subparagraph (C) and inserting the following subparagraphs:

''(C) with regard to the statewide assessment of rehabilitation needs described in subparagraph (A)(i)—

''(i) provide that the State agency will make reports at such time, in such manner, and containing such information, as the Commissioner may require to carry out the functions of the Commissioner under this title, and comply with such provisions as are necessary to assure the correctness and verification of such reports; and

''(ii) provide that reports made under clause (i) will include information regarding individuals with disabilities and, if an order of selection described in subparagraph (A)(iv) is in effect in the State, will separately include information regarding individuals with the most severe disabilities, on—

''(I) the number of such individuals who are evaluated and the number rehabilitated;

''(II) the costs of administration, counseling, provision of direct services, development of community rehabilitation programs, and other functions carried out under this Act; and

''(III) the utilization by such individuals of other programs pursuant to paragraph (10); and

''(D) describe—

''(i) how a broad range of rehabilitation technology services will be provided at each stage of the rehabilitation process;

''(ii) how a broad range of such rehabilitation technology services will be provided on a statewide basis; and

''(iii) the training that may be provided to vocational rehabilitation counselors, client assistance personnel, personnel of the eligible providers of core services described in subsection (e)(2) of section ___121 of the Workforce and Career Development Act of 1996 through one-stop career centers described in subsection (d) of such section, and other related services personnel;'';

(9) in subparagraph (A)(i)(II) of paragraph (7), by striking '', based on projections'' and all that follows through ''relevant factors'';

(10) in paragraph (9)—

(A) in subparagraph (B), by striking ''written rehabilitation program'' and inserting ''employment plan''; and

(B) in subparagraph (C), by striking ''plan in accordance with such program'' and inserting ''State plan in accordance with the employment plan'';

(11) in paragraph (10) (as redesignated in paragraph (7))—

(A) in subparagraph (A), by striking ''State's public'' and all that follows and inserting ''Federal, State, and local programs that are not part of the statewide system of the State;''; and

(B) in subparagraph (C)—

(i) by striking ''if appropriate—'' and all that follows through ''entering into'' and inserting ''if appropriate, entering into'';

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii), respectively; and

(iii) by indenting the clauses and aligning the margins of the clauses with the margins of clause (ii) of subparagraph (A) of paragraph (7);

(12) in paragraph (20) (as redesignated in paragraph (7)), by striking ''referrals to other Federal and State programs'' and inserting ''referrals within the statewide system of the State to programs''; and

(13) in paragraph (22) (as redesignated in paragraph (7))—

(A) in subparagraph (B), by striking ''written rehabilitation program'' and inserting ''employment plan''; and

(B) in subparagraph (C)—

(i) in clause (ii), by striking ''; and'' and inserting a semicolon;

(ii) in clause (iii), by striking the semicolon and inserting ''; and''; and

(iii) by adding at the end the following clause:

''(iv) the manner in which students who are individuals with disabilities and who are not in special education programs can access and receive vocational rehabilitation services, where appropriate;''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7(22)(A)(i)(II) (29 U.S.C. 706(22)(A)(i)(II)) is amended by striking ''101(a)(5)(A)'' each place it appears and inserting ''101(a)(5)(A)(iv)''.

(2) Section 12(d) (29 U.S.C. 711(d)) is amended by striking ''101(a)(5)(A)'' and inserting ''101(a)(5)(A)(iv)''.

(3) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (18)(A) (as redesignated in subsection (a)(7)), by striking ''paragraph (15)'' and inserting ''paragraph (14)'';

(B) in paragraph (22) (as redesignated in subsection (a)(7)), by striking ''paragraph (11)(C)(ii)'' and inserting ''paragraph (10)(C)'';

(C) in paragraph (27) (as redesignated in subsection (a)(7)), by striking ''paragraph (36)'' and inserting ''paragraph (31)''; and

(D) in subparagraph (C) of paragraph (31) (as redesignated in subsection (a)(7)), by striking ''101(a)(1)(A)(i)'' and inserting ''paragraph (1)(A)(i)''.

(4) Section 102 (29 U.S.C. 722) is amended—

(A) in subsection (a)(3), by striking ''101(a)(24)'' and inserting ''101(a)(22)''; and

(B) in subsection (d)(2)(C)(ii)—

(i) in subclause (II), by striking ''101(a)(36)'' and inserting ''101(a)(31)''; and

(ii) in subclause (III), by striking ''101(a)(36)(C)(ii)'' and inserting ''101(a)(31)(C)(ii)''.

(5) Section 103(a)(13) (29 U.S.C. 723(a)(13)) is amended by striking ''101(a)(11)'' and inserting ''101(a)(10)''.

(6) Section 105(a)(1) (29 U.S.C. 725(a)(1)) is amended by striking ''101(a)(36)'' and inserting ''101(a)(31)''.

(7) Section 107(a) (29 U.S.C. 727(a)) is amended—

(A) in paragraph (2)(F), by striking ''101(a)(32)'' and inserting ''101(a)(27)''; and

(B) in paragraph (4)(C), by striking ''101(a)(35)'' and inserting ''101(a)(30)''.

(8) Section 111(a) (29 U.S.C. 731(a)) is amended—

(A) in paragraph (1)—

(i) by striking ''101(a)(34)(A)'' and inserting ''101(a)(29)(A)''; and

(ii) by striking ''101(a)(34)(B)'' and inserting ''101(a)(29)(B)''; and

(B) in paragraph (2)(A), by striking ''101(a)(17)'' and inserting ''101(a)(16)''.

(9) Section 124(a)(1)(A) (29 U.S.C. 744(a)(1)(A)) is amended by striking ''101(a)(34)(B)'' and inserting ''101(a)(29)(B)''.

(10) Section 315(b)(2) (29 U.S.C. 777e(b)(2)) is amended by striking ''101(a)(22)'' and inserting ''101(a)(20)''.

(11) Section 102(e)(23)(A) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212(e)(23)(A)) is amended by striking ''section 101(a)(36) of the Rehabilitation Act of

1973 (29 U.S.C. 721(a)(36))'' and inserting ''section 101(a)(31) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(31))''.

SEC. ___219. INDIVIDUALIZED EMPLOYMENT PLANS.

(a) IN GENERAL.—Section 102 (29 U.S.C. 722) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 102. INDIVIDUALIZED EMPLOYMENT PLANS.'';

(2) in subsection (a)(6), by striking ''written rehabilitation program'' and inserting ''employment plan'';

(3) in subsection (b)—

(A) in paragraph (1)(A)—

(i) in clause (i), by striking ''written rehabilitation program'' and inserting ''employment plan''; and

(ii) in clause (ii), by striking ''program'' and inserting ''plan'';

(B) in paragraph (1)(B)—

(i) in the matter preceding clause (i), by striking ''written rehabilitation program'' and inserting ''employment plan'';

(ii) in clause (iv)—

(I) by striking subclause (I) and inserting the following:

''(I) include a statement of the specific vocational rehabilitation services to be provided (including, if appropriate, rehabilitation technology services and training in how to use such services) that includes specification of the public or private entity that will provide each such vocational rehabilitation service and the projected dates for the initiation and the anticipated duration of each such service; and'';

(II) by striking subclause (II); and

(III) by redesignating subclause (III) as subclause (II); and

(iii) in clause (xi)(I), by striking ''program'' and inserting ''plan'';

(C) in paragraph (1)(C), by striking ''written rehabilitation program and amendments to the program'' and inserting ''employment plan and amendments to the plan''; and

(D) in paragraph (2)—

(i) by striking ''program'' each place the term appears and inserting ''plan''; and

(ii) by striking ''written rehabilitation'' each place the term appears and inserting ''employment'';

(4) in subsection (c)—

(A) in paragraph (1), by striking ''written rehabilitation program'' and inserting ''employment plan''; and

(B) by striking ''written program'' each place the term appears and inserting ''plan''; and

(5) in subsection (d)—

(A) in paragraph (5), by striking ''written rehabilitation program'' and inserting ''employment plan''; and

(B) in paragraph (6)(A), by striking the second sentence.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents for the Act is amended by striking the item relating to section 102 and inserting the following:

''Sec. 102. Individualized employment plans.''.

(2) Paragraphs (22)(B) and (27)(B), and subparagraphs (B) and (C) of paragraph (34) of section 7 (29 U.S.C. 706), section 12(e)(1) (29 U.S.C. 711(e)(1)), section 501(e) (29 U.S.C. 791(e)), subparagraphs (C), (D), and (E) of section 635(b)(6) (29 U.S.C. 795n(b)(6) (C), (D), and (E)), section 802(g)(8)(B) (29 U.S.C. 797a(g)(8)(B)), and section 803(c)(2)(D) (29 U.S.C. 797b(c)(2)(D)) are amended by striking ''written rehabilitation program'' each place the term appears and inserting ''employment plan''.

(3) Section 7(22)(B)(i) (29 U.S.C. 706(22)(B)(i)) is amended by striking ''rehabilitation program'' and inserting ''employment plan''.

(4) Section 107(a)(3)(D) (29 U.S.C. 727(a)(3)(D)) is amended by striking ''written rehabilitation programs'' and inserting ''employment plans''.

(5) Section 101(b)(7)(A)(ii)(II) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(b)(7)(A)(ii)(II)) is amended by striking ''written rehabilitation program'' and inserting ''employment plan''.

SEC. ___220. STATE REHABILITATION ADVISORY COUNCIL.

(a) IN GENERAL.—Section 105 (29 U.S.C. 725) is amended—

(1) in subsection (b)(1)(A)(vi), by inserting before the semicolon the following: ''who, to the extent feasible, are individuals involved in the collaborative process described in section ___105 of the Workforce and Career Development Act of 1996''; and

(2) in subsection (c)—

(A) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

''(3) advise the designated State agency and the designated State unit regarding strategies for ensuring that the vocational rehabilitation program established under this title is coordinated with the statewide system of the State;''; and

(C) in paragraph (6) (as redesignated in subparagraph (A))—

(i) by striking ''6024), and'' and inserting ''6024),''; and

(ii) by striking the semicolon at the end and inserting the following: '', and the individuals and entities involved in the collaborative process described in section ___105 of the Workforce and Career Development Act of 1996;''.

(b) CONFORMING AMENDMENT.—Subparagraph (B)(iv), and clauses (ii)(I) and (iii)(I) of subparagraph (C), of paragraph (31) (as redesignated in section ___218(a)(7)) of section 101(a) (29 U.S.C. 721(a)) are amended by striking ''105(c)(3)'' and inserting ''105(c)(4)''.

SEC. ___221. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

Section 106(a)(1) (29 U.S.C. 726(a)(1)) is amended—

(1) by striking ''(1) IN GENERAL.—The Commissioner shall'' and inserting the following:

''(1) EVALUATION STANDARDS AND PERFORMANCE INDICATORS.—

''(A) IN GENERAL.—The Commissioner shall''; and

(2) by adding at the end the following:

''(B) MODIFICATION OR SUPPLEMENTATION.—

''(i) IN GENERAL.—The Commissioner shall modify or supplement such standards and indicators to ensure that, to the maximum extent appropriate, such standards and indicators are consistent with the State benchmarks established under paragraphs (1) and (2) of section ___106(b) of the Workforce and Career Development Act of 1996.

''(ii) ADDITIONAL PROVISIONS.—The Commissioner—

''(I) shall, in modifying or supplementing such standards and indicators, comply with the requirements under the timetable for establishing such benchmarks under the Workforce and Career Development Act of 1996; and

''(II) may modify or supplement such standards and indicators, to the extent necessary, to address unique considerations applicable to individuals with disabilities in the vocational rehabilitation program.''.

SEC. ___222. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) STATEWIDE SYSTEM REQUIREMENTS.—The changes made in the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) by the amendments made by this subtitle that relate to State benchmarks, or other components of a statewide system, shall take effect on July 1, 1998.

Subtitle C—Job Corps

SEC. ___231. DEFINITIONS.

As used in this subtitle:

(1) ENROLLEE.—The term ''enrollee'' means an individual enrolled in the Job Corps.

(2) GOVERNOR.—The term ''Governor'' means the chief executive officer of a State.

(3) JOB CORPS.—The term ''Job Corps'' means the Job Corps described in section ___233.

(4) JOB CORPS CENTER.—The term ''Job Corps center'' means a center described in section ___233.

(5) OPERATOR.—The term ''operator'' means an entity selected under this subtitle to operate a Job Corps center.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

SEC. ___232. PURPOSES.

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist at-risk youth who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of workforce and career development activities; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

SEC. ___233. ESTABLISHMENT.

There shall be established in the Department of Labor a Job Corps program, to carry out, in conjunction with the activities carried out under section ___247, activities described in this subtitle for individuals enrolled in the Job Corps and assigned to a center.

SEC. ___234. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 15 and not more than age 24;

(2) an individual who—

(A) receives, or is a member of a family that receives, cash welfare payments under a Federal, State, or local welfare program;

(B) had received an income, or is a member of a family that had received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and payments described in subparagraph (A)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations of the Secretary, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements; and

(3) an individual who is 1 or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless or a runaway.

(D) Pregnant or a parent.

(E) An individual who requires additional education, training, or intensive counseling and related assistance, in order to secure and hold employment or participate successfully in regular schoolwork.

SEC. ___235. SCREENING AND SELECTION OF APPLICANTS.

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps, after considering recommendations from the Governors, local boards, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1) for the screening and selection of Job Corps applicants, the Secretary shall—

(A) require enrollees to take drug tests within 30 days of enrollment in the Job Corps;

(B) allocate, where necessary, additional resources to increase the applicant pool;

(C) establish standards for outreach to and screening of Job Corps applicants;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting such screening;

(E) require Job Corps applicants to pass background checks, conducted in accordance with procedures established by the Secretary; and

(F) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) eligible providers of core services described in section ___121(e)(2) through one-stop career centers described in section ___121(d);

(B) agencies and organizations such as community action agencies, professional groups, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of the youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(b) SPECIAL LIMITATIONS.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures determines that—

(1) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and surrounding communities; and

(2) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules.

SEC. ___236. ENROLLMENT AND ASSIGNMENT.

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) ASSIGNMENT.—After the Secretary has determined that an enrollee is to be assigned to a Job Corps center, the enrollee shall be assigned to the center that is closest to the residence of the enrollee, except that the Secretary may waive this requirement for good cause, including to ensure an equitable opportunity for individuals described in section ___234 from various sections of the United States to participate in the Job Corps program, to prevent undue delays in assignment of an enrollee, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

(c) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section ___238(d) would require an individual to participate for more than 2 years; or

(2) as the Secretary may authorize in a special case.

SEC. ___237. JOB CORPS CENTERS.

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—The Secretary shall enter into an agreement with a Federal, State, or local agency, which may be a State board or agency that operates or wishes to develop an area vocational education school facility or residential vocational school, or with a private organization, for the operation of each Job Corps center. The Secretary shall enter into an agreement with an appropriate entity to provide services for a Job Corps center.

(2) SELECTION PROCESS.—Except as provided in subsections (c) and (d), the Secretary shall select an entity to operate a Job Corps center on a competitive basis, after reviewing the operating plans described in section ___240. In selecting a private or public entity to serve as an operator for a Job Corps Center, the Secretary shall, at the request of the Governor of the State in which the center is located, convene and obtain the recommendation of a selection panel described in section ___242(b). In selecting an entity to serve as an operator or to provide services for a Job Corps center, the Secretary shall take into consideration the previous performance of the entity, if any, relating to operating or providing services for a Job Corps center.

(b) CHARACTER AND ACTIVITIES.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in section ___238. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) CIVILIAN CONSERVATION CENTERS.—

(1) IN GENERAL.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture or the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) SELECTION PROCESS.—The Secretary may select an entity to operate a Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) INDIAN TRIBES.—

(1) GENERAL AUTHORITY.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) DEFINITIONS.—As used in this subsection, the terms ''Indian'' and ''Indian tribe'', have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. ___238. PROGRAM ACTIVITIES.

(a) ACTIVITIES PROVIDED THROUGH JOB CORPS CENTERS.—Each Job Corps center shall provide enrollees assigned to the center with access to core services described in section ___121(e)(2), and such other employment and training activities and at-risk youth activities as may be appropriate to meet the needs of the enrollees. Each Job Corps center shall provide the enrollees with such activities described in sections ___121 and ___122 as may be appropriate to meet the needs of the enrollees. The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating successfully in secondary education or postsecondary education programs, enrolling in other suitable training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(b) ARRANGEMENTS.—The Secretary shall arrange for enrollees assigned to Job Corps centers to receive employment and training activities and at-risk youth activities through or in coordination with the statewide system, including employment and training activities and at-risk youth activities provided through local public or private educational agencies, vocational educational institutions, or technical institutes.

(c) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEM.—The Secretary shall establish a fiscal and management accountability information system for Job Corps centers, and coordinate the activities carried out through the system with activities carried out through the fiscal and management accountability information systems for States described in section ___106(e), if such systems are established.

(d) ADVANCED CAREER TRAINING PROGRAMS.—

(1) IN GENERAL.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited.

(2) POSTSECONDARY EDUCATIONAL INSTITUTIONS.—The advanced career training may be provided through a postsecondary educational institution for an enrollee who has obtained a secondary school diploma or its recognized equivalent, has demonstrated commitment and capacity in previous Job Corps participation, and has an identified occupational goal.

(3) COMPANY-SPONSORED TRAINING PROGRAMS.—The Secretary may enter into contracts with appropriate entities to provide the advanced career training through intensive training in company-sponsored training programs, combined with internships in work settings.

(4) BENEFITS.—

(A) IN GENERAL.—During the period of participation in an advanced career training

program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) CALCULATION.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(5) DEMONSTRATION.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a reasonable rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

SEC. ___239. SUPPORT.

The Secretary shall provide enrollees assigned to Job Corps centers with such personal allowances, including readjustment allowances, as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

SEC. ___240. OPERATING PLAN.

(a) IN GENERAL.—To be eligible to operate a Job Corps center, an entity shall prepare and submit an operating plan to the Secretary for approval. Prior to submitting the plan to the Secretary, the entity shall submit the plan to the Governor of the State in which the center is located for review and comment. The entity shall submit any comments prepared by the Governor on the plan to the Secretary with the plan. Such plan shall include, at a minimum, information indicating—

(1) in quantifiable terms, the extent to which the center will contribute to the achievement of the proposed State goals and State benchmarks identified in the State plan submitted under section ___104 for the State in which the center is located;

(2) the extent to which the activities described in section ___238 and delivered through the Job Corps center are directly linked to the workforce and career development needs of the region in which the center is located;

(3) an implementation strategy to ensure that all enrollees assigned to the Job Corps center will have access to services through the one-stop delivery of core services described in section ___121(e)(2); and

(4) an implementation strategy to ensure that the curricula of all such enrollees is integrated into activities described in section ___238(a), including work-based learning, work experience, and career-building activities, and that such enrollees have the opportunity to obtain secondary school diplomas or their recognized equivalent.

(b) APPROVAL.—The Secretary shall not approve an operating plan described in subsection (a) for a center if the Secretary determines that the activities proposed to be carried out through the center are not sufficiently integrated with the activities carried out through the statewide system of the State in which the center is located.

SEC. ___241. STANDARDS OF CONDUCT.

(a) PROVISION AND ENFORCEMENT.—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) DISCIPLINARY MEASURES.—

(1) IN GENERAL.—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(2) ZERO TOLERANCE POLICY.—

(A) GUIDELINES.—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) DEFINITIONS.—As used in this paragraph:

(i) CONTROLLED SUBSTANCE.—The term ''controlled substance'' has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) ZERO TOLERANCE POLICY.—The term ''zero tolerance policy'' means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) APPEAL.—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

SEC. ___242. COMMUNITY PARTICIPATION.

(a) ACTIVITIES.—The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers in the State and nearby communities. The activities shall include the use of local boards established in the State to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest.

(b) SELECTION PANELS.—The Governor may recommend individuals to serve on a selection panel convened by the Secretary to provide recommendations to the Secretary regarding any competitive selection of an operator for a center in the State. The panel shall have not more than 7 members. In recommending individuals to serve on the panel, the Governor may recommend members of local boards established in the State, or other representatives selected by the Governor. The Secretary shall select at least 1 individual recommended by the Governor.

(c) ACTIVITIES.—Each Job Corps center director shall—

(1) give officials of nearby communities appropriate advance notice of changes in the rules, procedures, or activities of the Job Corps center that may affect or be of interest to the communities;

(2) afford the communities a meaningful voice in the affairs of the Job Corps center that are of direct concern to the communities, including policies governing the issuance and terms of passes to enrollees; and

(3) encourage the participation of enrollees in programs for improvement of the communities, with appropriate advance consultation with business, labor, professional, and other interested groups, in the communities.

SEC. ___243. COUNSELING AND PLACEMENT.

The Secretary shall ensure that enrollees assigned to Job Corps centers receive academic and vocational counseling and job placement services, which shall be provided, to the maximum extent practicable, through the delivery of core services described in section ___121(e)(2).

SEC. ___244. ADVISORY COMMITTEES.

The Secretary is authorized to make use of advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

SEC. ___245. APPLICATION OF PROVISIONS OF FEDERAL LAW.

(a) ENROLLEES NOT CONSIDERED TO BE FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) PROVISIONS RELATING TO TAXES AND SOCIAL SECURITY BENEFITS.—For purposes of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(3) PROVISIONS RELATING TO COMPENSATION TO FEDERAL EMPLOYEES FOR WORK INJURIES.—For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term ''employee'' as defined in section 8101 of title 5, United States Code, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5, United States Code.

(4) FEDERAL TORT CLAIMS PROVISIONS.—For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered to be employees of the Government.

(b) ADJUSTMENTS AND SETTLEMENTS.—Whenever the Secretary finds a claim for damages to a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle the claim in an amount not exceeding $1,500.

(c) PERSONNEL OF THE UNIFORMED SERVICES.—Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

SEC. ___246. SPECIAL PROVISIONS.

(a) ENROLLMENT OF WOMEN.—The Secretary shall immediately take steps to achieve an enrollment of 50 percent women in the Job Corps program, consistent with the need—

(1) to promote efficiency and economy in the operation of the program;

(2) to promote sound administrative practice; and

(3) to meet the socioeconomic, educational, and training needs of the population to be served by the program.

(b) STUDIES, EVALUATIONS, PROPOSALS, AND DATA.—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

(c) GROSS RECEIPTS.—Transactions conducted by a private for-profit contractor or a nonprofit contractor in connection with the operation by the contractor of a Job Corps

center or the provision of services by the contractor for a Job Corps center shall not be considered to be generating gross receipts. Such a contractor shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such contractor for operating or providing services for a Job Corps center. Such a contractor shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such contractor of any property, service, or other item in connection with the operation of or provision of services for a Job Corps center.

(d) MANAGEMENT FEE.—The Secretary shall provide each operator or entity providing services for a Job Corps center with an equitable and negotiated management fee of not less than 1 percent of the contract amount.

(e) DONATIONS.—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

SEC. ___247. REVIEW OF JOB CORPS CENTERS.

(a) NATIONAL JOB CORPS REVIEW PANEL.—

(1) ESTABLISHMENT.—The Secretary shall establish a National Job Corps Review Panel (hereafter referred to in this section as the ''Panel'').

(2) MEMBERSHIP.—The Panel shall be composed of nine individuals selected by the Secretary, of which—

(A) three individuals shall be members of the national office of the Job Corps;

(B) three individuals shall be representatives from the private sector who have expertise and a demonstrated record of success in understanding, analyzing, and motivating at-risk youth; and

(C) three individuals shall be members of the Office of the Inspector General of the Department of Labor.

(3) DUTIES.—The Panel shall conduct a review of the activities carried out under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.), and, not later than July 31, 1997, the Panel shall submit to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the results of the review, including—

(A) information on the amount of funds expended for fiscal year 1996 to carry out activities under such part, for each State and for the United States;

(B) for each Job Corps center funded under such part, information on the amount of funds expended for fiscal year 1996 under such part to carry out activities related to the direct operation of the center, including funds expended for student training, outreach or intake activities, meals and lodging, student allowances, medical care, placement or settlement activities, and administration;

(C) for each Job Corps center, information on the amount of funds expended for fiscal year 1996 under such part through contracts to carry out activities not related to the direct operation of the center, including funds expended for student travel, national outreach, screening, and placement services, national vocational training, and national and regional administrative costs;

(D) for each Job Corps center, information on the amount of funds expended for fiscal year 1996 under such part for facility construction, rehabilitation, and acquisition expenses;

(E) information on the amount of funds required to be expended under such part to complete each new or proposed Job Corps center, and to rehabilitate and repair each existing Job Corps center, as of the date of the submission of the report;

(F) a summary of the information described in subparagraphs (B) through (E) for all Job Corps centers;

(G) an assessment of the need to serve individuals described in section ____234 in the Job Corps program, including—

(i) a cost-benefit analysis of the residential component of the Job Corps program;

(ii) the need for residential education and training services for individuals described in section ____234, analyzed for each State and for the United States; and

(iii) the distribution of training positions in the Job Corps program, as compared to the need for the services described in clause (ii), analyzed for each State;

(H) an overview of the Job Corps program as a whole and an analysis of individual Job Corps centers, including a 5-year performance measurement summary that includes information, analyzed for the program and for each Job Corps center, on—

(i) the number of enrollees served;

(ii) the number of former enrollees who entered employment, including the number of former enrollees placed in a position related to the job training received through the program and the number placed in a position not related to the job training received;

(iii) the number of former enrollees placed in jobs for 32 hours per week or more;

(iv) the number of former enrollees who entered employment and were retained in the employment for more than 13 weeks;

(v) the number of former enrollees who entered the Armed Forces;

(vi) the number of former enrollees who completed vocational training, and the rate of such completion, analyzed by vocation;

(vii) the number of former enrollees who entered postsecondary education;

(viii) the number and percentage of early dropouts from the Job Corps program;

(ix) the average wage of former enrollees, including wages from positions described in clause (ii);

(x) the number of former enrollees who obtained a secondary school diploma or its recognized equivalent;

(xi) the average level of learning gains for former enrollees; and

(xii) the number of former enrollees that did not—

(I) enter employment or postsecondary education;

(II) complete a vocational education program; or

(III) make identifiable learning gains;

(I) information regarding the performance of all existing Job Corps centers over the 3 years preceding the date of submission of the report; and

(J) job placement rates for each Job Corps center and each entity providing services to a Job Corps center.

(b) RECOMMENDATIONS OF PANEL.—

(1) RECOMMENDATIONS.—The Panel shall, based on the results of the review described in subsection (a), make recommendations to the Secretary, regarding improvements in the operation of the Job Corps program, including—

(A) closing 5 Job Corps centers by September 30, 1997, and 5 additional Job Corps centers by September 30, 2000;

(B) relocating Job Corps centers described in paragraph (2)(A)(iii) in cases in which facility rehabilitation, renovation, or repair is not cost-effective; and

(C) taking any other action that would improve the operation of a Job Corps center or any other appropriate action.

(2) CONSIDERATIONS.—

(A) IN GENERAL.—In determining whether to recommend that the Secretary close a Job Corps center, the Panel shall consider whether the center—

(i) has consistently received low performance measurement ratings under the Department of Labor or the Office of Inspector General Job Corps rating system;

(ii) is among the centers that have experienced the highest number of serious incidents of violence or criminal activity in the past 5 years;

(iii) is among the centers that require the largest funding for renovation or repair, as specified in the Department of Labor Job Corps Construction/Rehabilitation Funding Needs Survey, or for rehabilitation or repair, as reflected in the portion of the review described in subsection (a)(3)(E);

(iv) is among the centers for which the highest relative or absolute fiscal year 1996 expenditures were made, for any of the categories of expenditures described in subparagraph (B), (C), or (D) of subsection (a)(3), as reflected in the review described in subsection (a);

(v) is among the centers with the least State and local support; or

(vi) is among the centers with the lowest rating on such additional criteria as the Panel may determine to be appropriate.

(B) COVERAGE OF STATES AND REGIONS.—Notwithstanding subparagraph (A), the Panel shall not recommend that the Secretary close the only Job Corps center in a State or a region of the United States.

(C) ALLOWANCE FOR NEW JOB CORPS CENTERS.—Notwithstanding any other provision of this section, if the planning or construction of a Job Corps center that received Federal funding for fiscal year 1994 or 1995 has not been completed by the date of enactment of this Act—

(i) the appropriate entity may complete the planning or construction and begin operation of the center; and

(ii) the Panel shall not evaluate the center under this section sooner than 3 years after the first date of operation of the center.

(3) REPORT.—Not later than August 30, 1997, the Panel shall submit to the Secretary a report that contains—

(A) the results of the review conducted under subsection (a) (as contained in the report submitted under such subsection); and

(B) the recommendations described in paragraph (1).

(c) IMPLEMENTATION OF PERFORMANCE IMPROVEMENTS.—The Secretary shall, after reviewing the report submitted under subsection (b)(3), implement improvements in the operation of the Job Corps program, including closing 10 individual Job Corps centers pursuant to subsection (b). In implementing such improvements, the Secretary may close such additional Job Corps centers as the Secretary determines to be appropriate. Funds saved through the implementation of such improvements shall be used to maintain overall Job Corps program service levels, improve facilities at existing Job Corps centers, relocate Job Corps centers, initiate new Job Corps centers with a priority on placing Job Corps centers in States without existing Job Corps centers, and make other performance improvements in the Job Corps program.

(d) REPORT TO CONGRESS.—The Secretary shall annually report to Congress the information specified in subparagraphs (H), (I), and (J) of subsection (a)(3) and such additional information relating to the Job Corps program as the Secretary may determine to be appropriate.

SEC. ___248. ADMINISTRATION.

The Secretary shall carry out the responsibilities specified for the Secretary in this subtitle, notwithstanding any other provision of this division.

SEC. ___249. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subtitle.

SEC. ___250. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle shall take effect on July 1, 1998.

(b) REPORT.—Section ___247 shall take effect on the date of enactment of this Act.

Subtitle D—Amendments to the National Literacy Act of 1991

SEC. ___261. EXTENSION OF FUNCTIONAL LITERACY AND LIFE SKILLS PROGRAM FOR STATE AND LOCAL PRISONERS.

Paragraph (3) of section 601(i) of the National Literacy Act of 1991 (20 U.S.C. 1211–2(i)) is amended—

(1) by striking ''1994, and'' and inserting ''1994,''; and

(2) by inserting '', and such sums as may be necessary for each of the fiscal years 1997, 1998, 1999, 2000, 2001, and 2002'' before the period.

TITLE III—MUSEUMS AND LIBRARIES

SEC. ___301. MUSEUM AND LIBRARY SERVICES.

The Museum Services Act (20 U.S.C. 961 et seq.) is amended to read as follows:

''TITLE II—MUSEUM AND LIBRARY SERVICES

''Subtitle A—General Provisions

''SEC. 201. SHORT TITLE.

''This title may be cited as the 'Museum and Library Services Act'.

''SEC. 202. GENERAL DEFINITIONS.

''As used in this title:

''(1) COMMISSION.—The term 'Commission' means the National Commission on Libraries and Information Science established under section 3 of the National Commission on Libraries and Information Sciences Act (20 U.S.C. 1502).

''(2) DIRECTOR.—The term 'Director' means the Director of the Institute appointed under section 204.

''(3) INSTITUTE.—The term 'Institute' means the Institute of Museum and Library Services established under section 203.

''(4) MUSEUM BOARD.—The term 'Museum Board' means the National Museum Services Board established under section 275.

''SEC. 203. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

''(a) ESTABLISHMENT.—There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

''(b) OFFICES.—The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

''SEC. 204. DIRECTOR OF THE INSTITUTE.

''(a) APPOINTMENT.—

''(1) IN GENERAL.—The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

''(2) TERM.—The Director shall serve for a term of 4 years.

''(3) QUALIFICATIONS.—Beginning with the first individual appointed to the position of Director after the date of enactment of the Workforce and Career Development Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after the date of enactment of the Workforce and Career Development Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

''(b) COMPENSATION.—The Director shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(c) DUTIES AND POWERS.—The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this title.

''(d) NONDELEGATION.—The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

''(e) COORDINATION.—The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

''SEC. 205. DEPUTY DIRECTORS.

''The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

''SEC. 206. PERSONNEL.

''(a) IN GENERAL.—The Director may, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

''(b) VOLUNTARY SERVICES.—The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

''SEC. 207. CONTRIBUTIONS.

''The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

''Subtitle B—Library Services and Technology

''SEC. 211. SHORT TITLE.

''This subtitle may be cited as the 'Library Services and Technology Act'.

''SEC. 212. PURPOSE.

''It is the purpose of this subtitle—

''(1) to consolidate Federal library service programs;

''(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

''(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

''(4) to provide linkages among and between libraries and one-stop career center systems; and

''(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

''SEC. 213. DEFINITIONS.

''As used in this subtitle:

''(1) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(2) LIBRARY.—The term 'library' includes—

''(A) a public library;

''(B) a public elementary school or secondary school library;

''(C) an academic library;

''(D) a research library, which for the purposes of this subtitle means a library that—

''(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

''(ii) is not an integral part of an institution of higher education; and

''(E) a private library, but only if the State in which such private library is located determines that the library should be considered a library for purposes of this subtitle.

''(3) LIBRARY CONSORTIUM.—The term 'library consortium' means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

''(4) STATE.—The term 'State', unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(5) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

''(6) STATE PLAN.—The term 'State plan' means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subtitle, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subtitle, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subtitle.

''SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subtitle.

''(2) TRANSFER.—The Secretary of Education shall—

''(A) transfer any funds appropriated under the authority of paragraph (1) to the Director to enable the Director to carry out this subtitle; and

''(B) not exercise any authority concerning the administration of this title other than the transfer described in subparagraph (A).

''(b) FORWARD FUNDING.—

''(1) IN GENERAL.—To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subtitle are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

''(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subtitle (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

''(c) ADMINISTRATION.—Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subtitle.

''CHAPTER 1—BASIC PROGRAM REQUIREMENTS

''SEC. 221. RESERVATIONS AND ALLOTMENTS.

''(a) RESERVATIONS.—

''(1) IN GENERAL.—From the amount appropriated under the authority of section 214 for any fiscal year, the Director—

''(A) shall reserve 1½ percent to award grants in accordance with section 261; and

''(B) shall reserve 4 percent to award national leadership grants or contracts in accordance with section 262.

''(2) SPECIAL RULE.—If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) for the fiscal year succeeding the fiscal year for which the funds were so reserved.

''(b) ALLOTMENTS.—

''(1) IN GENERAL.—From the sums appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

''(2) REMAINDER.—From the remainder of any sums appropriated under the authority of section 214 that are not reserved under subsection (a) and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

''(3) MINIMUM ALLOTMENT.—

''(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

''(C) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

''(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

''(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

''(4) DATA.—The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

''SEC. 222. ADMINISTRATION.

''(a) IN GENERAL.—Not more than 4 percent of the total amount of funds received under this subtitle for any fiscal year by a State may be used for administrative costs.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to limit spending for evaluation costs under section 224(c) from sources other than this subtitle.

''SEC. 223. PAYMENTS; FEDERAL SHARE; AND MAINTENANCE OF EFFORT REQUIREMENTS.

''(a) PAYMENTS.—The Director shall pay to each State library administrative agency having a State plan approved under section 224 the Federal share of the cost of the activities described in the State plan.

''(b) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share shall be 66 percent.

''(2) NON-FEDERAL SHARE.—The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

''(c) MAINTENANCE OF EFFORT.—

''(1) STATE EXPENDITURES.—

''(A) REQUIREMENT.—

''(i) IN GENERAL.—The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this chapter shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

''(ii) CALCULATION.—Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

''(B) DECREASE IN FEDERAL SUPPORT.—If the amount made available under this subtitle for a fiscal year is less than the amount made available under this subtitle for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

''(2) LEVEL OF STATE EXPENDITURES.—The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subtitle. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

''(3) WAIVER.—The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

''SEC. 224. STATE PLANS.

''(a) STATE PLAN REQUIRED.—

''(1) IN GENERAL.—In order to be eligible to receive a grant under this subtitle, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

''(2) DURATION.—The State plan shall cover a period of 5 fiscal years.

''(3) REVISIONS.—If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

''(b) CONTENTS.—The State plan shall—

''(1) establish goals, and specify priorities, for the State consistent with the purposes of this subtitle;

''(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;

''(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

''(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

''(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

''(6) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.

''(c) EVALUATION AND REPORT.—Each State library administrative agency receiving a grant under this subtitle shall independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

''(d) INFORMATION.—Each library receiving assistance under this subtitle shall submit to

the State library administrative agency such information as such agency may require to meet the requirements of subsection (c).

''(e) APPROVAL.—

''(1) IN GENERAL.—The Director shall approve any State plan under this subtitle that meets the requirements of this subtitle and provides satisfactory assurances that the provisions of such plan will be carried out.

''(2) PUBLIC AVAILABILITY.—Each State library administrative agency receiving a grant under this subtitle shall make the State plan available to the public.

''(3) ADMINISTRATION.—If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

''(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

''(B) offer the State library administrative agency the opportunity to revise its State plan;

''(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

''(D) provide the State library administrative agency the opportunity for a hearing.

''CHAPTER 2—LIBRARY PROGRAMS

''SEC. 231. GRANTS TO STATES.

''(a) IN GENERAL.—Of the funds provided to a State library administrative agency under section 214, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

''(1) establishing or enhancing electronic linkages among or between libraries, library consortia, one-stop career center systems established under section ___121(d) of the Workforce and Career Development Act of 1996, and eligible providers as such term is defined in section ___004 of such Act, or any combination thereof; and

''(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

''(b) SPECIAL RULE.—Each State library administrative agency receiving funds under this chapter may apportion the funds available for the purposes described in subsection (a) between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

''CHAPTER 3—ADMINISTRATIVE PROVISIONS

''Subchapter A—State Requirements

''SEC. 251. STATE ADVISORY COUNCILS.

''Each State desiring assistance under this subtitle may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

''Subchapter B—Federal Requirements

''SEC. 261. SERVICES FOR INDIAN TRIBES.

''From amounts reserved under section 221(a)(1)(A) for any fiscal year the Director shall award grants to organizations primarily serving and representing Indian tribes to enable such organizations to carry out the activities described in section 231.

''SEC. 262. NATIONAL LEADERSHIP GRANTS OR CONTRACTS.

''(a) IN GENERAL.—From the amounts reserved under section 221(a)(1)(B) for any fiscal year the Director shall establish and carry out a program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants or contracts shall be used for activities that may include—

''(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

''(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

''(3) preservation or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

''(4) model programs demonstrating cooperative efforts between libraries and museums.

''(b) GRANTS OR CONTRACTS.—

''(1) IN GENERAL.—The Director may carry out the activities described in subsection (a) by awarding grants to, or entering into contracts with, libraries, agencies, institutions of higher education, or museums, where appropriate.

''(2) COMPETITIVE BASIS.—Grants and contracts under this section shall be awarded on a competitive basis.

''(c) SPECIAL RULE.—The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

''SEC. 263. STATE AND LOCAL INITIATIVES.

''Nothing in this subtitle shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subtitle, the determination of the best uses of the funds provided under this subtitle, shall be reserved for the States and their local subdivisions.

''Subtitle C—Museum Services

''SEC. 271. PURPOSE.

''It is the purpose of this subtitle—

''(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups;

''(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

''(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

''SEC. 272. DEFINITIONS.

''As used in this subtitle:

''(1) MUSEUM.—The term 'museum' means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

''(2) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''SEC. 273. MUSEUM SERVICES ACTIVITIES.

''(a) GRANTS.—The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, through such activities as—

''(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

''(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

''(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

''(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

''(5) assisting museums in the conservation of their collections;

''(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

''(7) model programs demonstrating cooperative efforts between libraries and museums.

''(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—

''(1) PROJECTS TO STRENGTHEN MUSEUM SERVICES.—The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

''(2) LIMITATION ON AMOUNT.—The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subtitle for such fiscal year.

''(3) OPERATIONAL EXPENSES.—No financial assistance may be provided under this subsection to pay for operational expenses.

''(c) FEDERAL SHARE.—

''(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsections (a) and (b) shall be not more than 50 percent.

''(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to make grants under subsection (a), or enter into contracts or agreements under subsection (b), for which the Federal share may be greater than 50 percent.

''(d) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subtitle. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this subtitle shall not be subject to any review outside of the Institute.

''SEC. 274. AWARD.

''The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

''SEC. 275. NATIONAL MUSEUM SERVICES BOARD.

''(a) ESTABLISHMENT.—There is established in the Institute a National Museum Services Board.

''(b) COMPOSITION AND QUALIFICATIONS.—

''(1) COMPOSITION.—The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—The appointive members of the Museum Board shall be selected from among citizens of the United States—

''(A) who are members of the general public;

''(B) who are or have been affiliated with—

''(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

''(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

''(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

''(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

''(c) TERMS.—

''(1) IN GENERAL.—Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

''(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

''(B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

''(2) REAPPOINTMENT.—No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

''(3) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.

''(d) DUTIES AND POWERS.—The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—

''(1) financial assistance awarded under this subtitle for museum services; and

''(2) projects described in section 262(a)(4).

''(e) CHAIRPERSON.—The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.

''(f) MEETINGS.—

''(1) IN GENERAL.—The Museum Board shall meet—

''(A) not less than 3 times each year, including—

''(i) not less than 2 times each year separately; and

''(ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 262(a)(4); and

''(B) at the call of the Director.

''(2) VOTE.—All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with respect to the policies described in paragraph (1)(A)(ii) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the Museum Board who are present.

''(g) QUORUM.—A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.

''(h) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION.—Each member of the Museum Board who is not an officer or employee of the Federal Government shall be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum Board. All members of the Museum Board who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

''(2) TRAVEL EXPENSES.—The members of the Museum Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

''(i) COORDINATION.—The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

''SEC. 276. AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated to the Director $28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

''(b) ADMINISTRATION.—Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subtitle.

''(c) SUMS REMAINING AVAILABLE.—Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation until expended.''.

SEC. ___302. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

(a) FUNCTIONS.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended—

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (a) the following:

''(b) The Commission shall have the responsibility to advise the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute of Museum and Library Services relating to library services, including—

''(1) general policies with respect to—

''(A) financial assistance awarded under the Museum and Library Services Act for library services; and

''(B) projects described in section 262(a)(4) of such Act; and

''(2) measures to ensure that the policies and activities of the Institute of Museum and Library Services are coordinated with other activities of the Federal Government.

''(c)(1) The Commission shall meet not less than 1 time each year in a joint meeting with the National Museum Services Board, convened for purposes of providing advice on general policy with respect to financial assistance for projects described in section 262(a)(4) of such Act.

''(2) All decisions by the Commission and the National Museum Services Board with respect to the advice on general policy described in paragraph (1) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the National Museum Services Board who are present.

''(3) A majority of the members of the Commission and a majority of the members of the National Museum Services Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the National Museum Services Board.''.

(b) MEMBERSHIP.—Section 6 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''Librarian of Congress'' and inserting ''Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member),'';

(B) in the second sentence—

(i) by striking ''special competence or interest in'' and inserting ''special competence in or knowledge of; and

(ii) by inserting before the period the following: ''and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly'';

(C) in the third sentence, by inserting ''appointive'' before ''members''; and

(D) in the last sentence, by striking ''term and at least'' and all that follows and inserting ''term.''; and

(2) in subsection (b), by striking ''the rate specified'' and all that follows through ''and while'' and inserting ''the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including traveltime) during which the members are engaged in the business of the Commission. While''.

SEC. ___303. TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES.

(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code;

(2) the term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term ''office'' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS FROM THE INSTITUTE OF MUSEUM SERVICES AND THE LIBRARY PROGRAM OFFICE.—There are transferred to the Director of the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act—

(1) all functions that the Director of the Institute of Museum Services exercised before the date of enactment of this section (including all related functions of any officer or employee of the Institute of Museum Services); and

(2) all functions that the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education exercised before the date of enactment of this section and any related function of any officer or employee of the Department of Education.

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Director of the Institute of Museum and Library Services may delegate any of the functions transferred to the Director of the Institute of Museum and Library Services by this section and any function transferred or granted to such Director of the Institute of Museum and Library Services after the effective date of this section to such officers and employees of the Institute of Museum and Library Services as the Director of the Institute of Museum and Library Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate, except that any delegation of any such functions with respect to libraries shall be made to the Deputy Director of the Office of Library Services and with respect to museums shall be made to the Deputy Director of the Office of Museum Services. No delegation of functions by the Director of the Institute of Museum and Library Services under this section or under any other provision of this section shall relieve such Director of the Institute of Museum and Library Services of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Director of the Institute of Museum and Library Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Institute of Museum and Library Services, and may establish, consolidate, alter, or discontinue such organizational entities in the Institute of Museum and Library Services as may be necessary or appropriate.

(f) RULES.—The Director of the Institute of Museum and Library Services may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director of the Institute of Museum and Library Services determines to be necessary or appropriate to administer and manage the functions of the Institute of Museum and Library Services.

(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Institute of Museum and Library Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(i) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Institute of Museum and Library Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that were in effect before the effective date of this section, or were final before the effective date of this section and are to become effective on or after the effective date of this section;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Institute of Museum and Library Services or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Institute of Museum Services on the effective date of this section, with respect to functions transferred by this section. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Institute of Museum Services, or by or against any individual in the official capacity of such individual as an officer of the Institute of Museum Services, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Institute of Museum Services relating to a function transferred under this section may be continued by the Institute of Museum and Library Services with the same effect as if this section had not been enacted.

(k) TRANSITION.—The Director of the Institute of Museum and Library Services may utilize—

(1) the services of such officers, employees, and other personnel of the Institute of Museum Services with respect to functions transferred to the Institute of Museum and Library Services by this section; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Director of the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Director of the Institute of Museum and Library Services; and

(2) the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Institute of Museum and Library Services.

(m) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Director of the Institute of Museum and Library Services shall prepare and submit to the appropriate committees of Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this section, the Director of the Institute of Museum and Library Services shall submit to the appropriate committees of Congress the recommended legislation referred to under paragraph (1).

SEC. ___304. SERVICE OF INDIVIDUALS SERVING ON DATE OF ENACTMENT.

Notwithstanding section 204 of the Museum and Library Services Act, the individual who was appointed to the position of Director of the Institute of Museum Services under section 205 of the Museum Services

Act (as such section was in effect on the day before the date of enactment of this Act) and who is serving in such position on the day before the date of enactment of this Act shall serve as the first Director of the Institute of Museum and Library Services under section 204 of the Museum and Library Services Act (as added by section ___301 of this title), and shall serve at the pleasure of the President.

SEC. ___305. CONSIDERATION.

Consistent with title 5, United States Code, in appointing employees of the Office of Library Services, the Director of the Institute of Museum and Library Services shall give strong consideration to individuals with experience in administering State-based and national library and information services programs.

SEC. ___306. TRANSITION AND TRANSFER OF FUNDS.

(a) TRANSITION.—The Director of the Office of Management and Budget shall take appropriate measures to ensure an orderly transition from the activities previously administered by the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services under this title. Such measures may include the transfer of appropriated funds.

(b) TRANSFER.—The Secretary of Education shall transfer to the Director the amount of funds necessary to ensure the orderly transition from activities previously administered by the Director of the Office of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services. In no event shall the amount of funds transferred pursuant to the preceding sentence be less than $200,000.

TITLE IV—HIGHER EDUCATION

SEC. ___401. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

(a) AMENDMENT.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by inserting after section 439 (20 U.S.C. 1087–2) the following new section:

"SEC. 440. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

''(a) ACTIONS BY THE ASSOCIATION'S BOARD OF DIRECTORS.—The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b), a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

''(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

''(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

''(b) SHAREHOLDER APPROVAL.—The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

''(c) TRANSITION.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

''(1) IN GENERAL.—Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 439, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 439, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this Act until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 439(q) or under an agreement with the Secretary described in paragraph (6).

''(2) TRANSFER OF CERTAIN PROPERTY.—

''(A) IN GENERAL.—Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

''(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on the date of enactment of this section and any interest in any government-sponsored enterprise);

''(ii) contracts, leases, and other agreements of the Association;

''(iii) licenses and other intellectual property of the Association; and

''(iv) any other property of the Association.

''(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

''(3) TRANSFER OF PERSONNEL.—On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

''(4) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 439(r). If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

''(5) CERTIFICATION PRIOR TO DIVIDEND.—Prior to any such distribution, the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with this paragraph and shall provide copies of all calculations needed to make such certification.

''(6) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY ASSOCIATION.—

''(A) IN GENERAL.—After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 439(d) other than in connection with—

''(i) student loan purchases through September 30, 2007;

''(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

''(iii) the Association serving as a lender-of-last-resort pursuant to section 439(q); and

''(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

''(B) AGREEMENT.—The Secretary is authorized to enter into an agreement described in clause (iii) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 439(h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

''(7) ISSUANCE OF DEBT OBLIGATIONS DURING THE TRANSITION PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 439(q) or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 439, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d).

''(8) MONITORING OF SAFETY AND SOUNDNESS.—

''(A) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

''(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

''(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

''(B) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

''(C) SEPARATE OPERATION OF CORPORATIONS.—

''(i) IN GENERAL.—The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

''(ii) BOOKS AND RECORDS.—The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

''(iii) CORPORATE OFFICE.—The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

''(iv) DIRECTOR.—No director of the Association who is appointed by the President pursuant to section 439(c)(1)(A) may serve as a director of the Holding Company.

''(v) ONE OFFICER REQUIREMENT.—At least one officer of the Association shall be an officer solely of the Association.

''(vi) TRANSACTIONS.—Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

''(vii) CREDIT PROHIBITION.—The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

''(viii) AMOUNTS COLLECTED.—Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

''(D) ENCUMBRANCE OF ASSETS.—Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

''(E) HOLDING COMPANY ACTIVITIES.—After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

''(F) CONFIDENTIALITY.—Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 439(r)(12).

''(G) DEFINITION.—For purposes of this paragraph, the term 'associated person' means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

''(9) ISSUANCE OF STOCK WARRANTS.—On the reorganization effective date, the Holding Company shall issue to the Secretary of the Treasury a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding the date of enactment of this section, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to the date of enactment of this section on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each warrant and the exercise price of each warrant shall be adjusted as necessary to reflect—

''(A) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

''(B) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

''(10) RESTRICTIONS ON TRANSFER OF ASSOCIATION SHARES AND BANKRUPTCY OF ASSOCIATION.—After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, United States Code, without prior approval of the Secretary of the Treasury and the Secretary of Education.

''(d) TERMINATION OF THE ASSOCIATION.—In the event the shareholders of the Association approve a plan of reorganization under subsection (b), the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 439(q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (6). On the dissolution date, the Association shall take the following actions:

''(1) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

''(2) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

''(3) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

''(4) TRANSFER OF REMAINING ASSETS.—After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

''(e) OPERATION OF THE HOLDING COMPANY.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

''(1) HOLDING COMPANY BOARD OF DIRECTORS.—The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

''(2) HOLDING COMPANY NAME.—The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

''(A) may not contain the name 'Student Loan Marketing Association'; and

''(B) may contain, to the extent permitted by applicable State or District of Columbia law, 'Sallie Mae' or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

''(3) USE OF SALLIE MAE NAME.—Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the 'Sallie Mae' name as a trademark and service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the 'Sallie Mae' name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the Secretary of the Treasury $5,000,000 within 60 days of the reorganization effective date as compensation for the right to assign such trademark or service mark.

''(4) DISCLOSURE REQUIRED.—Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

''(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

''(B) in any advertisement or promotional materials which use the 'Sallie Mae' name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

''(f) STRICT CONSTRUCTION.—Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

''(g) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

''(h) DEADLINE FOR REORGANIZATION EFFECTIVE DATE.—This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after the date of enactment of this section.

''(i) DEFINITIONS.—For purposes of this section:

''(1) ASSOCIATION.—The term 'Association' means the Student Loan Marketing Association.

''(2) DISSOLUTION DATE.—The term 'dissolution date' means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d).

''(3) HOLDING COMPANY.—The term 'Holding Company' means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a).

''(4) REMAINING OBLIGATIONS.—The term 'remaining obligations' means the debt obligations of the Association outstanding as of the dissolution date.

''(5) REMAINING PROPERTY.—The term 'remaining property' means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

''(A) Debt obligations issued by the Association.

''(B) Contracts relating to interest rate, currency, or commodity positions or protections.

''(C) Investment securities owned by the Association.

''(D) Any instruments, assets, or agreements described in section 439(d) (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

''(E) Except as specifically prohibited by this section or section 439, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

''(6) REORGANIZATION.—The term 'reorganization' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a).

''(7) REORGANIZATION EFFECTIVE DATE.—The term 'reorganization effective date' means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) and shall not be later than the date that is 18 months after the date of enactment of this section.

''(8) SUBSIDIARY.—The term 'subsidiary' includes one or more direct or indirect subsidiaries.''.

(b) TECHNICAL AMENDMENTS.—

(1) ELIGIBLE LENDER.—

(A) AMENDMENTS TO THE HIGHER EDUCATION ACT.—

(i) DEFINITION OF ELIGIBLE LENDER.—Section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F)) is amended by inserting after ''Student Loan Marketing Association'' the following: ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440,''.

(ii) DEFINITION OF ELIGIBLE LENDER AND FEDERAL CONSOLIDATION LOANS.—Sections 435(d)(1)(G) and 428C(a)(1)(A) of such Act (20 U.S.C. 1085(d)(1)(G) and 1078–3(a)(1)(A)) are each amended by inserting after ''Student Loan Marketing Association'' the following: ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 (as added by subsection (a)).

(2) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is amended—

(A) in the first sentence of paragraph (12), by inserting ''or the Association's associated persons'' after ''by the Association'';

(B) by redesignating paragraph (13) as paragraph (15); and

(C) by inserting after paragraph (12) the following new paragraph:

''(13) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.''.

(3) FINANCIAL SAFETY AND SOUNDNESS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is further amended—

(A) in paragraph (1)—

(i) by striking ''and'' at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(iii) by adding at the end the following new subparagraph:

''(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

''(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.'';

(B) in paragraph (2)—

(i) by striking clauses (i) and (ii) of subparagraph (A) and inserting the following:

''(i) appoint auditors or examiners to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 440 are being met; and

''(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, United States Code, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 440 are being met.''; and

(ii) by adding at the end the following new subparagraph:

''(D) ANNUAL ASSESSMENT.—

''(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440 during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

''(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury and shall remain available subject to amounts specified in appropriations Acts to carry out the duties of the Secretary of the Treasury under this subsection and section 440.'';

(C) in paragraph (11), by striking ''paragraphs (4) and (6)(A)'' and inserting ''paragraphs (4), (6)(A), and (14)''; and

(D) by inserting after paragraph (13) (as added by paragraph (2)(C)) the following new paragraph:

''(14) ACTIONS BY SECRETARY.—

''(A) IN GENERAL.—For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

''(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

''(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

''(B) APPLICABILITY.—The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.''.

(4) INFORMATION REQUIRED; DIVIDENDS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is further amended—

(A) by adding at the end of paragraph (2) (as amended in paragraph (3)(B)(ii)) the following new subparagraph:

''(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

''(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

''(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

''(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

''(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

''(iii) DEFINITION.—For purposes of this subparagraph, the term 'associated person' means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association.''; and

(B) by adding at the end the following new paragraph:

''(16) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.''.

(c) SUNSET OF THE ASSOCIATION'S CHARTER IF NO REORGANIZATION PLAN OCCURS.—Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) is amended by adding at the end the following new subsections:

''(s) CHARTER SUNSET.—

''(1) APPLICATION OF PROVISIONS.—This subsection applies beginning 18 months and one day after the date of enactment of this subsection if no reorganization of the Association occurs in accordance with the provisions of section 440.

''(2) SUNSET PLAN.—

''(A) PLAN SUBMISSION BY THE ASSOCIATION.—Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

''(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

''(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

''(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

''(B) AMENDMENT OF THE PLAN BY THE ASSOCIATION.—The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

''(C) PLAN MONITORING.—The Secretary shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

''(D) AMENDMENT OF THE PLAN BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

''(E) IMPLEMENTATION BY THE ASSOCIATION.—The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

''(3) DISSOLUTION OF THE ASSOCIATION.—The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

''(A) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

''(B) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

''(C) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

''(D) TRANSFER OF REMAINING ASSETS.—After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

''(4) RESTRICTIONS RELATING TO WINDING UP.—

''(A) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY THE ASSOCIATION.—

''(i) IN GENERAL.—Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) other than in connection with the Association—

''(I) serving as a lender of last resort pursuant to subsection (q); and

''(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

''(ii) AGREEMENT.—The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

''(B) ISSUANCE OF DEBT OBLIGATIONS DURING THE WIND UP PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt

obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

''(C) USE OF ASSOCIATION NAME.—The Association may not transfer or permit the use of the name 'Student Loan Marketing Association', 'Sallie Mae', or any variation thereof, to or by any entity other than a subsidiary of the Association.''.

(d) REPEALS.—

(1) IN GENERAL.—Sections 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) and 440 of such Act (as added by subsection (a) of this section) are repealed.

(2) EFFECTIVE DATE.—The repeals made by paragraph (1) shall be effective one year after—

(A) the dissolution date, as such term is defined in section 440(i)(2) of the Higher Education Act of 1965 (as added by subsection (a)), if a reorganization occurs in accordance with section 440 of such Act; or

(B) the date the Association is dissolved pursuant to section 439(s) of such Act (as added by subsection (c)), if a reorganization does not occur in accordance with section 440 of such Act.

(e) ASSOCIATION NAMES.—Upon dissolution in accordance with section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2), the names ''Student Loan Marketing Association'', ''Sallie Mae'', and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act) without the approval of the Secretary of the Treasury.

SEC. ___402. CONNIE LEE PRIVATIZATION.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or establishment of the United States Government, or to a Government corporation or a Government controlled corporation, as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 622 of title 2, United States Code.

(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(C) PROHIBITION.—Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(D) FINANCIAL SUPPORT OR GUARANTEES.—After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term ''Corporation'' as used in this section means the College Construction Loan Insurance Association as in existence on the day before the date of enactment of this Act, and any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term ''College Construction Loan Insurance Association'', or any substantially similar variation thereof.

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3 and 1132f–9), as such sections were in effect on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within six months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995.

(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(d) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

SEC. ___403. ELIGIBLE INSTITUTION.

(a) AMENDMENTS.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended by inserting after the end of the first sentence the following new sentence: ''For the purposes of determining whether an institution meets the requirements of clause (6), the Secretary shall not consider the financial information of any institution for a fiscal year that began on or before April 30, 1994.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any determination made on or after July 1, 1994, by the Secretary of Education pursuant to section 481(b)(6) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)(6)).

TITLE V—REPEALS AND CONFORMING AMENDMENTS

SEC. ___501. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Library Services and Construction Act (20 U.S.C. 351 et seq.).

(4) Part F of the Technology for Education Act of 1994 (contained in title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7001 et seq.)).

(5) The School Dropout Assistance Act (part C of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.)).

(6) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(7) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(8) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

(9) Section 201 of the National Literacy Act of 1991 (20 U.S.C. 1211–1).

(10) Section 304 of the National Literacy Act of 1991 (20 U.S.C. 1213c note).

(b) IMMEDIATE REPEAL OF HIGHER EDUCATION ACT OF 1965 PROVISIONS.—The following provisions of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) are repealed:

(1) Part B of title I (20 U.S.C. 1011 et seq.), relating to articulation agreements.

(2) Part C of title I (20 U.S.C. 1015 et seq.), relating to access and equity to education for all Americans through telecommunications.

(3) Title II (20 U.S.C. 1021 et seq.), relating to academic libraries and information services.

(4) Chapter 3 of subpart 2 of part A of title IV (20 U.S.C. 1070a–31 et seq.), relating to presidential access scholarships.

(5) Chapter 4 of subpart 2 of part A of title IV (20 U.S.C. 1070a–41 et seq.), relating to model program community partnerships and counseling grants.

(6) Section 409B (20 U.S.C. 1070a–52), relating to an early awareness information program.

(7) Chapter 8 of subpart 2 of part A of title IV (20 U.S.C. 1070a–81), relating to technical assistance for teachers and counselors.

(8) Subpart 8 of part A of title IV (20 U.S.C. 1070f), relating to special child care services for disadvantaged college students.

(9) Section 428J (20 U.S.C. 1078–10), relating to loan forgiveness for teachers, individuals performing national community service and nurses.

(10) Section 486 (20 U.S.C. 1093), relating to training in financial aid services.

(11) Subpart 1 of part H of title IV (20 U.S.C. 1099a et seq.) relating to State postsecondary review programs.

(12) Part A of title V (20 U.S.C. 1102 et seq.), relating to State and local programs for teacher excellence.

(13) Part B of title V (20 U.S.C. 1103 et seq.), relating to national teacher academies.

(14) Subpart 1 of part C of title V (20 U.S.C. 1104 et seq.), relating to Paul Douglas teacher scholarships.

(15) Subpart 3 of part C of title V (20 U.S.C. 1106 et seq.), relating to the teacher corps.

(16) Subpart 3 of part D of title V (20 U.S.C. 1109 et seq.), relating to class size demonstration grants.

(17) Subpart 4 of part D of title V (20 U.S.C. 1110 et seq.), relating to middle school teaching demonstration programs.

(18) Subpart 1 of part E of title V (20 U.S.C. 1111 et seq.), relating to new teaching careers.

(19) Subpart 1 of part F of title V (20 U.S.C. 1113), relating to the national mini corps programs.

(20) Section 586 (20 U.S.C. 1114), relating to demonstration grants for critical language and area studies.

(21) Section 587 (20 U.S.C. 1114a), relating to development of foreign languages and cultures instructional materials.

(22) Subpart 3 of part F of title V (20 U.S.C. 1115), relating to small State teaching initiatives.

(23) Subpart 4 of part F of title V (20 U.S.C. 1116), relating to faculty development grants.

(24) Section 597 and subsection (b) of section 599 (20 U.S.C. 1117a and 1117c), relating to early childhood staff training and professional enhancement.

(25) Section 605 (20 U.S.C. 1124a), relating to intensive summer language institutes.

(26) Section 607 (20 U.S.C. 1125a), relating to periodicals and other research material published outside the United States.

(27) Part A of title VII (20 U.S.C. 1132b et seq.), relating to improvement of academic and library facilities.

(28) Title VIII (20 U.S.C. 1133 et seq.), relating to cooperative education programs.

(29) Part A of title IX (20 U.S.C. 1134a et seq.), relating to grants to institutions and consortia to encourage women and minority participation in graduate education.

(30) Part B of title IX (20 U.S.C. 1134d et seq.), relating to the Patricia Roberts Harris fellowship program.

(31) Part E of title IX (20 U.S.C. 1134r et seq.), relating to the faculty development fellowship program.

(32) Part F of title IX (20 U.S.C. 1134s et seq.), relating to assistance for training in the legal profession.

(33) Subpart 2 of part B of title X (20 U.S.C. 1135c et seq.), relating to science and engineering access programs.

(34) Part C of title X (20 U.S.C. 1135e et seq.), relating to women and minorities science and engineering outreach demonstration programs.

(35) Part D of title X (20 U.S.C. 1135f), relating to the Dwight D. Eisenhower leadership program.

(c) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1986 PROVISIONS.—The following provisions of the Higher Education Amendments of 1986 are repealed:

(1) Part D of title XIII (20 U.S.C. 1029 note), relating to library resources.

(2) Part E of title XIII (20 U.S.C. 1221–1 note), relating to a National Academy of Science study.

(3) Part B of title XV (20 U.S.C. 4441 et seq.), relating to Native Hawaiian and Alaska Native culture and art development.

(d) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1974 PROVISION.—Section 519 of the Education Amendments of 1974 (20 U.S.C. 1221i) is repealed.

(e) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1992 PROVISIONS.—The following provisions of the Higher Education Amendments of 1992 are repealed:

(1) Part F of title XIII (25 U.S.C. 3351 et seq.), relating to American Indian postsecondary economic development scholarships.

(2) Part G of title XIII (25 U.S.C. 3371), relating to American Indian teacher training.

(3) Section 1406 (20 U.S.C. 1221e–1 note), relating to a national survey of factors associated with participation.

(4) Section 1409 (20 U.S.C. 1132a note), relating to a study of environmental hazards in institutions of higher education.

(5) Section 1412 (20 U.S.C. 1101 note), relating to a national job bank for teacher recruitment.

(6) Part B of title XV (20 U.S.C. 1452 note), relating to a national clearinghouse for postsecondary education materials.

(7) Part C of title XV (20 U.S.C. 1101 note), relating to a school-based decisionmakers demonstration program.

(8) Part D of title XV (20 U.S.C. 1145h note), relating to grants for sexual offenses education.

(9) Part E of title XV (20 U.S.C. 1070 note), relating to Olympic scholarships.

(10) Part G of title XV (20 U.S.C. 1070a–11 note), relating to advanced placement fee payment programs.

(f) SUBSEQUENT REPEALS.—The following provisions are repealed:

(1) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(2) The Adult Education Act (20 U.S.C. 1201 et seq.).

(3) The School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(4) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

SEC. ___502. CONFORMING AMENDMENTS.

(a) REFERENCES TO SECTION 204 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.—The table of contents for the Immigration Reform and Control Act of 1986 is amended by striking the item relating to section 204 of such Act.

(b) REFERENCES TO TITLE II OF PUBLIC LAW 95–250.—Section 103 of Public Law 95–250 (16 U.S.C. 79l) is amended—

(1) by striking the second sentence of subsection (a); and

(2) by striking the second sentence of subsection (b).

(c) REFERENCES TO LIBRARY SERVICES AND CONSTRUCTION ACT.—

(1) TECHNOLOGY FOR EDUCATION ACT OF 1994.—The Technology for Education Act of 1994 (20 U.S.C. 6801 et seq.) is amended in section 3113(10) by striking ''section 3 of the Library Services and Construction Act;'' and inserting ''section ___004 of the Workforce and Career Development Act of 1996;''.

(2) OMNIBUS EDUCATION RECONCILIATION ACT OF 1981.—Section 528 of the Omnibus Education Reconciliation Act of 1981 (20 U.S.C. 3489) is amended—

(A) by striking paragraph (12); and

(B) by redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 3113(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6813(10)) is amended by striking ''section 3 of the Library Services and Construction Act'' and inserting ''section 213 of the Library Services and Technology Act''.

(4) COMMUNITY IMPROVEMENT VOLUNTEER ACT OF 1994.—Section 7305 of the Community Improvement Volunteer Act of 1994 (40 U.S.C. 276d–3) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(5) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking ''Library Services and Construction Act;''.

(6) DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966.—Section 208(2) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3338(2)) is amended by striking ''title II of the Library Services and Construction Act;''.

(7) PUBLIC LAW 87–688.—Subsection (c) of the first section of the Act entitled ''An Act to extend the application of certain laws to American Samoa'', approved September 25, 1962 (48 U.S.C. 1666(c)) is amended by striking ''the Library Services Act (70 Stat. 293; 20 U.S.C. 351 et seq.),''.

(8) COMMUNICATIONS ACT OF 1934.—Paragraph (4) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)(4)) is amended by striking ''library not eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.)'' and inserting ''library or library consortium not eligible for assistance from a State library administrative agency under the Library Services and Technology Act''.

(d) REFERENCE TO SCHOOL DROPOUT ASSISTANCE ACT.—Section 441 of the General Education Provisions Act (42 U.S.C. 1232d), as amended by section 261(f) of the Improving America's Schools Act of 1994, is further amended by striking ''(subject to the provisions of part C of title V of the Elementary and Secondary Education Act of 1965)''.

(e) REFERENCES TO TITLE VII OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—

(1) TABLE OF CONTENTS.—The table of contents of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1142 et seq.) is amended by striking the items relating to title VII of such Act, except subtitle B and section 738 of such title.

(2) TITLE 31, UNITED STATES CODE.—Section 6703(a) of title 31, United States Code, is amended—

(A) by striking paragraph (15); and

(B) by redesignating paragraphs (16) through (19) as paragraphs (15) through (18), respectively.

(f) REFERENCES TO INSTITUTE OF MUSEUM SERVICES.—

(1) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking the following:

''Director of the Institute of Museum Services.'' and inserting the following:

''Director of the Institute of Museum and Library Services.''.

(2) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 301 of the Department of Education Organization Act (20 U.S.C. 3441) is amended—

(A) in subsection (a)—

(i) by striking paragraph (5); and

(ii) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(B) in subsection (b)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) Sections 2101(b), 2205(c)(1)(D), 2208(d)(1)(H)(v), and 2209(b)(1)(C)(vi), and subsections (d)(6) and (e)(2) of section 10401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6621(b), 6645(c)(1)(D), 6648(d)(1)(H)(v), 6649(b)(1)(C)(vi), and 8091 (d)(6) and (e)(2)) are amended by striking ''the Institute of Museum Services'' and inserting ''the Institute of Museum and Library Services''.

(B) Section 10412(b) of such Act (20 U.S.C. 8102(b)) is amended—

(i) in paragraph (2), by striking ''the Director of the Institute of Museum Services,'' and inserting ''the Director of the Institute of Museum and Library Services,''; and

(ii) in paragraph (7), by striking ''the Director of the Institute of Museum Services,'' and inserting ''the Director of the Institute of Museum and Library Services,''.

(C) Section 10414(a)(2)(B) of such Act (20 U.S.C. 8104(a)(2)(B)) is amended by striking clause (iii) and inserting the following new clause:

''(iii) the Institute of Museum and Library Services.''.

(g) REFERENCES TO OFFICE OF LIBRARIES AND LEARNING RESOURCES.—Section 413(b)(1) of the Department of Education Organization Act (20 U.S.C. 3473(b)(1)) is amended—

(1) by striking subparagraph (H); and

(2) by redesignating subparagraphs (I) through (M) as subparagraphs (H) through (L), respectively.

(h) REFERENCES TO STATE POSTSECONDARY REVIEW ENTITY PROGRAMS.—The Higher Education Act of 1965 is amended—

(1) in section 356(b)(2) (20 U.S.C. 10696(b)), by striking ''II,'';

(2) in section 453(c)(2) (20 U.S.C. 1087c(c)(2))—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (H) as subparagraphs (E) through (G), respectively;

(3) in section 487(a)(3) (20 U.S.C. 1094(a)(3)), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(4) in section 487(a)(15) (20 U.S.C. 1094(a)(15)), by striking ''the Secretary of Veterans Affairs, and State review entities under subpart 1 of part H'' and inserting ''and the Secretary of Veterans Affairs'';

(5) in section 487(a)(21) (20 U.S.C. 1094(a)(21)), by striking '', State postsecondary review entities,'';

(6) in section 487(c)(1)(A)(i) (20 U.S.C. 1094(c)(1)(A)(i)), by striking ''State agencies, and the State review entities referred to in subpart 1 of part H'' and inserting ''and State agencies'';

(7) in section 487(c)(4) (20 U.S.C. 1094(c)(4)), by striking '', after consultation with each State review entity designated under subpart 1 of part H,'';

(8) in section 487(c)(5) (20 U.S.C. 1094(c)(5)), by striking ''State review entities designated under subpart 1 of part H,'';

(9) in section 496(a)(7) (20 U.S.C. 1099b(a)(7)), by striking ''and the appropriate State postsecondary review entity'';

(10) in section 496(a)(8) (20 U.S.C. 1099b(a)(8)), by striking ''and the State postsecondary review entity of the State in which the institution of higher education is located'';

(11) in section 498(g)(2) (20 U.S.C. 1099c(g)(2)), by striking everything after the first sentence;

(12) in section 498A(a)(2)(D) (20 U.S.C. 1099c–1(a)(2)(D)), by striking ''by the appropriate State postsecondary review entity designated under subpart 1 of this part or'';

(13) in section 498A(a)(2) (20 U.S.C. 1099c–1(a)(2))—

(A) by inserting ''and'' after the semicolon at the end of subparagraph (E);

(B) by striking subparagraph (F); and

(C) by redesignating subparagraph (G) as subparagraph (F); and

(14) in section 498A(a)(3) (20 U.S.C. 1099c–1(a)(3))—

(A) by inserting ''and'' after the semicolon at the end of subparagraph (C);

(B) by striking ''; and'' at the end of subparagraph (D) and inserting a period; and

(C) by striking subparagraph (E).

(i) REFERENCES TO CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—

(1) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking ''Vocational Education Act of 1963'' and inserting ''Workforce and Career Development Act of 1996''.

(2) NATIONAL DEFENSE AUTHORIZATION ACT.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(3) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 626(g) of the Individuals with Disabilities Education Act (20 U.S.C. 1425(g)) is amended—

(A) by striking ''1973,'' and inserting ''1973 and''; and

(B) by striking '', and the Carl D. Perkins Vocational and Applied Technology Education Act''.

(4) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking ''Carl D. Perkins Vocational and Applied Technology Education Act,'' and inserting ''Workforce and Career Development Act of 1996'';

(B) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking ''Carl D. Perkins Vocational and Applied Technology Education Act'' and inserting ''Workforce and Career Development Act of 1996'';

(C) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(D) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking ''Carl D. Perkins Vocational and Applied Technology Education Act'' and inserting ''Workforce and Career Development Act of 1996''.

(5) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking ''(20 U.S.C. 2397h(3)'' and inserting '', as such section was in effect on the day preceding the date of enactment of the Workforce and Career Development Act of 1996''.

(6) IMPROVING AMERICA'S SCHOOLS ACT OF 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking ''the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)'' and inserting ''July 1, 1998''.

(7) INTERNAL REVENUE CODE OF 1986.—Section 135(c)(3)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 135(c)(3)(B)) is amended—

(A) by striking ''subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act'' and inserting ''subparagraph (C) or (D) of section ___004(4) of the Workforce and Career Development Act of 1996''; and

(B) by striking ''any State (as defined in section 521(27) of such Act)'' and inserting ''any State or outlying area (as the terms 'State' and 'outlying area' are defined in section ___004 of such Act)''.

(8) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) (as amended by subsection (c)(5)) is further amended by striking ''Carl D. Perkins Vocational Education Act'' and

inserting ''Workforce and Career Development Act of 1996''.

(9) VOCATIONAL EDUCATION AMENDMENTS OF 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking ''section 3 of the Carl D. Perkins Vocational Education Act'' and inserting ''the Workforce and Career Development Act of 1996''.

(10) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking ''or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)''; and

(B) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(i) by striking ''the Secretary of Education'' and inserting ''the Secretaries (as defined in section ___004 of the Workforce and Career Development Act of 1996)'';

(ii) by striking ''employment and training programs'' and inserting ''workforce and career development activities''; and

(iii) by striking ''the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)'' and inserting ''the Workforce and Career Development Act of 1996''.

(j) REFERENCES TO ADULT EDUCATION ACT.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking ''Adult Education Act'' and inserting ''Workforce and Career Development Act of 1996''.

(B) SECTION 1205 OF ESEA.—Section 1205(8)(B) of such Act (20 U.S.C. 6365(8)(B)) is amended by striking ''Adult Education Act'' and inserting ''Workforce and Career Development Act of 1996''.

(C) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of such Act (20 U.S.C. 6366(a)(1)(A)) is amended by striking ''an adult basic education program under the Adult Education Act'' and inserting ''adult education and literacy activities under the Workforce and Career Development Act of 1996''.

(D) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking ''section 312 of the Adult Education Act'' and inserting ''section ___004 of the Workforce and Career Development Act of 1996''.

(E) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking ''section 312(2) of the Adult Education Act'' and inserting ''section ___004 of the Workforce and Career Development Act of 1996''.

(3) OLDER AMERICANS ACT OF 1965.—Section 203(b)(8) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(8)) is amended by striking ''Adult Education Act'' and inserting ''Workforce and Career Development Act of 1996''.

(k) REFERENCES TO SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—

(1) SECTION 1114 OF ESEA.—Section 1114(b)(2)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314(b)(2)(C)(v)) (as amended in subsection (i)(4)(A)) is further amended by striking ''the School-to-Work Opportunities Act of 1994,''.

(2) SECTION 5204 OF ESEA.—Section 5204 of such Act (20 U.S.C. 7234) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

(3) SECTION 9115 OF ESEA.—Section 9115(b)(5) of such Act (20 U.S.C. 7815(b)(5)) (as amended in subsection (i)(4)(B)) is further amended by striking ''the School-to-Work Opportunities Act of 1994 and''.

(4) SECTION 14302 OF ESEA.—Section 14302(a)(2) of such Act (20 U.S.C. 8852(a)(2)) (as amended in subsection (i)(4)(C)) is further amended—

(A) in subparagraph (C) (as redesignated in such subsection), by striking the semicolon and inserting ''; and'';

(B) by striking subparagraph (D) (as redesignated in such subsection); and

(C) by redesignating subparagraph (E) (as redesignated in such subsection) as subparagraph (D).

(5) SECTION 14307 OF ESEA.—Section 14307(a)(1) of such Act (20 U.S.C. 8857(a)(1)) (as amended in subsection (i)(4)(D)) is further amended by striking '', the School-to-Work Opportunities Act of 1994,''.

(6) SECTION 14701 OF ESEA.—Section 14701(b)(1) of such Act (20 U.S.C. 8941(b)(1)) is amended—

(A) in subparagraph (B)(ii), by striking '', and the School-to-Work Opportunities Act of 1994, and be coordinated with evaluations of such Acts'' and inserting ''and be coordinated with evaluations of such Act''; and

(B) in subparagraph (C)(ii), by striking '', the School-to-Work Opportunities Act of 1994,''.

(l) REFERENCES TO JOB TRAINING PARTNERSHIP ACT.—

(1) TITLE 5, UNITED STATES CODE.—Section 3502(d) of title 5, United States Code, is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

''(i) the Governor of the appropriate State; and''; and

(ii) in subparagraph (B)(iii), by striking ''other services under the Job Training Partnership Act'' and inserting ''other workforce and career development activities under the Workforce and Career Development Act of 1996''; and

(B) in paragraph (4), in the second sentence, by striking ''Secretary of Labor on matters relating to the Job Training Partnership Act'' and inserting ''the Secretaries (as defined in section ___004 of the Workforce and Career Development Act of 1996) on matters relating to such Act''.

(2) FOOD STAMP ACT OF 1977.—

(A) SECTION 5.—Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking ''Notwithstanding section 142(b) of the Job Training Partnership Act (29 U.S.C. 1552(b)), earnings to individuals participating in on-the-job training programs under section 204(b)(1)(C) or section 264(c)(1)(A) of the Job Training Partnership Act'' and inserting ''Earnings to individuals participating in on-the-job training under the Workforce and Career Development Act of 1996''.

(B) SECTION 6.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(i) in subsection (d)(4)(N), by striking ''the State public employment offices and agencies operating programs under the Job Training Partnership Act'' and inserting ''the State public employment offices and other State agencies and providers providing employment and training activities under the Workforce and Career Development Act of 1996''; and

(ii) in subsection (e)(3), by striking subparagraph (A) and inserting the following:

''(A) a program relating to employment and training activities carried out under the Workforce and Career Development Act of 1996;''.

(C) SECTION 17.—The second sentence of section 17(b)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(2)) is amended—

(i) by striking ''to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812),'' and inserting ''to accept an offer of employment from a service provider carrying out employment and training activities through a program carried out under the Workforce and Career Development Act of 1996,''; and

(ii) by striking '': *Provided*, That all of the political subdivision's'' and all that follows and inserting '', if all of the jobs supported under the program have been made available to participants in the program before the service provider providing the jobs extends an offer of employment under this paragraph, and if the service provider, in employing the person, complies with the requirements of Federal law that relate to the program.''.

(3) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(F) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(F)) is amended by striking ''The Job Training Partnership Act.'' and inserting ''The Workforce and Career Development Act of 1996.''.

(4) REFUGEE EDUCATION ASSISTANCE ACT OF 1980.—Section 402(a)(4) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking ''the Comprehensive Employment and Training Act of 1973'' and inserting ''the Workforce and Career Development Act of 1996''.

(5) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(A) SECTION 3161.—Section 3161(c)(6) of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h(c)(6)) is amended by striking subparagraph (A) and inserting the following:

''(A) programs carried out by the Secretaries (as defined in section ___004 of the Workforce and Career Development Act of 1996) under such Act;''.

(B) SECTION 4461.—Section 4461(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended by striking ''The Job Training Partnership Act (29 U.S.C. 1501 et seq.).'' and inserting ''The Workforce and Career Development Act of 1996.''.

(C) SECTION 4471.—Section 4471 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 2501 note) is amended—

(i) in subsection (d)(2), by striking ''the State dislocated'' and all that follows through ''and the chief'' and inserting ''the Governor of the appropriate State and the chief'';

(ii) in subsection (e)—

(I) in the first sentence, by striking ''for training, adjustment assistance, and employment services'' and all that follows through ''except where'' and inserting ''to participate in employment and training activities carried out under the Workforce and Career Development Act of 1996, except in a case in which''; and

(II) by striking the second sentence; and

(iii) in subsection (f)—

(I) in paragraph (3)—

(aa) in subparagraph (B), by striking ''the State dislocated'' and all that follows through ''and the chief'' and inserting ''the Governor of the appropriate State and the chief''; and

(bb) in subparagraph (C), by striking ''grantee under section 325(a) or 325A(a)'' and all that follows through ''employment services'' and inserting ''recipient of assistance under the Workforce and Career Development Act of 1996 providing employment and training activities''; and

(II) in paragraph (4), by striking ''for training,'' and all that follows through ''beginning'' and inserting ''to participate in employment and training activities under the Workforce and Career Development Act of 1996 beginning''.

(D) SECTION 4492.—Section 4492(b) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended by striking ''the Job Training Partnership Act'' and inserting ''the Workforce and Career Development Act of 1996''.

(6) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991.—Section 4003(5)(C) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2391 note) is amended by inserting before the period the following: '', as in effect on the day before the date of the enactment of the Workforce and Career Development Act of 1996''.

(7) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994.—Section 1333(c)(2)(B) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2701 note) is amended by striking ''Private industry councils (as described in section 102 of the Job Training Partnership Act (29 U.S.C. 1512)).'' and inserting ''Local workforce development boards established under section ___108 of the Workforce and Career Development Act of 1996.''.

(8) SMALL BUSINESS ACT.—The fourth sentence of section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)) is amended by striking ''the Job Training Partnership Act (29 U.S.C. 1501 et seq.)'' and inserting ''the Workforce and Career Development Act of 1996''.

(9) EMPLOYMENT ACT OF 1946.—Section 4(f)(2)(B) of the Employment Act of 1946 (15 U.S.C. 1022a(f)(2)(B)) is amended by striking ''and include these in the annual Employment and Training Report of the President required under section 705(a) of the Comprehensive Employment and Training Act of 1973 (hereinafter in this Act referred to as 'CETA')'' and inserting ''and prepare and submit to the President an annual report containing the recommendations''.

(10) FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978.—

(A) SECTION 206.—Section 206 of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 3116) is amended—

(i) in subsection (b)—

(I) in the matter preceding paragraph (1), by striking ''CETA'' and inserting ''the Workforce and Career Development Act of 1996''; and

(II) in paragraph (1), by striking ''(including use of section 110 of CETA when necessary)''; and

(ii) in subsection (c)(1), by striking ''CETA'' and inserting ''activities carried out under the Workforce and Career Development Act of 1996''.

(B) SECTION 401.—Section 401(d) of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 3151(d)) is amended by striking ''include, in the annual Employment and Training Report of the President provided under section 705(a) of CETA,'' and inserting ''include, in the annual report referred to in section 4(f)(2)(B) of the Employment Act of 1946 (15 U.S.C. 1022a(f)(2)(B)),''.

(11) TITLE 18, UNITED STATES CODE.—Subsections (a), (b), and (c) of section 665 of title 18, United States Code are amended by striking ''the Comprehensive Employment and Training Act or the Job Training Partnership Act'' and inserting ''the Workforce and Career Development Act of 1996''.

(12) TRADE ACT OF 1974.—Section 239(e) of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended by striking ''under title III of the Job Training Partnership Act'' and inserting ''made available under the Workforce and Career Development Act of 1996''.

(13) HIGHER EDUCATION ACT.—Section 480(b)(14) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(b)(14)) is amended by striking ''Job Training Partnership Act noneducational benefits'' and inserting ''benefits received through participation in employment and training activities under the Workforce and Career Development Act of 1996''.

(14) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 626 of the Individuals with Disabilities Education Act (20 U.S.C. 1425) is amended—

(A) in the first sentence of subsection (a), by striking ''(including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act)'' and inserting ''(including the individuals and entities participating in the State collaborative process under subsection (a) or (b) of section ___105 of the Workforce and Career Development Act of 1996 and local workforce development boards established under section ___108 of such Act)'';

(B) in subsection (e)—

(i) in paragraphs (3)(C) and (4)(A)(iii), by striking ''local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA),'' and inserting ''local workforce development boards established under section ___108 of the Workforce and Career Development Act of 1996,''; and

(ii) in clauses (iii), (iv), (v), and (vii) of paragraph (4)(B), by striking ''PICS authorized by the JTPA'' and inserting ''local workforce development boards established under section ___108 of the Workforce and Career Development Act of 1996''; and

(C) in subsection (g) (as amended by subsection (i)(3)), by striking ''the Job Training Partnership Act (JTPA)'' and inserting ''the Workforce and Career Development Act of 1996''.

(15) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Subsection (a) of section 302 of the Department of Education Organization Act (20 U.S.C. 3443(a)) (as redesignated in section 271(a)(2) of the Improving America's Schools Act of 1994) is amended by striking ''under section 303(c)(2) of the Comprehensive Employment and Training Act'' and inserting ''relating to such education''.

(16) NATIONAL SKILL STANDARDS ACT OF 1994.—

(A) SECTION 504.—Section 504(c)(3) of the National Skill Standards Act of 1994 (20 U.S.C. 5934(c)(3)) is amended by striking ''the Capacity Building and Information and Dissemination Network established under section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)) and''.

(B) SECTION 508.—Section 508(1) of the National Skill Standards Act of 1994 (20 U.S.C. 5938(1)) is amended to read as follows:

''(1) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness that is representative of a community or a significant segment of a community and that provides workforce and career development activities, as defined in section ___004 of the Workforce and Career Development Act of 1996.''.

(17) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1205.—Section 1205(8)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6365(8)(B)) (as amended by subsection (j)(2)(B)) is further amended by striking '', the Individuals with Disabilities Education Act, and the Job Training Partnership Act'' and inserting ''and the Individuals with Disabilities Education Act''.

(B) SECTION 1414.—Section 1414(c)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6434(c)(8)) is amended by striking ''programs under the Job Training Partnership Act,'' and inserting ''activities under the Workforce and Career Development Act of 1996,''.

(C) SECTION 1423.—Section 1423(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6453(9)) is amended by striking ''programs under the Job Training and Partnership Act'' and inserting ''activities under the Workforce and Career Development Act of 1996''.

(D) SECTION 1425.—Section 1425(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6455(9)) is amended by striking '', such as funds under the Job Training Partnership Act,'' and inserting '', such as funds made available under the Workforce and Career Development Act of 1996,''.

(18) FREEDOM SUPPORT ACT.—The last sentence of section 505 of the FREEDOM Support Act (22 U.S.C. 5855) is amended by striking '', through the Defense Conversion'' and all that follows through ''or through'' and inserting ''or through''.

(19) INTERNAL REVENUE CODE OF 1986.—

(A) SECTION 42.—Section 42(i)(3)(D)(i)(II) of the Internal Revenue Code of 1986 is amended by striking ''assistance under'' and all that follows through ''or under'' and inserting ''assistance under the Workforce and Career Development Act of 1996 or under''.

(B) SECTION 51.—Section 51(d) of the Internal Revenue Code of 1986 is amended by striking paragraph (10).

(C) SECTION 6334.—Section 6334(d)(12) of the Internal Revenue Code of 1986 is amended to read as follows:

''(12) ASSISTANCE UNDER THE WORKFORCE AND CAREER DEVELOPMENT ACT OF 1996.—Any amount payable to a participant in workforce and career development activities carried out under the Workforce and Career Development Act of 1996 from funds appropriated under such Act.''.

(20) EMERGENCY JOBS AND UNEMPLOYMENT ASSISTANCE ACT OF 1974.—

(A) SECTION 204.—Section 204(b) of the Emergency Jobs and Unemployment Assistance Act of 1974 (26 U.S.C. 3304 note) is amended by striking ''designate as an area'' and all that follows and inserting ''designate as an area under this section an area that is a local workforce development area under the Workforce and Career Development Act of 1996.''.

(B) SECTION 223.—Section 223 of the Emergency Jobs and Unemployment Assistance Act of 1974 (26 U.S.C. 3304 note) is amended—

(i) in paragraph (3), by striking ''assistance provided'' and all that follows and inserting ''assistance provided under the Workforce and Career Development Act of 1996;''; and

(ii) in paragraph (4), by striking ''funds provided'' and all that follows and inserting ''funds provided under the Workforce and Career Development Act of 1996;''.

(21) REHABILITATION ACT.—Section 612(b) of the Rehabilitation Act of 1973 (29 U.S.C. 795a(b)) is amended by striking ''the Job Training Partnership Act'' and inserting ''the Workforce and Career Development Act of 1996''.

(22) JOB TRAINING REFORM AMENDMENTS OF 1992.—Section 701 of the Job Training Reform Amendments of 1992 (29 U.S.C. 1501 note) is repealed.

(23) PUBLIC LAW 98–524.—Section 7 of Public Law 98–524 (29 U.S.C. 1551 note) is repealed.

(24) VETERANS' BENEFITS AND PROGRAMS IMPROVEMENT ACT OF 1988.—Section 402 of the Veterans' Benefits and Programs Improvement Act of 1988 (29 U.S.C. 1721 note) is amended—

(A) in subsection (a), by striking ''title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)'' and inserting ''the Workforce and Career Development Act of 1996'';

(B) in subsection (c), by striking ''Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act,'' and inserting ''Training''; and

(C) in subsection (d)—

(i) in paragraph (1), by striking ''under—'' and all that follows through ''the Veterans'' '' and inserting ''under the Veterans' ''; and

(ii) in paragraph (2), by striking ''Employment and training'' and all that follows and inserting ''Employment and training activities under the Workforce and Career Development Act of 1996.''.

(25) VETERANS' JOB TRAINING ACT.—

(A) SECTION 13.—Section 13(b) of the Veterans' Job Training Act (29 U.S.C. 1721 note) is amended by striking ''assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.)'' and inserting ''assistance under the Workforce and Career Development Act of 1996''.

(B) SECTION 14.—Section 14(b)(3)(B)(i)(II) of the Veterans' Job Training Act (29 U.S.C. 1721 note) is amended by striking ''under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.)'' and inserting ''under the Workforce and Career Development Act of 1996''.

(C) SECTION 15.—Section 15(c)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) is amended—

(i) in the second sentence, by striking ''part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.)'' and inserting ''the Workforce and Career Development Act of 1996''; and

(ii) in the third sentence, by striking ''title III of''.

(26) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.—Section 3(a)(2) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102(a)(2)) is amended by striking ''to the State'' and all that follows through ''and the chief'' and inserting ''to the Governor of the appropriate State and the chief''.

(27) TITLE 31, UNITED STATES CODE.—Section 6703(a) of title 31, United States Code, is amended by striking paragraph (4) and inserting the following:

''(4) Activities under the Workforce and Career Development Act of 1996.''.

(28) VETERANS' REHABILITATION AND EDUCATION AMENDMENTS OF 1980.—Section 512 of the Veterans' Rehabilitation and Education Amendments of 1980 (38 U.S.C. 4101 note) is amended by striking ''the Comprehensive Employment and Training Act (29 U.S.C. et seq.),'' and inserting ''the Workforce and Career Development Act of 1996,''.

(29) TITLE 38, UNITED STATES CODE.—

(A) SECTION 4102A.—Section 4102A(d) of title 38, United States Code, is amended by striking ''the Job Training Partnership Act'' and inserting ''the Workforce and Career Development Act of 1996''.

(B) SECTION 4103A.—Section 4103A(c)(4) of title 38, United States Code, is amended by striking ''(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))''.

(C) SECTION 4213.—Section 4213 of title 38, United States Code, is amended by striking ''any employment or training program assisted under the Job Training Partnership Act (29 U.S.C. 1501 et seq.),'' and inserting ''any employment and training activity carried out under the Workforce and Career Development Act of 1996,''.

(30) UNITED STATES HOUSING ACT.—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended—

(A) in subsection (b)(2)(A), by striking ''the Job Training'' and all that follows through ''or the'' and inserting ''the Workforce and Career Development Act of 1996 or the'';

(B) in the first sentence of subsection (f)(2), by striking ''programs under the'' and all that follows through ''and the'' and inserting ''activities under the Workforce and Career Development Act of 1996 and the''; and

(C) in subsection (g)—

(i) in paragraph (2), by striking ''programs under the'' and all that follows through ''and the'' and inserting ''activities under the Workforce and Career Development Act of 1996 and the''; and

(ii) in paragraph (3)(H), by striking ''program under'' and all that follows through ''and any other'' and inserting ''activity under the Workforce and Career Development Act of 1996 and any other''.

(31) HOUSING ACT OF 1949.—Section 504(c)(3) of the Housing Act of 1949 (42 U.S.C. 1474(c)(3)) is amended by striking ''pursuant to'' and all that follows through ''or the'' and inserting ''pursuant to the Workforce and Career Development Act of 1996 or the''.

(32) OLDER AMERICANS ACT OF 1965.—

(A) SECTION 203.—Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(i) in subsection (a)(2), by striking the last sentence and inserting the following: ''In particular, the Secretary of Labor and the Secretary of Education shall consult and cooperate with the Assistant Secretary in carrying out the Workforce and Career Development Act of 1996.''; and

(ii) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) the Workforce and Career Development Act of 1996,''.

(B) SECTION 502.—Section 502 of the Older Americans Act of 1965 (42 U.S.C. 3056) is amended—

(i) in subsection (b)(1)(N)(i) (as amended by subsection (i)(10)(A)), by striking ''the Job Training Partnership Act (29 U.S.C. 1501 et seq.)'' and inserting ''the Workforce and Career Development Act of 1996''; and

(ii) in subsection (e)(2)(C), by striking ''programs carried out under section 124 of the Job Training Partnership Act (29 U.S.C. 1534)'' and inserting ''employment and training activities carried out under the Workforce and Career Development Act of 1996''.

(C) SECTION 503.—Section 503(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056a(b)(1)) is amended by striking ''the Job Training Partnership Act,'' each place it appears and inserting ''the Workforce and Career Development Act of 1996,''.

(D) SECTION 510.—Section 510 of the Older Americans Act of 1965 (42 U.S.C. 3056h) is amended by striking ''the Job Training Partnership Act, eligible individuals shall be deemed to satisfy the requirements of sections 203 and 204(d)(5)(A) of such Act (29 U.S.C. 1603, 1604(d)(5)(A))'' and inserting ''the Workforce and Career Development Act of 1996, eligible individuals shall be deemed to satisfy the requirements of such Act''.

(33) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 1801(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)(3)) is amended by striking ''activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.)'' and inserting ''activities carried out under subtitle C of title II of the Workforce and Career Development Act of 1996''.

(34) ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1984.—The second sentence of section 2(a) of the Environmental Programs Assistance Act of 1984 (42 U.S.C. 4368a(a)) is amended by striking ''and title IV of the Job Training Partnership Act'' and inserting ''and the Workforce and Career Development Act of 1996''.

(35) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—

(A) SECTION 103.—The second sentence of section 103(d) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4953(d)) is amended to read as follows: ''Whenever feasible, such efforts shall be coordinated with a local workforce development board established under section ___108 of the Workforce and Career Development Act of 1996.''.

(B) SECTION 109.—Subsections (c)(2) and (d)(2) of section 109 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4959) is amended by striking ''administrative entities designated to administer job training plans under the Job Training Partnership Act'' and inserting ''eligible providers of training services, as defined in section ___004 of the Workforce and Career Development Act of 1996''.

(36) AGE DISCRIMINATION ACT OF 1975.—Section 304(c)(1) of the Age Discrimination Act of 1975 (42 U.S.C. 6103(c)(1)) is amended by striking ''the Comprehensive Employment and Training Act of 1974 (29 U.S.C. 801, et seq.), as amended,'' and inserting ''the Workforce and Career Development Act of 1996''.

(37) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 414(b)(3) of the Energy Conservation and Production Act (42 U.S.C. 6864(b)(3)) is amended by striking ''the Comprehensive Employment and Training Act of 1973'' and inserting ''the Workforce and Career Development Act of 1996''.

(38) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 233 of the National Energy Conservation Policy Act (42 U.S.C. 6873) is amended, in the matter preceding paragraph (1), by striking ''the Comprehensive Employment and Training Act of 1973'' and inserting ''the Workforce and Career Development Act of 1996''.

(39) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—Section 617(a)(3) of the Community Economic Development Act of 1981 (42 U.S.C. 9806(a)(3)) is amended by striking ''activities such as those described in the Comprehensive Employment and Training Act'' and inserting ''employment and training activities described in the Workforce and Career Development Act of 1996''.

(40) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—Section 103(b)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)(2)) is amended by striking ''the Job Training Partnership Act'' and inserting ''the Workforce and Career Development Act of 1996''.

(41) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(A) SECTION 177.—Section 177(d) of the National and Community Service Act of 1990 (42 U.S.C. 12637(d)) is amended to read as follows:

''(d) TREATMENT OF BENEFITS.—Allowances, earnings, and payments to individuals participating in programs that receive assistance under this title shall not be considered to be income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).''.

(B) SECTION 198C.—Section 198C of the National and Community Service Act of 1990 (42 U.S.C. 12653c) is amended—

(i) in subsection (b)(1), by striking ''a military installation described in section 325(e)(1) of the Job Training Partnership Act (29 U.S.C. 1662d(e)(1)).'' and inserting ''a military installation being closed or realigned under—

''(A) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); and

''(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).''; and

(ii) in subsection (e)(1)(B), by striking clause (iii) and inserting the following:

''(iii) an at-risk youth (as defined in section ___004 of the Workforce and Career Development Act of 1996).''.

(C) SECTION 199L.—Section 199L(a) of the National and Community Service Act of 1990 (42 U.S.C. 12655m(a)) is amended by striking ''the Job Training Partnership Act (29 U.S.C. 1501 et seq.)'' and inserting ''the Workforce and Career Development Act of 1996''.

(42) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—

(A) SECTION 454.—Subparagraphs (H) and (M) of subsection (c)(2), and subsection (d)(7), of section 454 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899c) are amended by striking ''the Job Training Partnership Act'' and inserting ''the Workforce and Career Development Act of 1996''.

(B) SECTION 456.—The first sentence of section 456(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899e(e)) is amended by inserting ''(as in effect on the day before the date of the enactment of the Workforce and Career Development Act of 1996)'' after ''the Job Training Partnership Act'' each place it appears.

(43) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 31113(a)(4)(C) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13823(a)(4)(C)) is amended by striking ''authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.)'' and inserting ''or employment and training activities authorized under the Workforce and Career Development Act of 1996''.

SEC. ___503. EFFECTIVE DATES.

(a) REPEALS.—

(1) IMMEDIATE REPEALS.—The repeals made by subsections (a) through (e) of section ___501 shall take effect on the date of the enactment of this Act.

(2) SUBSEQUENT REPEALS.—The repeals made by section ___501(f) shall take effect on July 1, 1998.

(b) CONFORMING AMENDMENTS.—

(1) IMMEDIATELY EFFECTIVE AMENDMENTS.—The amendments made by subsections (a) through (h) of section ___502 shall take effect on the date of the enactment of this Act.

(2) SUBSEQUENTLY EFFECTIVE AMENDMENTS.—The amendments made by subsections (i) through (l) of section ___502 shall take effect on July 1, 1998.

DASCHLE AMENDMENT NO. 5270

(Ordered to lie on the table.)

Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place insert the following:

ESTABLISHING A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

SEC. . NATIONAL REPOSITORY FOR INFORMATION ON EXPLOSIVE INCIDENTS AND ARSON.

(a) Section 846 of Title 18, United States Code, is amended by—

(1) designating the existing section as subsection (a); and

(2) by adding the following new subsection (b) to read as follows:

''(b) The Secretary is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Secretary pursuant to such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also contain information on incidents voluntarily reported to the Secretary by State and local authorities.''

(b) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

BINGAMAN (AND JEFFORDS) AMENDMENT NO. 5271

Mr. SHELBY (for Mr. BINGAMAN, for himself and Mr. JEFFORDS) proposed an amendment to the bill, H.R. 3756, supra; as follows:

Insert at the appropriate place in the bill:

(a) REDUCTION IN FACILITIES ENERGY COSTS.—

(1) IN GENERAL.—The head of each agency for which funds are made available under this Act shall—

(A) take all actions necessary to achieve during fiscal year 1998 a 5-percent reduction, from fiscal year 1996 levels, in the energy costs of the facilities used by the agency; or

(B) enter into a sufficient number of energy savings performance contracts with private sector energy service companies under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) to achieve during fiscal year 1998 at least a 5-percent reduction, from fiscal year 1996 levels, in the energy use of the facilities used by the agency.

(2) GOAL.—The activities described in paragraph (1) should be a key component of agency programs that will by the year 2000 result in a 20-percent reduction, from fiscal year 1985 levels, in the energy use of the facilities used by the agency, as required by section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

DASCHLE AMENDMENT NO. 5272

Mr. SHELBY (for Mr. DASCHLE) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

ESTABLISHING A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

SEC. . NATIONAL REPOSITORY FOR INFORMATION ON EXPLOSIVES INCIDENTS AND ARSON.

(a) Section 846 of title 18, United States Code, is amended by—

(1) designated the existing section as subsection (a); and

(2) by adding the following new subsection (b) to read as follows:

''(b) The Secretary is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Secretary pursuant to such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also certain information on incidents voluntarily reported to the Secretary by State and local authorities.''

(b) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

D'AMATO AMENDMENT NO. 5273

Mr. SHELBY (for Mr. D'AMATO) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page ___, strike lines ___ and ___, and insert the following:

''(l) MINT FACILITY FOR GOLD AND PLATINUM COINS.—Notwithstanding any other provision of law,''.

At the end of title V of the bill, insert the following new sections:

SEC. 5___. COMMEMORATIVE COIN PROGRAM REFORM.

(a) COMMEMORATIVE COIN PROGRAM RESTRICTIONS.—Section 5112 of title 31, United States Code, as amended by sections 524 and 530 of this Act, is amended by adding at the end the following new subsection:

''(m) COMMEMORATIVE COIN PROGRAM RESTRICTIONS.—

''(1) MAXIMUM NUMBER.—Beginning January 1, 1999, the Secretary may mint and issue commemorative coins under this section during any calendar year with respect to not more than 2 commemorative coin programs.

''(2) MINTAGE LEVELS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in carrying out any commemorative coin program, the Secretary shall mint—

''(i) not more than 750,000 clad half-dollar coins;

''(ii) not more than 500,000 silver one-dollar coins; and

''(iii) not more than 100,000 gold five-dollar or ten-dollar coins.

''(B) EXCEPTION.—If the Secretary determines, based on independent, market-based research conducted by a designated recipient organization of a commemorative coin program, that the mintage levels described in subparagraph (A) are not adequate to meet public demand for that commemorative coin, the Secretary may waive one or more of the requirements of subparagraph (A) with respect to that commemorative coin program.

''(C) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this paragraph, the term 'designated recipient organization' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.''.

(b) RECOVERY OF MINT EXPENSES REQUIRED BEFORE PAYMENT OF SURCHARGES TO ANY RECIPIENT ORGANIZATION.—

(1) CLARIFICATION OF LAW RELATING TO DEPOSIT OF SURCHARGES IN THE NUMISMATIC PUBLIC ENTERPRISE FUND.—Section 5134(c)(2) of title 31, United States Code, is amended by inserting '', including amounts attributable to any surcharge imposed with respect to the sale of any numismatic item'' before the period.

(2) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—Section 5134 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(f) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—

''(1) PAYMENT OF SURCHARGES.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

''(A) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

''(B) the designated recipient organization submits an audited financial statement that demonstrates to the satisfaction of the Secretary of the Treasury that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount that is equal to or greater than the maximum amount the organization may receive from the proceeds of such surcharge.

''(2) ANNUAL AUDITS.—

''(A) ANNUAL AUDITS OF RECIPIENTS REQUIRED.—Each designated recipient organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such amount, for an annual audit, in accordance with generally accepted government auditing standards by an independent public accountant selected by the organization, of all such payments to the organization beginning in the first fiscal year of the organization in which any such amount is received and continuing until all amounts received by such organization from the fund with respect to such surcharges are fully expended or placed in trust.

''(B) MINIMUM REQUIREMENTS FOR ANNUAL AUDITS.—At a minimum, each audit of a designated recipient organization pursuant to subparagraph (A) shall report—

''(i) the amount of payments received by the designated recipient organization from the fund during the fiscal year of the organization for which the audit is conducted that are derived from the proceeds of any surcharge imposed on the sale of any numismatic item;

''(ii) the amount expended by the designated recipient organization from the proceeds of such surcharges during the fiscal year of the organization for which the audit is conducted; and

''(iii) whether all expenditures by the designated recipient organization during the fiscal year of the organization for which the audit is conducted from the proceeds of such surcharges were for authorized purposes.

''(C) RESPONSIBILITY OF ORGANIZATION TO ACCOUNT FOR EXPENDITURES OF SURCHARGES.—Each designated recipient organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall take appropriate steps, as a condition for receiving any such payment, to ensure that the receipt of the payment and the expenditure of the proceeds of such surcharge by the organization in each fiscal year of the organization can be accounted for separately from all other revenues and expenditures of the organization.

''(D) SUBMISSION OF AUDIT REPORT.—Not later than 90 days after the end of any fiscal year of a designated recipient organization for which an audit is required under subparagraph (A), the organization shall—

''(i) submit a copy of the report to the Secretary of the Treasury; and

''(ii) make a copy of the report available to the public.

''(E) USE OF SURCHARGES FOR AUDITS.—Any designated recipient organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may use the amount received to pay the cost of an audit required under subparagraph (A).

''(F) WAIVER OF PARAGRAPH.—The Secretary of the Treasury may waive the application of any subparagraph of this paragraph to any designated recipient organization for any fiscal year after taking into account the amount of surcharges that such organization received or expended during such year.

''(G) NONAPPLICABILITY TO FEDERAL ENTITIES.—This paragraph shall not apply to any Federal agency or department or any independent establishment in the executive branch that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item.

''(H) AVAILABILITY OF BOOKS AND RECORDS.—An organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such payment, to the Inspector General of the Department of the Treasury or the Comptroller General of the United States, upon the request of such Inspector General or the Comptroller General, all books, records, and work papers belonging to or used by the organization, or by any independent public accountant who audited the organization in accordance with subparagraph (A), which may relate to the receipt or expenditure of any such amount by the organization.

''(3) USE OF AGENTS OR ATTORNEYS TO INFLUENCE COMMEMORATIVE COIN LEGISLATION.—No portion of any payment from the fund to any designated recipient organization of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may be used, directly or indirectly, by the organization to compensate any agent or attorney for services rendered to support or influence in any way legislative action of the Congress relating to such numismatic item.

''(4) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this subsection, the term 'designated recipient organization' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.''.

(3) SCOPE OF APPLICATION.—The amendments made by this section shall apply with respect to the proceeds of any surcharge imposed on the sale of any numismatic item that are deposited in the Numismatic Public Enterprise Fund after the date of the enactment of this Act.

(4) REPEAL OF EXISTING RECIPIENT REPORT REQUIREMENT.—Section 302 of Public Law 103–186 (31 U.S.C. 5112 note) is repealed.

(c) QUARTERLY FINANCIAL REPORTS.—Section 5134 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(g) QUARTERLY FINANCIAL REPORTS.—

''(1) IN GENERAL.—Not later than the 30th day of each month following each calendar quarter through and including the final period of sales with respect to any commemorative coin program authorized on or after the date of enactment of the Treasury, Postal Service, and General Government Appropriations Act, 1997, the Mint shall submit to the Congress a quarterly financial report in accordance with this subsection.

''(2) REQUIREMENTS.—Each report submitted under paragraph (1) shall include, with respect to the calendar quarter at issue—

''(A) a detailed financial statement, prepared in accordance with generally accepted accounting principles, that includes financial information specific to that quarter, as well as cumulative financial information relating to the entire program;

''(B) a detailed accounting of—

''(i) all costs relating to marketing efforts;

''(ii) all funds projected for marketing use;

''(iii) all costs for employee travel relating to the promotion of commemorative coin programs;

''(iv) all numismatic items minted, sold, not sold, and rejected during the production process; and

''(v) the costs of melting down all rejected and unsold products;

''(C) adequate market-based research for all commemorative coin programs; and

''(D) a description of the efforts of the Mint in keeping the sale price of numismatic items as low as practicable.''.

(d) CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—

(1) FIXED TERMS FOR MEMBERS.—Section 5135(a)(4) of title 31, United States Code, is amended to read as follows:

''(4) TERMS.—Each member appointed under clause (i) or (iii) of paragraph (3)(A) shall be appointed for a term of 4 years.''.

(2) CHAIRPERSON.—Section 5135(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(7) CHAIRPERSON.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Chairperson of the Advisory Committee shall be elected by the members of the Advisory Committee from among such members.

''(B) EXCEPTION.—The member appointed pursuant to paragraph (3)(A)(ii) (or the alternate to that member) may not serve as the Chairperson of the Advisory Committee, beginning on June 1, 1999.''.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 5___. MINT MANAGERIAL STAFFING REFORM.

Section 5131 of title 31, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

MCCAIN AMENDMENT NO. 5274

Mr. SHELBY (for MCCAIN) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . Section 5(c)(1) of Public Law 102–259 (20 U.S.C. 5603(c)(1)) is amended—

(1) in subparagraph (A)(iii), by striking ''and'' after the semicolon;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding after subparagraph (B) the following:

''(C) a Trustee may serve after the expiration of the Trustee's term until a successor has been chosen.''.

DORGAN AMENDMENT NO. 5275

Mr. SHELBY (for Mr. DORGAN) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, add the following:

Notwithstanding any other provision of law, the Secretary of the Interior, through the Bureau of Indian Affairs, may directly transfer to Indian tribes in North and South Dakota portable housing units at the Grand Forks Air Force base in North Dakota which have been declared excess by the Department of Defense and requested for transfer by the Department of the Interior.

BYRD AMENDMENT NO. 5276

Mr. SHELBY (for Mr. BYRD) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 49, line 18, insert before the colon ''*: Provided,* That of such amount provided for non-prospectus construction projects $250,000 may be available until expended for the acquisition, lease, construction, and equipping of flexiplace work telecommuting centers in the State of West Virginia''.

HATFIELD AMENDMENT NO. 5277

Mr. SHELBY (for Mr. HATFIELD) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 55, line 11 after ''Missouri'' insert: ''*: Provided further,* That $1,450,000 may be available for the renovation of the Pioneer

Courthouse located at 520 SW Morrison in Portland, Oregon''.

GRAMM AMENDMENT NO. 5278

Mr. SHELBY (for Mr. GRAMM) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE IN SUPPORT OF NEW BORDER STATION CONSTRUCTION IN LAREDO, TEXAS.

(a) The Senate finds that:

(1) In 1995, over one-third (35%) of all U.S. exports to Mexico were processed through the Port of Laredo;

(2) Nearly two-thirds of all U.S. exports to Mexico that went through a south Texas port of entry went through the Port of Laredo in 1995;

(3) The value of imports processed through the Port of Laredo in 1995 exceeded $15 billion, and the value of all exports was $14.7 billion for that year;

(4) The number of loaded, cross-border shipments, both northbound and southbound, through the Port of Laredo is projected to double from 1995 to the year 2000, from 851,745 shipments to 1,703,490;

(5) The City of Laredo received on October 3, 1994 a Presidential Permit from the U.S. State Department to construct a third bridge in the city, and in February 1996 the U.S. Coast Guard issued a permit for the bridge's construction;

(6) Financing of the new bridge has been secured from both sponsors, the cities of Laredo and Nuevo Laredo, and in February 1997 the City of Nuevo Laredo is scheduled to begin construction of an access road connecting the bridge with the loop around Nuevo Laredo;

(7) U.S. Customs revenue generated at the Port of Laredo totaled $216 million in 1995, an increase of $13 million from the previous year, while the U.S. Government's estimated cost for operating border station facilities in Laredo is $10 million, so that the Port generated over $200 million for the U.S. Treasury in 1995; and

(8) The new bridge will greatly enhance safety in the downtown area because it will allow the diversion of commercial traffic from the two existing downtown bridges to the new bridge, since the two downtown bridges will be strictly passenger bridges, with the new bridge and the Colombia Bridge (22 miles from Laredo) devoted to commercial traffic.

(b) It is the sense of the Senate that:

(1) The construction of a third bridge in Laredo is vitally needed to accommodate increased trade with Mexico and to relieve traffic congestion, road damage, and pollution in downtown Laredo caused by commercial traffic; and

(2) The Administrator of the General Services Administration should accelerate the timetable for design and construction of a border station for the new Laredo bridge to ensure that the bridge can be opened to international traffic as soon as possible.

KERRY (AND OTHERS) AMENDMENT NO. 5279

Mr. KERRY (for himself, Mrs. FEINSTEIN, Mr. KENNEDY, and Mr. HARKIN) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 14, line 6, strike ''$395,597,000'' and insert ''$416,897,000, of which $21,300,000, to remain available until expended, shall be available to conduct the study under section 732(a) of Public Law 104–132 (relating to marking, rendering inert, and licensing of explosive materials) and to conduct a study of threats to law enforcement officers from the criminal use of firearms and ammunition; and''.

On page 22, line 14, strike ''$4,085,355,000'' and insert ''$4,064,055,000''.

On page 25, between lines 21 and 22, insert:

SEC. . (a) Section 732(a)(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) is hereby repealed.

(b) It is the sense of the Senate that the $21,300,000 reduction in funds available for tax law enforcement to fund the explosive materials and law enforcement officers safety study be achieved as follows:

(1) $9,700,000 from the delay required by this Act in implementing field restructuring of the Internal Revenue Service.

(2) $11,600,000 from administrative and other savings in tax law enforcement activities.

DOMENICI AMENDMENT NO. 5280

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place insert the following:

SEC. . TRANSITION FROM AFDC ENTITLEMENT PROGRAM TO TANF BLOCK GRANT.

Section 116(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended—

(1) by striking ''Effective'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), effective''; and

(2) by adding at the end the following:

''(2) TRANSITION RULE.—

''(A) IN GENERAL.—In the case of any State not opting to accelerate the effective date of this title under subsection (b)(1), paragraph (1) shall be applied to such State by substituting ''July 1, 1997'' for ''October 1, 1996''.

''(B) PAYMENTS TO STATES.—

''(i) IN GENERAL.—Notwithstanding subsection (b)(1)(B)(ii)(II), the total obligation of the Federal Government for fiscal year 1997 to any State described in subparagraph (A) shall be increased by ¼ of the State family assistance grant for such State for such fiscal year.

''(ii) TIMING OF PAYMENT.—Any State eligible for the ¼ increase in the Federal obligation to such State under clause (i), shall receive an outlay representing such increase at the beginning of the 4th quarter of fiscal year 1997.''.

D'AMATO AMENDMENT NO. 5281

(Ordered to lie on the table.)

Mr. D'AMATO (for himself and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill insert the following new section:

Sec. . For all reasonable costs associated with the recovery effort of TWA Flight 800, there shall be made available no more than $10 million to the Department of the Treasury, ''Departmental Offices'' account, which shall remain available until expended. The State of New York, counties, and local governments that provided assistance to this effort shall be eligible for reimbursement of expenses incurred during this effort. If the value of total claims exceeds the appropriated sum, the funds shall be allocated on a pro-rated basis. All claims by New York State, counties, and municipalities shall be forwarded to the appropriate department of the State of New York, who in turn will forward a claim to the Department of the Treasury.

On page 2, line 18 strike ''$111,348,000 and insert ''$121,348,000''.

On page 53, line 14 strike ''$360,000,000'' and insert ''$355,000,000''.

On page 55, line 15 strike ''$2,343,795,000'' and insert ''$2,343,790,000.

COVERDELL AMENDMENT NO. 5282

(Ordered to lie on the table.)

Mr. COVERDELL submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new section:

Sec. . No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the Executive Office of the President who—

(1) in the course of employment has access to information, documents, or, records that are—

(A) subject to the exemption under section 552(b)(7) of title 5, United States Code; or

(B) determined to be national security information in accordance with Executive Order No. 12356; and

(2) is determined as a result of a pre-employment background check, or is determined after such employment begins, to have illegally used any controlled substance during—

(A) the 5-year period before the date of the beginning of such employment; or

(B) the period of any employment in the Executive Office of the President.

JOHNSTON AMENDMENT NO. 5283

(Ordered to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

''SEC. . AMENDMENT TO THE NUCLEAR WASTE POLICY ACT.

''The Nuclear Waste Policy Act of 1982 is amended to read as follows:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1996'.

''(b) TABLE OF CONTENTS.—

''SECTION 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term ''affected Indian tribe'' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity means any activity' of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.''

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or by-product material as defined in section 11e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) RESPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spend nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to asses whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spend nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term ''Yucca Mountain site'' means the area in

the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

"TITLE I—OBLIGATIONS

"SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1996 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the federal government by the U.S. District Court of Idaho in an order entered on October 17, 1995 in *United States* v. *Batt* (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

SEC. 201. INTERMODAL TRANSFER.—

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

''(e) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.

''(1) SCHEDULE.—In addition to the benefits to which the City of Caliente and Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	*Payment*
(A) Annual Payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5.0
(C) Payment upon closure of the intermodal transfer facility	5.0

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) and shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.

''(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not later than November 30, 1999.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with Section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

''SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel and high level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1986, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the federal, state and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

''SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

''(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

''(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

''(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

''(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

''(i) the preliminary design concept for the critical elements of the repository and waste package,

''(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act,

''(iii) a plan and cost estimate for the remaining work required to complete a license application, and

''(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept.

''(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under paragraph (B), the President

shall designate a site for the construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19) of this Act shall be deemed to be approved by law for purposes of this section.

''(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

''(c) DESIGN.—

''(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders's storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(d) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not submit the license application for construction of a respository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(e) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1996 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1996 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, as set forth in the Secretary's annual capacity report dated March, 1995 (DOE/RW–0457), the Secretary shall accept, in an amount not less than 25% of the difference between the contractual acceptance rate and the annual emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1996;

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote non-proliferation objectives; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities.

''(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

''(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.).

''(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in paragraph (e)(3)(A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1996. Following establishment of such criteria, the Secretary shall

seek authority, as necessary, to store fuel and waste listed in paragraph (e)(3)(A) through (C) at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

''(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

''SEC. 205. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1996, no later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the respository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those action necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) REPOSITORY LICENSING STANDARDS.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under other provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2), and the Administrator's radiation protection standards. The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards;

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirens unless the Commission determines by the rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of making the finding in paragraph (2)—

''(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

''(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practice, eating habits, and social behavior represent the average for persons living in the vicinity of the site, Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

''(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site, in accordance with subsection (b)(4), shall be sufficient to—

''(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

''(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the

need for the repository, or alternative sites or designs for the repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted to the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled ''Interim Storage Facility Site Withdrawal Map,'' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

''SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

'(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grants to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amounts such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

''(A) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

SEC. 302. ON-SITE REPRESENTATIVE

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

SEC. 304. RESTRICTIONS ON USE OF FUNDS.

''None of the funding provided under this title may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

SEC. 305. LAND CONVEYANCES.

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing

at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

''SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) ANNUAL FEES.—

''(A) For electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, 2002, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, 2002, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatt-hour generated and sold.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

''(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1996 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full costs recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both houses of Congress.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary; or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy of 1996, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsections (d) and (e), only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investment shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to

the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1996, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research rectors, as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system.

''SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

''SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the count finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

''SEC. 504. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

''SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

''SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

''SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

''(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

''SEC. 508. TRANSFER OF TITLE.

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.

''SEC. 509. DECOMMISSIONING PILOT PROGRAM.

''(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

''SEC. 510. WATER RIGHTS.

''(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term ''Chairman'' means the Chairman of the Nuclear Waste Technical Review Board

''(2) BOARD.—The term ''Board'' means the Nuclear Waste Technical Review Board continued under section 602.

''SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate no less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

''SEC. 603. FUNCTIONS.

''The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

''(1) site characterization activities; and

''(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

''SEC. 604. INVESTIGATORY POWERS

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. The Secretary or the Secretary's designee or designees shall not be required to appear before the Board or any element of the Board for more than twelve working days per calendar year.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information that is generally available to the public as may be necessary to respond to any inquiry of the board under this title.

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) may include drafts of products and documentation of work in progress.

''SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

''SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.

''SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

''TITLE VII—MANAGEMENT REFORM

''SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1996.

''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office of the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

''(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

''SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required

by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.''

''SEC. 703. EFFECTIVE DATE.

This Act shall become effective one day after enactment.''.

STEVENS AMENDMENT NO. 5284

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the end of the bill, add the following new title:

TITLE VIII—FEDERAL EMPLOYEES THRIFT SAVINGS PLAN

Subtitle A—Additional Investment Funds for the Thrift Savings Plan

SEC. 801. SHORT TITLE.

This subtitle may be cited as the ''Thrift Savings Investment Funds Act of 1996''.

SEC. 802. ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN.

Section 8438 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(B) by inserting after paragraph (4) the following new paragraph:

''(5) the term 'International Stock Index Investment Fund' means the International Stock Index Investment Fund established under subsection (b)(1)(E);'';

(C) in paragraph (8) (as redesignated by subparagraph (A) of this paragraph) by striking out ''and'' at the end thereof;

(D) in paragraph (9) (as redesignated by subparagraph (A) of this paragraph)—

(i) by striking out ''paragraph (7)(D)'' in each place it appears and inserting in each such place ''paragraph (8)(D)''; and

(ii) by striking out the period and inserting in lieu thereof a semicolon and ''and''; and

(E) by adding at the end thereof the following new paragraph:

''(10) the term 'Small Capitalization Stock Index Investment Fund' means the Small Capitalization Stock Index Investment Fund established under subsection (b)(1)(D).''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B) by striking out ''and'' at the end thereof;

(ii) in subparagraph (C) by striking out the period and inserting in lieu thereof a semicolon; and

(iii) by adding at the end thereof the following new subparagraphs:

''(D) a Small Capitalization Stock Index Investment Fund as provided in paragraph (3); and

''(E) an International Stock Index Investment Fund as provided in paragraph (4).''; and

(B) by adding at the end thereof the following new paragraphs:

''(3)(A) The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which represents the United States equity markets excluding the common stocks included in the Common Stock Index Investment Fund.

''(B) The Small Capitalization Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Small Capitalization Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

''(4)(A) The Board shall select an index which is a commonly recognized index comprised of stock the aggregate market value of which is a reasonably complete representation of the international equity markets excluding the United States equity markets.

''(B) The International Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the International Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.''.

SEC. 803. ACKNOWLEDGEMENT OF INVESTMENT RISK.

Section 8439(d) of title 5, United States Code, is amended by striking out ''Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund or the Fixed Income Investment Fund described in paragraphs (1) and (3),'' and inserting in lieu thereof ''Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, the International Stock Index Investment Fund, or the Small Capitalization Stock Index Investment Fund, defined in paragraphs (1), (3), (5), and (10),''.

SEC. 804. EFFECTIVE DATE.

This subtitle shall take effect on the date of enactment of this Act, and the Funds established under this subtitle shall be offered for investment at the earliest practicable election period (described in section 8432(b) of title 5, United States Code) as determined by the Executive Director in regulations.

Subtitle B—Thrift Savings Accounts Liquidity

SEC. 821. SHORT TITLE.

This subtitle may be cited as the ''Thrift Savings Plan Act of 1996''.

SEC. 822. NOTICE TO SPOUSES FOR IN-SERVICE WITHDRAWALS; DE MINIMUS ACCOUNTS; CIVIL SERVICE RETIREMENT SYSTEM PARTICIPANTS.

Section 8351(b) of title 5, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (B)—

(i) by striking out ''An election, change of election, or modification (relating to the commencement date of a deferred annuity)'' and inserting in lieu thereof ''An election or change of election'';

(ii) by inserting ''or withdrawal'' after ''and a loan'';

(iii) by inserting ''and (h)'' after ''8433(g)'';

(iv) by striking out ''the election, change of election, or modification'' and inserting in lieu thereof ''the election or change of election''; and

(v) by inserting ''or withdrawal'' after ''for such loan''; and

(B) in subparagraph (D)—

(i) by inserting ''or withdrawals'' after ''of loans''; and

(ii) by inserting ''or (h)'' after ''8433(g)''; and

(2) in paragraph (6)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)''.

SEC. 823. IN-SERVICE WITHDRAWALS; WITHDRAWAL ELECTIONS, FEDERAL EMPLOYEES RETIREMENT SYSTEM PARTICIPANTS.

(a) IN GENERAL.—Section 8433 of title 5, United States Code, is amended—

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

''(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect to withdraw from the Thrift Savings Fund the balance of the employee's or Member's account as—

''(1) an annuity;

''(2) a single payment;

''(3) 2 or more substantially equal payments to be made not less frequently than annually; or

''(4) any combination of payments as provided under paragraphs (1) through (3) as the Executive Director may prescribe by regulation.

''(c)(1) In addition to the right provided under subsection (b) to withdraw the balance of the account, an employee or Member who separates from Government service and who has not made a withdrawal under subsection (h)(1)(A) may make one withdrawal of any amount as a single payment in accordance with subsection (b)(2) from the employee's or Member's account.

''(2) An employee or Member may request that the amount withdrawn from the Thrift Savings Fund in accordance with subsection (b)(2) be transferred to an eligible retirement plan.

''(3) The Executive Director shall make each transfer elected under paragraph (2) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

''(4) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (2) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.'';

(2) in subsection (d)—

(A) in paragraph (1) by striking out ''Subject to paragraph (3)(A)'' and inserting in lieu thereof ''Subject to paragraph (3)'';

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as redesignated under subparagraph (B) of this paragraph)—

(i) in subparagraph (A) by striking out ''(A)''; and

(ii) by striking out subparagraph (B);

(3) in subsection (f)(1)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation; and

(B) by striking out ''unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b), or'' and inserting a comma;

(4) in subsection (f)(2)—

(A) by striking out ''February 1'' and inserting in lieu thereof ''April 1'';

(B) in subparagraph (A)—

(i) by striking out ''65'' and inserting in lieu thereof ''70½''; and

(ii) by inserting ''or'' after the semicolon;

(C) by striking out subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B);

(5) in subsection (g)(1) by striking out ''after December 31, 1987, and''; and

(6) by adding after subsection (g) the following new subsection:

''(h)(1) An employee or Member may apply, before separation, to the Board for permission to withdraw an amount from the employee's or Member's account based upon the employee or Member having attained age 59½.

''(2) A withdrawal under paragraph (1)(A) shall be available to each eligible participant one time only.

''(3) A withdrawal under paragraph (1)(B) shall be available only for an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member under section 8432(a) of this title.

''(4) Withdrawals under paragraph (1) shall be subject to such other conditions as the Executive Director may prescribe by regulation.

''(5) A withdrawal may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.''.

(b) INVALIDITY OF CERTAIN PRIOR ELECTIONS.—Any election made under section 8433(b)(2) of title 5, United States Code (as in effect before the effective date of this subtitle), with respect to an annuity which has not commenced before the implementation date of this subtitle as provided by regulation by the Executive Director in accordance with section 827 of this subtitle, shall be invalid.

SEC. 824. SURVIVOR ANNUITIES FOR FORMER SPOUSES; NOTICE TO FEDERAL EMPLOYEES RETIREMENT SYSTEM SPOUSES FOR IN-SERVICE WITHDRAWALS.

Section 8435 of title 5, United States Code, is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out ''may make an election under subsection (b)(3) or (b)(4) of section 8433 of this title or change an election previously made under subsection (b)(1) or (b)(2) of such section'' and inserting in lien thereof ''may withdraw all or part of a Thrift Savings Fund account under subsection (b) (2), (3), or (4) of section 8433 of this title or change a withdrawal election''; and

(B) by adding at the end thereof ''A married employee or Member (or former employee or Member) may make a withdrawal from a Thrift Savings Fund account under subsection (c)(1) of section 8433 of this title only if the employee or Member (or former employee or Member) satisfies the requirements of subparagraph (B).'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out ''An election, change of election, or modification of the commencement date of a deferred annuity'' and inserting in lieu thereof ''An election or change of election''; and

(ii) by striking out ''modification, or transfer'' and inserting in lien thereof ''or transfer''; and

(B) in paragraph (2) in the matter following subparagraph (B)(ii) by striking out ''modification,'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting ''or withdrawal'' after ''A loan'';

(II) by inserting ''and (h)'' after ''8433(g)''; and

(III) by inserting ''or withdrawal'' after ''such loan'';

(ii) in subparagraph (B) by inserting ''or withdrawal'' after ''loan''; and

(iii) in subparagraph (C)—

(I) by inserting ''or withdrawal'' after ''to a loan''; and

(II) by inserting ''or withdrawal'' after ''for such loan''; and

(B) in paragraph (2)—

(i) by inserting ''or withdrawal'' after ''loan''; and

(ii) by inserting ''and (h)'' after ''8344(g)''; and

(4) in subsection (g)—

(A) by inserting ''or withdrawals'' after ''loans''; and

(B) by inserting ''and (h)'' after ''8344(g)''.

SEC. 825. DE MINIMUS ACCOUNTS RELATING TO THE JUDICIARY.

(a) JUSTICES AND JUDGES.—Section 8440a(b)(7) of title 5, United States Code, is amended—

(1) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(2) by striking out ''unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)''.

(b) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting ''of the distribution'' after ''equal to the amount''; and

(2) in paragraph (8)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)''.

(c) FEDERAL CLAIMS JUDGES.—Section 8440c(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting ''of the distribution'' after ''equal to the amount''; and

(2) in paragraph (8)—

(A) by striking out ''$3,500 or less'' and inserting in lieu thereof ''less than an amount that the Executive Director prescribes by regulation''; and

(B) by striking out ''unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)''.

SEC. 826. DEFINITION OF BASIC PAY.

(a) IN GENERAL.—(1) Section 8401(4) of title 5, United States Code, is amended by striking out ''except as provided in subchapter III of this chapter,''.

(2) Section 8431 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8431.

(2) Section 5545a(h)(2)(A) of title 5, United States Code, is amended by striking out ''8431,''.

(3) Section 615(f) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 500; 5 U.S.C. 5343 note) is amended by striking out ''section 8431 of title 5, United States Code,''.

SEC. 827. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act and withdrawals and elections as provided under the amendments made by this subtitle shall be made at the earliest practicable date as determined by the Executive Director in regulations.

KERRY AMENDMENT NO. 5285

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place, add the following new section:

SEC. . WORKPLACE RELIGIOUS FREEDOM.—(a) SHORT TITLE.—This section may be cited as the ''Workplace Religious Freedom Act of 1996''.

(b) AMENDMENTS.—

(1) DEFINITIONS.—Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

(A) by inserting ''(1)'' after ''(j)'';

(B) by inserting '', after initiating and engaging in an affirmative and bona fide effort,'' after ''unable''; and

(C) by adding at the end the following:

''(2) As used in this subsection, the term 'undue hardship' means an accommodation requiring significant difficulty or expense. For purposes of determining whether an accommodation requires significant difficulty or expenses, the factors to be considered shall include—

''(A) the identifiable cost of the accommodation in relation to the size and operating cost of the employer; and

''(B) the number of individuals who will need a particular accommodation to a religious observance or practice.''.

(2) EMPLOYMENT PRACTICES.—Section 703 of such Act (42 U.S.C. 2000e–2) is amended by adding at the end the following:

''(o)(1) For purposes of determining whether an employer has committed an unlawful employment practice under this title by failing to provide a reasonable accommodation to the religious observance or practice of an employee or prospective employee, an accommodation by the employer shall not be deemed to be reasonable if—

''(A) such accommodation does not remove the conflict between employment requirements and the religious observance or practice of the employee or prospective employee; or

''(B)(i) the employee or prospective employee demonstrates to the employer the availability of an alternative accommodation less onerous to the employee or prospective employee that may be made by the employer without undue hardship on the conduct of the employer's business; and

''(ii) the employer refuses to make such accommodation.

''(2) It shall not be a defense to a claim of unlawful employment practices for failure to provide a reasonable accommodation that such accommodation would be in violation of a bona fide seniority system if, in order for the employer to reasonably accommodate to such observance or practice—

''(A) an adjustment would be made in the employee's work hours (including an adjustment that requires the employee to work overtime in order to avoid working at a time that abstention from work is necessary to satisfy religious requirements), shift, or job assignment, that would not be available to any employee but for such accommodation; or

''(B) the employee and any other employee would voluntarily exchange shifts or job assignments, or voluntarily make some other arrangement between the employees.

''(3)(A) An employer shall not be required to pay premium wages for work performed during hours to which such premium wages

would ordinarily be applicable, if work is performed during such hours only to accommodate religious requirements of an employee.

''(B) As used in this paragraph, the term 'premium wages' includes premium overtime pay, pay for night, weekend, or holiday work, and pay for standby or irregular duty.''

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—

(1) EFFECTIVE DATE.—Except as provided in subsection (b), this section and the amendments made by subsection (b) shall take effect on the date of enactment of this Act.

(2) APPLICATION OF AMENDMENTS.—The amendments made by subsection (b) shall not apply with respect to conduct occurring before the date of enactment of this Act.

HATFIELD AMENDMENT NO. 5286

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new title:

TITLE —LOCAL EMPOWERMENT AND FLEXIBILITY PILOT ACT OF 1996

SECTION 01. SHORT TITLE.

This Act may be cited as the ''Local Empowerment and Flexibility Pilot Act of 1996.''

SEC. 02. FINDINGS.

The Congress finds that—

(1) historically, Federal programs have addressed the Nation's problems by providing categorical financial assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of services;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery of many kinds of services;

(4) our nation's communities are diverse and many have innovative planning and community involvement strategies to comprehensively meet their particular service needs for providing services, but Federal, State, and local grant and other requirements often hamper effective implementation of such strategies.

(5) it is more important than ever to provide programs that—

(A) promote more effective and efficient delivery of services at all levels of government to meet the full range of needs of individuals, families, and society;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede the State, local, and tribal government's ability to effectively delivery services; and

(D) empower State, local, and tribal governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals; and

SEC. 03. PURPOSES.

The purposes of this Act are to—

(1) improve the delivery of services to the public;

(2) promote State, local, and tribal governments and private, non-profit organizations and consortiums to identify goals to improve their communities and the lives of their citizens;

(3) enable eligible applicants to adapt programs of Federal financial assistance to the particular needs of their communities by integrating programs and program funds across existing Federal financial assistance programs that have similar goals and purposes;

(4) more effectively meet the goals and purposes of Federal, State and local financial assistance programs;

(5) empower eligible applicants to work together to build stronger cooperative, intergovernmental and private partnerships to address critical service problems;

(6) place less emphasis in Federal financial assistance programs on complying with procedures and more emphasis on achieving Federal, State, local and tribal policy goals.

(7) facilitate State, local, and tribal government efforts to develop regional or metropolitan solutions to shared problems;

(8) improve intergovernmental efficiency;

SEC. 04. DEFINITIONS.

For purposes of this Act:

(1) AFFECTED FEDERAL AGENCY.—The term ''affected Federal agency'' means the Federal agency with principal authority for the administration of an eligible Federal financial assistance program included in a plan.

(2) AFFECTED STATE AGENCY.—The term ''affected State agency'' means—

(A) any State agency with authority for the administration of any State program or eligible Federal financial assistance program; and

(B) with respect to education programs, the term shall include the State Education Agency as defined by the Elementary and Secondary Education Act and the Higher Education Act.

(3) APPROVED FLEXIBILITY PLAN.—The term ''approved flexibility plan'' means a flexibility plan or that part of a flexibility plan, that is approved by the Community Empowerment Board under section 8.

(4) BOARD.—The term ''Board'' means the Community Empowerment Board established under section 5.

(5) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(6) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means a State, local, or tribal government, qualified organization, or qualified consortium that is eligible to receive financial assistance under 1 or more eligible Federal financial assistance program.

(7) ELIGIBLE FEDERAL FINANCIAL ASSISTANCE PROGRAM.—The term ''eligible Federal financial assistance program''—

(A) except as provided in subparagraph (B), means a domestic assistance program (as defined under section 6101(4) of title 31, United States Code) under which financial assistance is available, directly or indirectly, to a State, local, or tribal government or a qualified organization to carry out activities consistent with national policy goals; and

(B) does not include—

(i) a Federal program under which direct financial assistance is provided by the Federal Government directly to an individual beneficiary of that financial assistance, or to a State to provide direct financial assistance, or to a State to provide direct financial or food voucher assistance directly to an individual beneficiary;

(ii) a program carried out with direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)); or

(iii) a program of assistance referred to in section 6101(4)(A)(ix) of title 31, United States Code or Section 3(10) of the Congressional Budget Act of 1974.

(10) FLEXIBILITY PLAN.—The term ''flexibility plan'' means a comprehensive plan or part of such plan for the coordination or integration and the administration by an eligible applicant of financial assistance provided by the Federal Government under 2 or more eligible Federal financial assistance programs that includes funds from Federal, State, local, or tribal government or private sources to address the service needs of a community.

(11) GOALS AND PURPOSES.—The term ''goals and purposes'' means the ''goals and purposes'' embodied in an eligible Federal financial assistance program, including the targeted population embodied in that program.

(12) LOCAL GOVERNMENT.—The term ''local government'' means—

(A) a political subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(B) any combination of political subdivisions described in subparagraph (A) that submits an application to the Board; or

(C) a local educational agency as defined under section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(18)).

(13) QUALIFIED CONSORTIUM.—The term ''qualified consortium'' means a group that is composed of 2 or more qualified organizations, State, local, or tribal agencies that receive federally appropriated funds.

(14) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)).

(15) SMALL GOVERNMENT.—The term ''small government'' means any small governmental jurisdiction defined in section 601(5) of title 5, United States Code, and a tribal government.

(16) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

(17) STATE LEGISLATIVE OFFICIAL.—The term ''State legislative official'' means—

(A) the presiding officer of a chamber of a State legislature; and

(B) the minority leader of a chamber of a State legislature.

(18) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing entity of an Indian tribe, as that term is defined in the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 05. ESTABLISHMENT OF COMMUNITY EMPOWERMENT BOARD.

(a) IN GENERAL.—There is established a Community Empowerment Board, which shall consist of—

(1) the Secretary of Housing and Urban Development;

(2) the Secretary of Health and Human Services;

(3) the Secretary of Agriculture;

(4) the Secretary of Transportation;

(5) the Secretary of Education;

(6) the Secretary of Commerce;

(7) the Secretary of Labor;

(8) the Secretary of the Treasury;

(9) the Attorney General;

(10) the Secretary of the Interior;

(11) the Secretary of Energy;

(12) the Secretary of Veterans Affairs;

(13) the Secretary of Defense;

(14) the Director of the Federal Emergency Management Agency;

(15) the Administrator of the Environmental Protection Agency;

(16) the Director of the National Drug Control Policy;

(17) the Administrator of the Small Business Administration;

(18) the Director of the Office of Management and Budget;

(19) the Administrator of General Services; and

(20) other officials of the Executive Branch as directed by the President.

(b) CHAIR.—The President shall designate the Chair of the Board from among its members.

(c) FUNCTIONS.—

(1) IN GENERAL.—The Board shall—

(A) no later than 180 days after implementation of this Act, select 6 states to participate in this Act;

(B) receive, review, and approve or disapprove flexibility plans in according with section 7;

(C) consider all requests for technical assistance from eligible applicants and, when appropriate, provide or direct that an affected Federal argency provide the head of an agency that administers an eligible Federal financial assistance program under which substantial Federal financial assistance would be provided under the plan to provide technical assistance to the eligible applicant, and to the extent permitted by law, special assistance to interested small governments to support the development and implementation of a flexibility plan, which may include expedited processing;

(D) in consultation with the Director, monitor the progress of development and implementation of flexibility plans;

(E) in consultation with the Director, coordinate and assist Federal agencies in identifying regulations of eligible Federal financial assistance programs for revision, repeal and coordination;

(F) evaluate performance standards and evaluation criteria for eligible Federal financial assistance programs, and make specific recommendations to agencies regarding how to revise such standards and criteria in order to establish specific performance and outcome measures upon which the success of such programs and the success of the plan may be compared and evaluated; and

(G) designate a Federal agency to be primarily responsible for the oversight, monitoring, and evaluation of the implementation of a plan.

(2) QUALIFICATIONS FOR STATES.—Of the 6 States selected for participation under paragraph 1—

(A) 3 States shall each have a population of 3,500,000 or more as determined under the most recent decennial census; and

(B) 3 States shall each have a population of 3,500,000 or less as determined under the most recent decennial census.

(d) COORDINATION AND ASSISTANCE.—The Director, in consultation with the Board, shall coordinate and assist Federal agencies in creating—

(1) a uniform application to be used to apply for assistance from eligible Federal financial assistance programs;

(2) a release form to be used by grantees to facilitate, where appropriate and otherwise lawful, the sharing for information across eligible Federal financial assistance programs; and

(3) a system wherein an organization or consortium of organizations may use one proposal to apply for funding from multiple eligible Federal financial assistance programs.

(e) DETAILS AND ASSIGNMENTS TO BOARD.—At the request of the Board and with the approval of the appropriate Federal agency, staff of the agency may be detailed or assigned to the Board on a nonreimbursable basis.

(f) INTERAGENCY FINANCING.—Notwithstanding any other law, interagency financing is authorized to carry out the purposes of this Act.

(g) JUDICIAL REVIEW.—The actions of the Board shall not be subject to judicial review.

SEC. —06. APPLICATION FOR APPROVAL OF FLEXIBILITY PLAN.

(a) IN GENERAL.—An eligible applicant may submit to the Board in accordance with this section an application for approval of a flexibility plan.

(b) CONTENTS OF APPLICATION.—An application submitted under this section shall include—

(1) a proposed flexibility plan that complies with subsection (c);

(2) written certification by the chief executive of the applicant, and such additional assurances as may be required by the Board, that—

(A) the applicant has the ability, authority, and resources to implement the proposed plan, throughout the geographic area in which the proposed plan is intended to apply; and

(B) amounts are available from non-Federal sources to pay the non-Federal share of all eligible Federal financial assistance programs included in the proposed plan;

(C) the flexibility plan prohibits the integration or combination of program funds across existing Federal financial assistance programs which do not have similar goals and purposes.

(3) all comments on the proposed plan submitted under subsection (d) by a Governor, affected State agency, State legislative official, or a chief executive of a local or tribal government that would be directly affected by implementation of the proposed plan, and the applicant's responses to those comments;

(4) written documentation that the eligible applicant informed the affected community of the contents of the plan and gave the public and the affected population the opportunity to comment upon the plan, including at least one public hearing involving agencies, qualified organizations, eligible intended beneficiaries of the plan, and others directly affected by the plan;

(5) the public comments, which shall include the comments of the affected population, received on the plan and the applicant's responses to the significant comments;

(6) other relevant information the Board may require to review or approve the proposed plan.

(c) CONTENTS OF PLAN.—A flexibility plan submitted by an eligible applicant under this section shall include—

(1) the geographic area and timeframe to which the plan applies and the rationale for selecting the area and timeframe;

(2) the particular groups of individuals, by service needs, economic circumstances, or other defining factors, who currently receive services and benefits under the eligible Federal financial assistance programs included in the plan and the particular groups of individuals, by service needs, economic circumstances, or other defining factors who would receive services and benefits under the plan;

(3) the specific goals and measurable performance criteria that demonstrate how the plan is expected to improve the delivery and effectiveness of services to the affected population, including—

(A) a description of how performance shall be measured under the plan when compared to the current performance of the eligible Federal financial assistance programs included in the plan; and

(B) a system for the comprehensive evaluation of the impact of the plan on individuals who receive services and benefits in the community affected by the plan, that shall include—

(i) a list of goals to improve the community and the lives of its citizens in the geographic area covered by the plan;

(ii) a list of goals identified by the State in which the plan is to be implemented, if such goals have been established by the State; and

(iii) a description of how the plan will—

(I) attain the goals listed in clauses (i) and (ii);

(II) measure performance; and

(III) collect and maintain data;

(4) the eligible Federal financial assistance programs included in the plan and the specific services and benefits to be provided under the plan under such programs, including—

(A) criteria for determining eligibility for services and benefits under the plan;

(B) the services and benefits available under the plan;

(C) the amounts and form (such as cash, in-kind contributions, or financial instruments) of non-service benefits; and

(D) any other descriptive information the Board considers necessary to approve the plan;

(5) a description of the goals and purposes of each Federal financial assistance program included in the plan and how the goals and purposes of such programs shall more effectively be met at the State, local, and tribal level;

(6) a general description of how the plan appropriately addresses any effect that administration of each eligible Federal financial assistance program included in the plan would have on the administration of programs not included in the plan;

(7) a description of how the flexibility plan will adequately achieve the purposes of this Act;

(8) except for the requirements described under section 7(f)(3), any Federal statutory or regulatory requirement of an eligible Federal financial assistance program included in the plan, the waiver of which is necessary to implement the plan, and the detailed justification for the waiver request;

(9) any State, local, or tribal statutory, regulatory, or other requirement, the waiver of which is necessary to implement the plan, and an indication of commitment of the appropriate State, local, or tribal governments to grant such waivers;

(9) a description of the Federal fiscal control and related accountability procedures to be followed under the flexibility plan and, as necessary, an explanation of how such procedures will not diminish existing Federal requirements;

(10) a description of the sources and amounts of all non-Federal funds that are required to carry out eligible Federal financial assistance programs included in the plan;

(11) verification that Federal funds made available under the plan will not supplant non-Federal funds for existing services and activities that promote the goals of the plan;

(12) verification that none of the Federal funds under the plan would be used to—

(A) meet maintenance of effort requirements of such an activity; or

(B) meet State, local, or tribal matching shares; and

(13) any other relevant information the Board may require to approve the plan;

(d) PROCEDURE FOR APPLYING.—

(1) SUBMISSION TO AFFECTED STATE AND LOCAL GOVERNMENTS.—An eligible applicant shall submit an application for approval of a proposed flexibility plan to each State government and each local government that the applicant deems to be directly affected by the plan, at least 60 days before submitting the application to the Board.

(2) REVIEW BY AFFECTED GOVERNMENT.—The Governor, affected State agency head, State legislative official, and the chief executive officer of a local government that receives an application submitted under paragraph (1) may each, by no later than 60 days after the date of that receipt—

(A) prepare comments on the proposed flexibility plan included in the application;

(B) describe and make commitments to waive any State or local laws or other requirements which are necessary for successful implementation of the proposed plan; and

(C) submit the comments and commitments to the eligible applicant.

(3) SUBMITTAL TO BOARD.—Applications for approval of a flexibility plan shall only be submitted to the Board between—

(A) October 1, 1997 and March 31, 1998; or

(B) October 1, 1998 and March 31, 1999.

(4) ACTION BY AFFECTED GOVERNMENT.—If the Governor, affected State agency head, State legislative official or the chief executive officer of a local government—

(A) fails to act on or otherwise endorse a plan application within 60 days after receiving an application under paragraph (1);

(B) does not make and submit to the eligible applicant the commitments described in paragraph (2)(A) and (B); or

(C) disagrees with all or part of the proposed flexibility plan;

the eligible applicant may submit the application to the Board if the application is amended as necessary for the successful implementation of the proposed plan without the commitment made under paragraph (2)(B), including by adding an updated description of the ability of the proposed flexibility plan to meet plan goals and satisfy performance criteria in the absence of statutory and regulatory waivers and financial and technical support from the State or local government.

(e) TRIBAL SOVEREIGNTY.—Nothing under this Act shall be construed to affect, or otherwise alter, the sovereign relationship between tribal governments and the Federal Government.

(f) ELIGIBILITY FOR OTHER ASSISTANCE.—Disapproval by the Board of a flexibility plan submitted by an eligible applicant under this Act shall not affect the eligibility of the applicant for assistance under any Federal program.

(g) STATE, LOCAL, OR TRIBAL AUTHORITY.—Nothing in this Act shall be construed to grant the Board, Federal agency, or any eligible applicant to waive or otherwise preempt—

(1) any State, local, or tribal law or regulation including the legal authority under State law of any affected State agency, State entity, or public official over programs that are under the jurisdiction of the agency, entity, or official; or

(2) the existing authority of a State, local, or tribal government or qualified organization or consortium with respect to an eligible Federal financial assistance program included in the plan unless such entity has consented to the terms of the plan.

SEC. 07. REVIEW AND APPROVAL OF FLEXIBILITY PLANS AND WAIVER REQUESTS.

(a) REVIEW OF APPLICATIONS.—Upon receipt of an application for approval of a proposed flexibility plan, the Board shall notify the eligible applicant as to whether or not the plan is complete. If the Board determines a plan is complete, the Board shall—

(1) establish procedures for consultation with the applicant during the review process;

(2) publish notice of the application for approval in the Federal Register and make available the contents to any interested party upon written request;

(3) if appropriate, coordinate public hearings on the plan by either the Board or the appropriate Federal agency;

(4) approve or disapprove plans submitted under—

(i) section 6(d)(3)(A) no later than July 31, 1998; or

(ii) section 6(d)(3)(B) no later than July 31, 1999;

(5) in the case of any disapproval of a plan, include written justification of the reasons for disapproval in the notice of disapproval sent to the applicant;

(6) publicly announce and forward to Congress on July 31, 1998 and July 31, 1999, the list of approved flexibility plans, including an identification of approved plans that request statutory or regulatory waivers and the identification of such requested waivers.

(b) APPROVAL.—

(1) IN GENERAL.—The Board may approve a flexibility plan for which an application is submitted by an eligible applicant under this Act, if the Board determines that—

(A) the contents of the application for approval of the plan comply with the requirements of this Act; and

(B) the contents of the flexibility plan indicate that the plan will effectively achieve the purposes of this Act described in section 3 by adhering to the conditions described in sections 6 and 7;

(2) RESTRICTION.—(A) The Board may approve no more than 30 plans; and

(B) only three approved plans may be submitted by state applicants.

(3) REQUIREMENT TO DISAPPROVE PLAN.—The Board must disapprove a flexibility plan if the Board determines that—

(A) implementation of the plan would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under Federal financial assistance programs, over the amounts of such obligations and outlays that would occur under those programs without implementation of the plan; or

(B) the flexibility plan fails to comply with paragraph (1).

(4) SPECIFICATION OF PERIOD OF EFFECTIVENESS.—In approving any flexibility plan, the Board shall specify the period during which the plan is effective, which in no case shall be greater than 5 years from the date of approval.

(d) MEMORANDA OF UNDERSTANDING REQUIRED.—

(1) IN GENERAL.—An approved flexibility plan may not take effect until the Board receives a signed memorandum of understanding agreed to by the eligible applicant that would receive Federal financial assistance administered under the flexibility plan and by each affected Federal agency.

(2) CONTENTS.—A memorandum of understanding under this subsection shall specify all understandings that have been reached by the affected Federal agencies and the eligible applicant. The memorandum shall include understandings with respect to—

(A) the conditions described in sections 6 and 7;

(B) the effective dates of all State, local or tribal government waivers;

(C) technical or special assistance being provided to the eligible applicant; and

(D) the effective date and timeframe of the plan and each Federal waiver approved in the plan;

(E)(i) the total amount of Federal funds that will be provided as services and benefits under or used to administer eligible Federal financial assistance programs included in the plan; or

(ii) a mechanism for determining that amount, including specification of the total amount of Federal funds that will be provided or used under each eligible Federal financial assistance program included in the plan.

(e) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Board may not, as a condition of approval of a flexibility plan or with respect to the implementation of an approved flexibility plan, establish any confidentiality requirement that would—

(1) impede the exchange of information needed for the design or provision of services and benefits under the plans; or

(2) conflict with law.

(f) LIMITATION ON THE USE OF FUNDS.—The Board may not approve any plan that includes funds under an eligible federal financial assistance program to—

(1) support tuition vouchers for children attending private elementary or secondary schools, including before and after school programs; or

(2) otherwise pay their cost of attending such schools.

(g) WAIVERS OF FEDERAL REQUIREMENTS.—

(1) IN GENERAL.—Notwithstnding any other law and subject to the provisions of this Act, including paragraphs (2) and (3), affected Federal agencies may waive, for a period of time not to exceed 5 years from the date the Board receives a signed memorandum of understanding, any statutory or regulatory requirement of an eligible Federal assistance program included in an approved flexibility plan of an eligible applicant if that waiver is—

(A) necessary for implementation of the flexibility plan;

(B) not disapproved by the Board; and

(C) necessary to effectively achieve the purposes of this Act described in section 3 by adhering to the conditions described in section 6 and 7.

(2) EFFECTIVE PERIOD OF WAIVER.—A waiver granted under this section shall terminate on the earlier of—

(A) the expiration of a period specified by the affected Federal agency not to exceed five years from the date the Board receives the signed memorandum of understanding; or

(B) any date on which the flexibility plan for which the waiver is granted ceases to be effective.

(3) RESTRICTION ON WAIVER AUTHORITY.—An affected Federal agency may not grant a waiver for a statutory or regulatory requirement of an eligible Federal financial assistance program requested under this section that—

(A) may be waived under another provision of law except in accordance with the requirements and limitations imposed by that other provision of law;

(B) enforces statutory or constitutional rights of individuals including the right to equal access and opportunity in housing and education, including any requirement under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq);

(C) enforces any civil rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;

(D) protects public health and safety, the environment, labor standards, worker rights, health and pension benefits and worker health safety;

(E) provides for a maintenance of effort, matching share or prohibition on supplanting; or

(F) grants any person a cause of action.

SEC. 08. IMPLEMENTATION, AMENDING AND TERMINATION OF APPROVED FLEXIBILITY PLANS.

(a) IMPLEMENTATION.—

(1) The Board, in consultation with the Director, shall issue guidance to implement this Act within 180 days after the date of enactment of this Act.

(2) Notwithstanding any other law, any service or benefit that is provided under an eligible Federal financial assistance program included in an approved flexibility plan shall be paid and administered in the manner specified in the approved flexibility plan.

(3) The authority provided under this Act to waive provisions of grant agreements may be exercised only as long as the funds provided for the grant program in question are available for obligation by the Federal Government.

(b) AMENDING OF FLEXIBILITY PLAN.—

(1) In the event that an eligible applicant—

(A) desires an amendment to an approved flexibility plan in order to better meet the purposes of this Act; or

(B) requires an amendment to ensure continued implementation of an approved flexibility plan, the applicant shall—

(i) submit the proposed amendment to the Board for review and approval; and

(ii) upon approval, enter into a revised memorandum of understanding with the affected Federal agency.

(2) Approval by the Board and, when appropriate, affected Federal agency, shall be based upon the same conditions required for approval of a flexibility plan.

(v) TERMINATION OF PLAN BY BOARD.—

(A) IN GENERAL.—The Board shall terminate an approved flexibility plan, if, after consultation with the affected Federal agencies, the Board determines that—

(i) the applicant of the approved flexibility plan is unable to meet the commitments under this Act; or

(ii) audit or oversight activities determine there has been fraud or abuse involving Federal funds under the plan.

(B) TRANSITION PERIOD.—In terminating an approved flexibility plan under this paragraph, the Board shall allow a reasonable period of time for appropriate Federal agencies and eligible applicants to resume administration of Federal programs that are eligible Federal financial assistance programs included in the plan.

(2) REVOCATION OF WAIVER.—

(A) The Board may recommend that an effected Federal agency, and an affected Federal agency may, revoke a waiver under section 7(f) if the applicant of the approved flexibility plan fails to—

(i) comply with the requirements of the plan;

(ii) make acceptable progress towards achieving the goals and performance criteria set forth in the plan; or

(iii) use funds in accordance with the plan.

(B) Affected Federal agencies shall revoke all waiver issued under section 7(f) for a flexibility plan if the Board terminates the plan.

(C) EXPLANATION REQUIRED.—In the case of termination of a plan or revocation of a waiver, as appropriate, the Board or affected Federal agencies shall provide for the former eligible applicant a written justification of the reasons for termination or revocation.

SEC. 09 EVALUATIONS AND REPORTS.

(a) Approved Applicants.

(1) IN GENERAL.—An applicant of an approved flexibility plan, in accordance with guidance issued by the Board, shall—

(A) submit any reports on and cooperate in any audits of the implementation of its approved flexibility plan; and

(B) monitor the effect implementation of the plan has had on—

(i) individuals who receive services and benefits under the plan;

(ii) communities in which those individuals live;

(iii) costs of administering and providing assistance under eligible Federal financial assistance programs included in the plan; and

(iv) performance of the eligible Federal financial assistance programs included in the plan compared to the performance of such programs prior to implementation of the plan.

(2) INITIAL 1-YEAR REPORT.—No later than 90 days after the end of the 1-year period beginning on the date the plan takes effect, and annually thereafter, the approved applicant, respectively, shall submit to the Board a report on the principal activities, achievements, and shortcomings under the plan during the period covered by the report, comparing those achievements and shortcomings to the goals and performance criteria included in the plan under section 6(c)(3).

(3) FINAL REPORT.—No later than 120 days after the end of the effective period of an approved flexibility plan, the approved applicant shall submit to the Board a final report on implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under the eligible Federal financial assistance programs under the plan.

(b) BOARD.—No later than two years after the date of the enactment of this Act, and annually thereafter, the Board shall submit a report to the President and the Congress on the Federal statutory and regulatory requirements of eligible Federal financial assistance programs that are most frequently waived under section 7(f) with respect to approved flexibility plans. The President shall review the report and identify those statutory and regulatory requirements that the President determines should be amended or repealed.

(c) DIRECTOR.—Two years after this Act goes into effect, and no less than 60 days after repeal of this Act, the Director shall report on its progress in achieving the functions outlined in section 5(d).

(c) GENERAL ACCOUNTING OFFICE.—

(1) Beginning on the date of enactment of this Act, the General Accounting Office shall—

(A) evaluate the effectiveness of eligible Federal financial assistance programs included in flexibility plans approved pursuant to this Act compared with such programs not included in a flexibility plan;

(B) establish and maintain, through the effective date of this statute, a program for the ongoing collection of data and analysis of each eligible Federal financial assistance program included in an approved flexibility plan.

(2) No later than January 1, 2005, the General Accounting Office shall submit a report to Congress and the President that describes and evaluates the results of the evaluations conducted pursuant to paragraphs (1) and any recommendations on how to improve flexibility in the administration of eligible Federal financial assistance programs.

(d) ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.—No later than January 1, 2005, the Advisory Commission on Intergovernmental Relations shall submit a report to the Congress and President that—

(1) describes the extent to which this Act has improved the ability of State, local and tribal governments, particularly smaller units of government, to make more effective use of two or more Federal financial assistance programs included in a flexibility plan;

(2) evaluates if or how the flexibility provided by this Act has improved the system of Federal financial assistance to State, local and tribal governments, and enabled governments and community organizations to work together more effectively; and

(3) includes recommendations with respect to flexibility for State, local and tribal governments.

SEC. 010. REPEAL.

This Act is repealed on January 1, 2005.

SEC. 011. DELIVERY DATE OF FEDERAL CONTRACT, GRANT, AND ASSISTANCE APPLICATIONS.

(a) GENERAL RULE.—

(1) DATE OF DELIVERY.—The Director of the Office of Management and Budget shall direct all Federal agencies to develop a consistent policy relating to Federal contract, grant, and other assistance applications which stipulates that if any bid, grant application, or other document required to be filled within a prescribed period or on or before a prescribed date is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such bid, grant application, or other document is required to be made, the date of the United States postmark stamped on the cover in which such bid, grant application, or other document is mailed shall be deemed to be the date of delivery, as the case may be.

(2) MAILING REQUIREMENTS.—This subsection applies only if—

(A) the postmark date falls within the prescribed period or on or before the prescribed date for the filing (including any extension granted for such filing) of the bid, grant application, or other document; and

(B) the bid, grant application, or other document was, within the time prescribed in subparagraph (A), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, officer, or office with which the bid, grant application, or other document is required to be made.

(b) POSTMARKS.—This section shall apply in the case of postmarks not made by the United States Postal Service only if and to the extent provided by the regulations prescribed by Federal agencies.

(c) REGISTERED AND CERTIFIED MAILING.—

(1) REGISTERED MAIL.—For purposes of this section, if any such bid, grant application, or other document is sent by United States registered mail—

(A) such registration shall be prima facie evidence that the bid, grant application, or other document was delivered to the agency, officer, or office to which addressed; and

(B) the date of registration shall be deemed the postmark date.

(2) CERTIFIED MAIL.—Federal agencies are authorized to provide by regulations the extent to which the provisions of paragraph (1) of this subsection with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act and shall remain in effect notwithstanding section 10 of this Act.

HUTCHISON AMENDMENT NO. 5287

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, H.R. 3756, supra; as follows:

On page 64, strike lines 14 through 18 and add in lieu thereof:

SEC. . FUNDING TO MEET TREATY OBLIGATIONS.

(1) BUDGET AUTHORITY TO FUND BORDER STATIONS.—

(a) New budget authority for leasing agreements with State and local governments and private sponsors for construction by the General Services Administration of border facilities on the borders of the United States with Canada or Mexico, constructed pursuant to increased cross-border trade arising from treaties signed by the United States and ratified by the U.S. Senate, shall be treated as budget authority in the fiscal year in which the budget authority is obligated for construction, without regard to section 3328(a)(1)(B) of title 31, United States Code;

(c) an agreement entered into under such provisions shall provide for the title to the property and facilities to vest in the United States on or before the expiration of the contract term, on fulfillment of the terms and conditions of the agreement.

(2) GRANTS.—

(a) The General Services Administration shall make grants with respect to any State and local governments and private sponsors for initiation of construction by the General Services Administration of new border facilities on the borders of the United States with Canada or Mexico, pursuant to (1)(a), the total cost of which in fiscal year 1997 shall not exceed $2,150,000. The Administrator of G.S.A. shall submit to the Congress a prioritized list of border projects consistent with this section.

(b) LIMITATION ON PERCENT OF COST.—Federal funding provided under (2)(a) may not exceed 50% of the total cost of the activity with respect to which such a grant is provided.

(c) funds not granted by the GSA during fiscal year 1997 pursuant to (2) shall be transferred to the General Fund of the Treasury for deficit reduction.

BOXER AMENDMENT NO. 5288

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to the bill, H.R. 3756, supra; as follows:

On page 59, line 23, after ''$5,600,000'' insert '': *Provided,* That—

(1) the Congress finds that—

(A) the Gun Control Act of 1968 prohibited the importation of handguns that were easily concealable, poorly constructed, and lacking important safety features;

(B) the ban on the importation of such handguns (commonly termed ''junk guns'') did not prohibit the domestic manufacture of junk guns; and

(C) available data are insufficient to determine which handgun models currently manufactured in America are junk guns that fail to meet the safety and performance standards required of imported handguns;

(2) the Bureau of Alcohol, Tobacco and Firearms shall conduct a study listing the firearms legally manufactured in the United States that could not legally be imported under the restrictions of section 925(d)(3) of title 18, United States Code, and prepare a report on the study that shall be transmitted to the Congress no later than 1 year after the date of enactment of this Act;

(3) notwithstanding the provisions of section 102(3)(f) of title 3, United States Code, if funds are not required for Presidential transition, $2,000,000 of the amount appropriated under this heading shall be made available to the Bureau of Alcohol, Tobacco and Firearms to conduct the study and report described in paragraph (2); and

(4)(A) if funds are required for Presidential transition, the study described in paragraph (2) shall not be required unless the Congress provides funding for that purpose; and

(B) it is the sense of the Senate that if funds are required for Presidential transition, alternate means of funding the study described in paragraph (2) should be provided.

NICKLES AMENDMENT NO. 5289

(Ordered to lie on the table.)

Mr. NICKLES submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

SEC. . REQUIREMENT FOR THE DISTRICT OF COLUMBIA TO COMPLY WITH 5-YEAR TIME LIMIT FOR WELFARE ASSISTANCE.

(a) IN GENERAL.—Not later than 10 days after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall rescind approval of the waiver described in subsection (b). Upon such rescission, the Secretary shall immediately approve such waiver in accordance with subsection (c).

(b) WAIVER DESCRIBED.—The waiver described in this subsection is the approval by the Secretary on August 19, 1996, of the District of Columbia's Welfare Reform Demonstration Special Application for waivers, which was submitted under section 1115 of the Social Security Act, and entitled the District of Columbia's Project on Work, Employment, and Responsibility (POWER).

(c) CONDITION FOR WAIVER APPROVAL.—The Secretary shall not approve any part of the waiver described in subsection (b) that relates to a waiver of the requirement under section 408(a)(7) of the Social Security Act to not use any part of the grant made under section 403 of such Act to provide assistance to a family that includes an adult who has received assistance under any State program funded under part A of title IV of such Act attributable to funds provided by the Federal Government for 60 months (whether or not consecutive).

SEC. . NO WAIVER OF 5-YEAR TIME LIMIT FOR WELFARE ASSISTANCE.

Beginning on and after the date of the enactment of this Act, the Secretary of Health and Human Services shall not approve any application submitted under section 1115 of the Social Security Act, or under any other provision of law, for a waiver of the requirement under section 408(a)(7) of such Act to not use any part of the grant made under section 403 of such Act to provide assistance to a family that includes an adult who has received assistance under any State program funded under part A of title IV of such Act attributable to funds provided by the Federal Government for 60 months (whether or not consecutive).

KERRY AMENDMENT NO. 5290

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

Insert at the appropriate place: ''*Provided further,* That from funds made available for Basic Repairs and Alterations, $2,000,000 shall be transferred to the Policy and Operations appropriation''.

NICKLES AMENDMENT NO. 5291

(Ordered to lie on the table.)

Mr. NICKLES submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new sections:

SEC. . SHORT TITLE.

This Act may be cited as the ''Workers Political Freedom Act of 1996''.

SEC. . WORKERS' POLITICAL RIGHTS.

(a) UNFAIR LABOR PRACTICES BY EMPLOYERS PROHIBITED.—Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended by—

(1) striking the period at the end of paragraph (5) and inserting in lieu thereof ''; or''; and

(2) adding after paragraph (5) the following new paragraph;

''(6) to receive from an employee dues, initiation fees, assessments, or other payments as a condition of employment for use for political activities in which the employer is engaged unless with the prior written voluntary authorization of the employee.''

(b) UNFAIR LABOR PRACTICES BY LABOR ORGANIZATIONS PROHIBITED.—Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended by—

(1) striking ''and'' at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) adding after paragraph (7) the following new paragraph;

''(8) to receive from a member or nonmember dues, initiation fees, assessments, or other payments as a condition of membership in the labor organization or as a condition of employment for use for political activities in which the labor organization is engaged unless with the prior written voluntary authorization of the member or nonmember: *Provided,* That nothing in this paragraph shall be construed to deprive the courts of their concurrent jurisdiction over claims that a labor organization's use of the monies specified in this paragraph, or over the procedures for objecting to such spending, breaches the duty of fair representation.''

SEC. . EFFECTIVE DATE.

The amendments made by this Act shall apply the date of enactment of this Act.

ASHCROFT AMENDMENT NO. 5292

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place add the following new title:

TITLE ____—WORKING FAMILIES FLEXIBILITY

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Working Families Flexibility Act of 1996''.

SEC. ___02. COMPENSATORY TIME.

Subsection (o) of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(2) by striking paragraphs (1) through (5) and inserting the following:

''(1) An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

''(2) An employer may provide compensatory time under paragraph (1) only—

''(A) pursuant to—

''(i) applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other agreement between the employer and representatives of such employees; or

''(ii) in the case of employees who are not represented by a collective bargaining agent or other representative designated by the employee, an agreement or understanding arrived at between the employer and employee before the performance of the work involved if such agreement or understanding was entered into knowingly and voluntarily by such employee;

''(B) in the case of an employee who is not an employee of a public agency, if such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time in lieu of monetary overtime compensation; and

''(C) if the employee has not accrued compensatory time in excess of the limit applicable to the employee prescribed by paragraph (4) or (5).

In the case of employees described in subparagraph (A)(ii) who are employees of a public agency and who were hired before April 15, 1986, the regular practice in effect on such date with respect to compensatory time off for such employees in lieu of the receipt of monetary overtime compensation, shall constitute an agreement or understanding described in such subparagraph. Except as provided in the preceding sentence, the provision of compensatory time off to employees of a public agency for hours worked after April 14, 1986, shall be in accordance with this subsection. An employer may provide compensatory time under paragraph (1) to an employee who is not an employee of a public agency only if an agreement or understanding described in subparagraph (A)(ii) was not a condition of employment.

''(3) An employer that is not a public agency and that provides compensatory time under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any employee for the purpose of—

''(A) interfering with such employee's rights under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation;

''(B) requiring any employee to accept such compensatory time in lieu of monetary overtime compensation; or

''(C) requiring any employee to use such compensatory time on or by a date determined by such employer.

''(4)(A) An employee who is not an employee of a public agency may accrue not more than 240 hours of compensatory time.

''(B)(i) Not later than January 31 of each calendar year, the employer of an employee described in subparagraph (A) shall provide monetary compensation, for any compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (6). The employer of an employee described in subparagraph (A) may designate and communicate to the employee a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

''(ii) The employer of an employee described in subparagraph (A) may provide monetary compensation for the employee's unused compensatory time in excess of 80 hours at any time after giving the employee at least 30 days' notice. Such compensation shall be provided at the rate prescribed by paragraph (6).

''(iii) An employer that is not a public agency and that has adopted a policy offering compensatory time to employees of the employer may discontinue such policy upon giving employees 30 days' notice.

''(iv) An employee who is not an employee of a public agency may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at any time.

''(C) An employee who is not an employee of a public agency may request in writing that monetary compensation be provided, at any time, for all compensatory time accrued that has not yet been used. Within 30 days after receiving the written request, the employer of the employee shall provide the employee the monetary compensation due in accordance with paragraph (6).

''(5)(A) If the work of an employee of a public agency for which compensatory time may be provided included work in a public safety activity, an emergency response activity, or a seasonal activity, the employee engaged in such work may accrue not more than 480 hours of compensatory time for hours worked by such employee after April 15, 1986. If the work of an employee of a public agency for which compensatory time may be provided does not include a public safety activity, an emergency response activity, or a seasonal activity, the employee engaged in such work may accrue not more than 240 hours of compensatory time for hours worked after April 15, 1986. Any employee of a public agency who, after April 15, 1986, has accrued 480 or 240 hours, as the case may be, of compensatory time off shall, for additional overtime hours of work, be paid monetary overtime compensation.

''(B) If monetary compensation is paid to an employee described in subparagraph (A) for accrued compensatory time off, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment.

''(6)(A) An employee of an employer that is not a public agency who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time at a rate of compensation not less than—

''(i) the average regular rate received by such employee during the period during which the compensatory time was accrued; or

''(ii) the final regular rate received by such employee;

whichever is higher.

''(B) An employee of an employer that is a public agency who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time at a rate of compensation not less than—

''(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

''(ii) the final regular rate received by such employee;

whichever is higher.

''(C) Any payment owed to an employee under this subsection for unused compensatory time shall be considered unpaid overtime compensation.

''(7) An employee—

''(A) who has accrued compensatory time off authorized to be provided under paragraph (1); and

''(B) who has requested the use of such compensatory time;

shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer.''.

SEC. ___03. REMEDIES.

Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(1) in subsection (b), by striking ''(b) Any employer'' and inserting ''(b) Except as provided in subsection (f), any employer''; and

(2) by adding at the end the following:

''(f) An employer that is not a public agency and that violates section 7(o)(3) shall be liable to the employee affected in an amount equal to—

''(1) the product of the rate of compensation (determined in accordance with section 7(o)(6)(A)) and the number of hours of compensatory time involved in the violation that was initially accrued by the employee; and

''(2) as liquidated damages—

''(A) an additional amount equal to such product; minus

''(B) the product of such rate of compensation and the number of hours of compensatory time involved in the violation that was used by the employee.''.

SEC. ___04. NOTICE TO EMPLOYEES.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations published at section 516.4 of title 29, Code of Federal Regulations (as in effect on August 1, 1996), to employers concerning a notice explaining the Fair Labor Standards Act of 1938 to employees so that such notice reflects the amendments made to such Act by this title.

DASCHLE (AND BREAUX) AMENDMENT NO. 5293

(Ordered to lie on the table.)

Mr. DASCHLE (for himself and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

In the amendment, strike all after the first word and insert:

The Senate finds that over 40 states have received welfare waivers from the Department of Human Services to promote work and personal responsibility leading to self-sufficiency;

It is the sense of the Senate that either all of the waivers or none of the waivers should remain in place until their expiration date.

COVERDELL AMENDMENT NO. 5294

(Ordered to lie on the table.)

Mr. COVERDELL submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PROVISIONS RELATED TO THE USE OF A CONTROLLED SUBSTANCE IN FURTHERANCE OF THE COMMISSION OR ATTEMPTED COMMISSION OF A FELONY.

(a) IN GENERAL.—Section 401 (b) of the Controlled Substance Act is amended by adding at the end the following new section.

''SEC. . USE OF A CONTROLLED SUBSTANCE TO COMMIT A FELONY.

''Any person who, in furtherance of the commission or attempted commission of a felony under Federal or State law, administers or causes to be administered to any person, without the consent of that person, an imported controlled substance (including flunitrazepam) shall, in addition to any punishment provided for that felony, be imprisoned not more than 20 years, fined under title 18, United States Code, or both.''.

(b) FEDERAL AND STATE COORDINATION.—The United States Attorney shall coordinate the prosecution of any defendant charged with an offense under this section with State and local law enforcement agencies in order to ensure swift and appropriate punishment.

BIDEN AMENDMENT NO. 5295

Mr. BIDEN proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . RESCHEDULING OF FLUNITRAZEPAM INTO SCHEDULE I OF THE CONTROLLED SUBSTANCES ACT.

Notwithstanding sections 201 and 202 (a) and (b) of the Controlled Substances Act (21 U.S.C. 811, 812 (a), (b)), respecting the scheduling of controlled substances, the Attorney General shall, by order—

(1) transfer flunitrazepam from schedule IV of such Act to schedule I of such Act; and

(2) add ketamine hydrochloride to schedule II of such Act.

SEC. . PENALTY FOR ADMINISTERING A CONTROLLED SUBSTANCE TO FACILITATE A FELONY.

(a) IN GENERAL.—The Controlled Substances Act (21 U.S.C. 100 et. seq.) is amended

by adding at the end of part D the following new section:

''PENALTY FOR ADMINISTERING A CONTROLLED SUBSTANCE TO FACILITATE A FELONY

''SEC. 423. Whoever administers a controlled substance to a person without that person's knowledge for the purpose of facilitating the commission or attempted commission of a felony under Federal or State law shall, in addition to any other penalty imposed, be imprisoned for up to 10 years, fined as provided under title 18, United States Code, or both.''.

(b) FEDERAL AND STATE COORDINATION.—The United States Attorney shall coordinate the prosecution of any defendant charged with an offense under section 423 of the Controlled Substances Act with State and local law enforcement agencies.

(c) CONFORMING AMENDMENT.—The table of sections for part D of the Controlled Substances Act is amended by inserting after the item relating to section 422 the following new item:

''Sec. 423. Penalty for administering a controlled substance to facilitate a felony.''

KENNEDY AMENDMENTS NOS. 5296–5308

(Ordered to lie on the table.)

Mr. KENNEDY submitted 13 amendments intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

AMENDMENT NO. 5296

Insert at the appropriate place in the Kassebaum amendment the following amendments:

''The Senate recedes with an amendment inserting

''(a) FUNCTIONS.—The functions of the local workforce development board shall include—

''(1) LOCAL WORKFORCE DEVELOPMENT PLAN.—Each local workforce development board shall develop a comprehensive multiyear strategic plan that is consistent with the goals the plan established by the State under section . Such plan shall include the following information—

''(A) an identification of the workforce development needs of local industries, job seekers, and workers;

''(B) a description of workforce development activities to be carried out in the local area as required under section (reference to employment and training section) and section (reference to at-risk youth section), that with programs established under Wagner-Peyser Act, contribute to a coherent workforce development system;

''(C) a description of the local benchmarks applicable to the local area as a whole negotiated with the State consistent with the State plan pursuant to section , and the benchmarks to be used by the local board for measuring the performance of local service providers and the performance of the one-stop career center system;

''(D) a description of the process negotiated with the Governor by the local board in coordination with local elected officials that the local board will use to establish or certify one-stop career centers and service providers in the local workforce development area;

''(E) a description of the process that the local board will use to—

''(i) ensure that the most effective and efficient service providers are chosen;

''(ii) ensure that local providers continue to meet the labor market needs of local employers and program participants; and

''(iii) fully utilize activities authorized under the Wagner-Peyser Act.

''(F) a description of how the local board will obtain the continued input of the chief elected official or officials in the local area in carrying out its duties;

''(G) a description of how the local workforce development board will obtain the active and continuous participation of business and industry, representatives of employees, local educational agencies, postsecondary education institutions, adult education and literacy providers, local service providers, community-based organizations, parents and consumers (including individuals with disabilities, older workers, and veterans) in the workforce development area;

''(H) a description of the steps the local board will take to work with local educational agencies, postsecondary educational institutions, adult education and literacy providers, and others to address the local employment, education, and training needs;

''(I) a description of the process used to fully involve business, labor organizations, the local education community (including teachers), parents and community-based organizations in the development and implementation of at-risk youth activities, including a description of the process used to ensure that the most effective and efficient providers of services are chosen; and

''(J) such other information as the Governor may require.

''(2) IDENTIFICAITON OF QUALIFIED TRAINING PROVIDERS.—Consistent with the requirements established under section , the local board is authorized to work with the State in the identification of qualified providers of training in the workforce development area, for participation in employment and training activities established under section .''

Note 192a (on local board developing budget, with approval by local elected officials):

Strike the staff recommendation (which proposes that the House recede from its provision) and insert in lieu thereof the following: ''The Senate recedes with technical corrections to cross-references.''

Note 192b (on local board oversight responsibilities, in partnership with local elected officials):

Strike the staff recommendation (which proposes that the House recede from its provision) and insert in lieu thereof the following: ''The Senate recedes''.

Note 193 (relating to the role of local elected officials):

Strike the staff recommendation (which proposes that the House recede with an amendment modifying the language) and insert in lieu thereof the following: ''The House recedes with an amendment, as follows:

''COORDINATION WITH LOCAL ELECTED OFFICIALS.—The local board shall—

''(A) develop the local workforce development plan, in coordination with the appropriate chief elected officials of units of general local government in the workforce development area;

''(B) submit the local workforce development plan to such appropriate chief elected officials for approval or modifications, allowing not less than 30 days for such consideration; and

''(C) include acceptable modifications and transmit any additional recommendations by any such chief elected official, as part of the submission of the local workforce development plan to the Governor.''

Note 194 (on local board receiving and disbursing training funds or designating fiscal agent):

Strike the staff recommendation (which proposes that the House recede from its provision) and insert in lieu thereof the following: ''The Senate recedes.''

Note 194a (relating to employment of staff for the local board):

Strike the staff recommendation (which proposes that the House recede from its provision) and insert in lieu thereof the following: ''The Senate recedes.''

Note 195 (relating to prohibition of the local board operating programs itself):

Strike the staff recommendation (which proposes that the Senate recede with an amendment containing new language) and insert in lieu thereof the following: ''The Senate recedes with amendments to insert the word 'directly' before the word 'operate' in the first sentence of the House provision, and to strike the second sentence of the House provision.''

AMENDMENT NO. 5297

Insert at the appropriate place in the Kassebaum amendment the following amendments:

''The Senate recedes with an amendment as follows.''

''SPECIAL RULE.—With respect to adult education activities, the State shall ensure the expenditure for adult education and literacy of an amount at least equal to the amount the State received under section 313 of the Adult Education Act for adult education activities in FY 1995. For any fiscal year in which funding for adult and literacy activities under section is less than the amount received by the State in FY 1995, the state shall use sufficient funds under the flex account under section to satisfy the requirements of this provision.

AMENDMENT NO. 5298

Insert at the appropriate place in the Kassebaum amendment the following amendments:

Note 210 (relating to summer jobs program):

Strike the staff recommendation (which proposes that the Senate recede from its position) and insert in lieu thereof the following: ''The House recedes with an amendment as follows:

''Subsection . SUMMER JOBS PROGRAM.—Each State shall use a portion of the funds provided for at-risk youth activities under this section to conduct a summer youth employment program. Such program shall provide worksite learning opportunities for at-risk youth and be linked to year-round education and training activities provided to such youth.''

''(A) For purposes of paragraph (1)(A), the term ''youth living in poverty'' means an individual who—

''(i) is not less than age 15 or more than age 21; and

''(ii) is a member of a family (having one or more members) with an income below the poverty line (as annually determined by the Office of Management and Budget).

''(B) For purposes of paragraph (1)(B), the term ''youth'' means an individual who is not less than age 15 or more than age 21.

''(C) For purposes of paragraph (2) the term ''allocation percentage'' means—

''(i) with respect to the program year preceding program year 1998, the percentage that the workforce development area receives of financial assistance allotted to all local areas in the State under subtitle B and C of title II of the Job Training Partnership Act for program year 1997; and

''(ii) with respect to program year 1998 and each subsequent program year, the percentage that a workforce development area receives under this subsection for the program year.''

AMENDMENT NO. 5299

Insert at the appropriate place in the Kassebaum amendment the following amendments:

''Subsection AT-RISK YOUTH SUBSTATE ALLOCATION.—

''(1) IN GENERAL.—Subject to the adjustments required by paragraph (2), of the amounts to be allocated within the State to local workforce development boards to carry out at-risk youth activities—

''(A) two-thirds shall be allocated on the basis of the relative number of youth living in poverty within each workforce development area as compared to the total number of youth living in poverty in the State; and

''(B) one-third shall be allocated on the basis of the relative number of youth within each workforce development area as compared to the total number of youth living in the State.

''(2) LIMITATION.—No workforce development area shall be allocated for any program year under paragraph (1) an amount which is less than 98 percent or more than 102 percent of the allocation percentage for such area for the preceding program year.

''(3) DEFINITIONS.—''.

AMENDMENT NO. 5300

Insert at the appropriate place in the Kassebaum amendment the following amendments:

( ) LIMITATIONS ON PARTICIPANTS.—

(1) FINDING.—Congress finds that—

(A) the possession, distribution, and use of drugs by participants in workforce employment activities should not be tolerated, and that such use prevents participants from making full use of the benefits extended through such activities at the expense of taxpayers; and

(B) drug testing, when conducted in accordance with rigorous scientific standards and adequate safeguards, is a fair and effective means of deterring drug use.

(2) DETERMINATION.—Each Governor of a State receiving an allotment under section ___ shall determine whether to require local entities carrying out workforce employment activities described in section ___ in the State to administer drug tests. A Governor who elects to require such testing shall require that the testing be administered in accordance with this subsection and the Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 Fed. Reg. 11970 (1988) (or a successor to such guidelines).

(3) DRUG TESTS.—Each local entity carrying out such workforce employment activities in a State in which the Governor has elected to require such testing (referred to in this subsection as a ''covered State'') shall administer a drug test—

(A) on a random basis, to individuals who apply to participate in such activities; and

(B) to a participant in such activities, on reasonable suspicion of drug use by the participant.

(4) ELIGIBILITY OF APPLICANTS.—Each local entity carrying out such workforce employment activities in a covered State shall provide notice to each applicant, on application, that the applicant may be required to submit to a drug test administered as described in paragraph (3). In order for such an applicant to be eligible to participate in such workforce employment activities, the applicant shall agree to submit to the drug test and, if the test is administered to the applicant, shall pass the test.

(5) ELIGIBILITY OF PARTICIPANTS.—Each local entity carrying out such workforce employment activities in a covered State shall provide notice to each participant, on selection, that the participant may be required to submit to a drug test administered as described in paragraph (3). In order for such a participant to be eligible to participate in such workforce employment activities, the participant shall agree to submit to the drug test and, if the test is administered to the participant, shall pass the test. If a participant refuses to submit to the drug test, or fails the drug test, the local entity shall dismiss the participant from participation in the activities.

(6) REAPPLICATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an individual who is an applicant and is disqualified from eligibility under paragraph (4), or who is a participant and is dismissed under paragraph (5), may reapply, not earlier than 6 months after the date of the disqualification or dismissal, to participate in such workforce employment activities. If the individual demonstrates that the individual has completed a drug treatment program and passed a drug test within the past 30 days, the individual may participate in such activities, under the same terms and conditions as apply to other applicants and participants, including submission to drug tests administered as described in paragraph (3).

(B) SECOND DISQUALIFICATION OR DISMISSAL.—If the individual reapplies to participate in the activities and fails a drug test administered under paragraph (3) by the local entity, while the individual is an applicant or a participant, the local entity shall disqualify the individual from eligibility for, or dismiss the individual from participation in, the workforce employment activities. The individual shall not be eligible to reapply for participation in the activities for 2 years after such disqualification or dismissal.

(7) APPEAL.—A decision by a local entity to disqualify an individual from eligibility for participation in workforce employment activities under paragraph (4) or (6), or to dismiss a participant as described in paragraph (5) or (6), shall be subject to expeditious appeal in accordance with procedures established by the State in which the local entity is located.

(8) DEFINITIONS.—As used in this section:

(A) DRUG.—The term ''drug'' means a controlled substance, as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(B) DRUG TEST.—The term ''drug test'' means a biochemical drug test carried out by a facility that is certified in accordance with the mandatory guidelines (or successor) described in paragraph (2).

AMENDMENT NO. 5301

Insert at the appropriate place in the Kassebaum amendment the following amendments:

(b) RECIPIENTS.—Subject to subsection (c) in making an allotment under section ___ *[the fed to State formula]* to a State, the Secretaries shall make a payment.—

(1) to the Governor of the state for the portion described in paragraphs (1) *[employment and training]* and (4) *[at-risk youth]* of subsection (a), and such part of the flex account as the Governor may be eligible to receive, as determined under the State plan of the State submitted under subsection ___; and

(2) to the eligible agencies in the State for the portion described in paragraphs (2) *[vocational education]* and (3) *[adult education]* of subsection (a), and such part of the flex account as the eligible agencies may be eligible to receive, as determined under the State plan of the State submitted under subsection ___.

2. Note.—Relating to eligible agency, will be inserted in the General Definitions:

( ) the term ''eligible agency'' means—

(A) the State educational agency and each of the State agencies responsible for higher education (including community colleges) that the State chooses. If no such agency is so designated for vocational education activities, the eligible agency for vocational education shall be the individual, entity or agency in a State responsible for administering or setting policies for vocational education on the date of enactment of this Act.

(B) in the case of adult education activities or requirements under this title, the individual, entity, or agency in a State responsible for administering or setting policies for adult education activities in such State pursuant to State law. If no such agency is so designated for adult education activities, the eligible agency for adult education shall be the individual, entity or agency in a State responsible for administering or setting the policies for adult education on the date of enactment of the Act.

3. Note.—Special Rules:

(1) Nothing in this Act shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official. Nothing in this Act shall be construed to interfere with the authority of such agency, entity, or official to enter into a contract under any provision of law.

(2) Nothing in the [subtitle] shall be construed to prohibit any individual, entity or agency in a State (other than the State educational agency) that is administering vocational education activities or adult education and literacy activities or setting education policies consistent with State law for vocational education activities or adult education and literacy activities, on the day preceding the date of enactment of this Act from continuing to administer or set education policies consistent with authority under State law for such activities under this [subtitle].

4. Note 221b.—(formula for within-state distribution of vocational education funds)

The House recedes with an amendment as follows:

(1) EIGHTY PERCENT.—From 80 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 80 percent as the number of children aged 5–17 living in poor families. For the purposes of this section, the Secretary shall determine the number of children aged 5–17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce.''

(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such year.

(b) LIMITATIONS.—No entity shall receive an allotment under this section for a program year an amount that would make the entity's percentage for the program year—

(1) less than the product obtained by multiplying—

(a) 0.98 and

(b) the entity's percentage of the total State allotment for the preceding program year; or

(2) greater than the product obtained by multiplying—

(a) 1.02 and

(b) the entity's percentage of the total State allotment for the preceding program year.''

(b) CONTENTS.—The State plan shall include—

(1)(A) a description of the collaborative process described in section 105 used in developing the plan, including a description of the manner in which the individuals and

agencies involved in the process collaborated in the development of the plan: and

(B)(i)(I) information demonstrating the agreement of the individuals and agencies participating in the collaborative process on the State plan: or

(II) in as case in which the Governor is unable to obtain the agreement of such individuals and agencies as provided in subclause (J), the comments referred to in section 105(c)(2)(C): and

(2) a statement of the State goals and State benchmarks for the statewide system, that includes—

(A) information identifying the State goals and State benchmarks and how the goals and benchmarks will make the statewide system relevant and responsive to labor market and education needs at the local level: and

(B) information describing how the State will coordinate workforce and career development activities to meet the State goals and reach the State benchmarks:

(3) information describing—

(A) the needs of the State with regard to current and projected demands for workers by occupation:

(B) the skills and economic development needs of the State: and

(C) the type and availability of workforce and career development activities in the State;

SEC. 105. COLLABORATIVE PROCESS.

(a) IN GENERAL.—A State shall use a collaborative process to develop the State plan described in section 104 through which individuals and agencies including at a minimum—

(1) the Governor;

(2) representatives appointed by the Governor, of—

(A) business and industry;

(B) local chief elected officials (representing both cities and counties, where appropriate);

(C) local educational agencies (including vocational educators);

(D) postsecondary institutions (including community and technical colleges);

(E) parents; and

(F) employees and labor organizations:

(3) the lead State agency official for—

(A) the State educational agency;

(B) the eligible agency responsible for vocational education;

(C) the eligible agency responsible for adult education;

(D) the State agency responsible for postsecondary education; and

(E) the State agency responsible for vocational rehabilitation, and where applicable, the State agency providing vocational rehabilitation program activities for the blind;

(4) such other State agency officials, including officials responsible for economic development and employment, as the Governor may designate:

(5) representatives of the State legislature; and

(6) the representative of the Veterans' Employment and Training Service assigned to the State under section 4103 of title 38, United States Code shall collaborate in the development of the plan.

(b) ALTERNATIVE PROCESSES.—Subject to concurrence of the eligible agencies and the approval of the Secretaries for alternative collaborative processes to be used for the purposes of complying with subsection (a) and with the review and the approval of the Secretaries—

(1) a State may use any State collaborative process (including collaboration by any council or similar entity) in existence on the date of enactment of this Act that substantially meets the objectives of such subsection, as determined by the governor and the eligible agencies, or

(2) if, prior to the date of enactment of this Act, a State has developed a one-stop career center system or a school-to-work system through a collaborative process that the Governor and the eligible agencies determine is substantially similar to the process described in subsection (a), the State may use such collaborative process.

(c) SPECIAL RULES.—

(1) GOVERNOR.—The Governor of a State shall have final authority for determining the content of the portion of the State plan described in paragraphs ___ through ___ of subsection ( ) regarding employment and training activities and related requirements and at-risk youth activities and related requirements;

(2) ELIGIBLE AGENCIES.—The eligible agencies in a State shall have final authority for determining the content of the portion of the State plan described in paragraphs ___ through ___ of subsection ( ) regarding vocational education activities and related requirements and adult education and literacy activities and related requirements.

(d) AUTHORITY OF GOVERNOR.—

(1) FINAL AUTHORITY.—If, after a reasonable effort, the Governor is unable to obtain the agreement of the individuals and agencies participating in the collaborative process described in subsection (a) or (b) on the State plan, the Governor shall have final authority to submit the State plan as described in section 104, except as provided in paragraph (3).

(2) DISAGREEMENT.—The Governor shall—

(A) provide such individuals and agencies with copies of the State plan:

(B) allow such individuals and agencies to submit to the Governor, not later than the end of the 30-day period beginning on the date on which the governor provides such individuals and agencies with copies of such plan under subparagraph (A), comments on such plan; and

(C) accept and include with the State plan any such comments that—

(i) are submitted by an eligible agency and represent disagreement with such plan, with respect to vocational education or adult education; or

(ii) are submitted by another individual or agency participation in the collaborative process.

(3) ELIGIBLE AGENCY COMMENTS.—An eligible agency, in submitting comments under paragraph (2)(C)(i), may submit provisions for any portion of the State plan described in paragraphs ( ) through ( ) of subsection (b) (regarding vocational education activities and related requirements), as appropriate. The Governor shall include the provisions in the plan submitted by the governor under section 104. *Such provisions shall be considered to be such portion of the State plan.*

SEC. 106. ACCOUNTABILITY.

To be supplied.

SEC. 107. IDENTIFICATION OF PROVIDERS.

What is the relationship between local entities as defined in section 4 and eligible providers under this section?

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—To be eligible to receive funds made available to a State under this title for employment and training activities, a provider of training services shall meet the requirements of this section. Are these requirements only for providers seeking to conduct training, or any employment

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AMENDMENT NO. 5302

Insert at the appropriate place in the Kassebaum amendment the following amendments:

''The Senate recedes with an amendment as follows.''

''SEC. . SUBMISSION AND APPROVAL OF STATE PLAN.

(a) IN GENERAL.—For a State to be eligible to receive an allotment under section ___, the Governor of a State shall submit to the Secretaries every third year a single, comprehensive State plan (referred to in this section as a ''State plan'') for the development and implementation of the Statewide system and obtain the approval of such plan by the Secretaries in accordance with subsection (b).

(b) STATE PLAN APPROVAL.—The Secretaries of Labor and Education shall jointly approve a State plan if—

(1) the Secretaries determine that the plan contains the information described in subsection ( );

(2) the Secretaries determine that the State has prepared the plan in accordance with the requirements of this Act;

(3) the Secretaries are satisfied that the steps described in the plan will achieve the purposes of the Act and are substantively adequate to achieve an integrated workforce development system within three years of approval of the plan; and

(4) the Secretaries have negotiated and agreed to State performance indicators with the State in accordance with section ( ).''

AMENDMENT NO. 5303

Insert at the appropriate place in the Kassebaum amendment the following amendments:

SEC. . PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) IN GENERAL.—In order to promote high levels of performance and to ensure an appropriate return on the Nation's investment in the workforce development system, each State receiving funds under this Act shall implement a statewide performance accountability system that meets the requirements of this section.

(b) INDICATORS OF PERFORMANCE.—

(1) IN GENERAL.—Each State receiving funds under this Act shall identify indicators [Note: Senate uses ''benchmarks'' in lieu of ''indicators'' throughout section] of performance for each of the programs established under this Act that are consistent with State goals as described in the State plan in accordance with section ___. Such indicators shall, at a minimum, include the core indicators described in subsection (f), and be expressed in an objective, quantifiable, and measurable form. Such indicators may also include post-program surveys measuring the satisfaction of both employers and program participants.

(2) TECHNICAL DEFINITIONS OF CORE INDICATORS.—In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, in collaboration with the States and with representatives of business and industry, employees, educational agencies, service providers, and other interested parties, shall promulgate definitions of each of the core indicators described in subsection (f), to be used under this Act in measuring performance.

(c) LEVELS OF PERFORMANCE.—

(1) EXPECTED LEVELS.—

(A) NEGOTIATION.—Prior to approval of the State plan, the appropriate Secretary shall negotiate with each State the levels of performance expected to be achieved by such State with respect to the core indicators described in subsection (f), taking into account—

(i) whether the levels will enable each State to attain the State goals;

(ii) how the levels compare with the levels established by other States;

(iii) how the levels compare with the model levels identified pursuant to paragraph (2)(A); and

(iv) such other factors as may ensure an appropriate return on the investment of Federal funds.

(B) APPLICATION TO LOCAL AREAS AND ENTITIES.—Based on the expected levels of performance established pursuant to subparagraph (A), each State shall identify the level of performance that is expected for local workforce development areas and for other local administrative entities under this Act. In determining such levels, the Governor or eligible entity as defined in section ( ), in collaboration with local agencies, may adjust the expected levels of performance with respect to each local area or entity taking into account specific economic, demographic, and geographic factors, and the characteristics of the population to be served.

(2) CHALLENGING LEVELS OF PERFORMANCE.—

(A) MODEL LEVELS.—In order to encourage high levels of performance and advance the Nation's competitiveness in the global economy, the Secretary of Labor and the Secretary of Education, in collaboration with the States and with representatives of business and industry, employees, educational agencies, service providers, and other interested parties, shall identify model challenging levels of performance with respect to the core indicators described in subsection (f).

(B) NEGOTIATION.—Prior to approval of the State plan, the appropriate Secretary shall negotiate with each State challenging levels of performance which, if achieved, would qualify such States for incentive grants under section ___. Such levels shall take into account—

(i) how the levels compare with the model levels established pursuant to subparagraph (A);

(ii) the extent to which such levels would demonstrate continuous improvement in performance by such State and exceed the expected levels established in paragraph (1);

(iii) the extent to which such State successfully serves the special populations identified in subsection (f)(3); and

(iv) such other factors as may demonstrate exceptional performance by the State.

(d) REPORT ON PERFORMANCE.—

(1) IN GENERAL.—The State shall report, as required by the Secretaries, the levels of performance achieved by the State and by each local workforce development area and each other local administrative entity with respect to the indicators identified pursuant to subsection (b)(1) for each program year, beginning with the second program year. The Secretaries shall make such information available to the general public through publication and other appropriate methods, and shall disseminate State-by-State comparisons, and comparisons with other industrialized nations (where appropriate).

(2) JOB PLACEMENT VERIFICATION SYSTEM.—

(A) IN GENERAL.—In order to verify data relating to the employment indicators described in subsection (f), and the performance-based information submitted by providers of training pursuant to section ___, each State shall establish a job placement verification system. Such system shall match relevant participant information with quarterly wage records available through the unemployment insurance system to verify employment and earnings information.

(B) PROVISIONS OF INFORMATION.—Each local entity that carries out employment and training activities or education activities and that receives funds under this title shall provide such information as the State may require to carry out the verification described in subparagraph (A).

(C) CONFIDENTIALITY.—Information obtained through the job placement verification system shall be protected by the State from unlawful access and be made available for use solely by public officials or their agents in the administration of this Act. Personal identifiers produced pursuant to subparagraph (B) shall be used solely for the purpose of computer matching under this section and shall not be used for any other purpose or redisclosed for other purposes.

(e) CONSEQUENCES FOR POOR PERFORMANCE.—

(1) STATE CONSEQUENCES.—If a State fails to meet expected levels of performance for a program for any program year as established pursuant to subsection (c)(1)(A), the appropriate Secretary shall provide technical assistance, which may include assistance in the development of a performance improvement plan. If such failure continues for a second consecutive year, the appropriate Secretary may reduce, by not more than 5 percent, the amount of the grant that would (in the absence of the paragraph) be payable to the State under such program for the immediately succeeding program year. The Secretaries may use funds withheld under this paragraph to provide, through alternative arrangements, services and activities within the State that meet the purpose of the Act.

(2) LOCAL CONSEQUENCES.—(A) If a local workforce development area or other local administrative entity fails to meet expected levels of performance for a program for any program year established pursuant to subsection (c)(1)(B), the Governor or the eligible as defined by section ( ), shall provide technical assistance, which may include the development of a performance improvement plan.

(B) If such failure continues for a second consecutive year, the Governor or the eligible entity as defined by section ___ may take corrective actions, such as the withholding of funds, the redesignation of a local administrative entity, or such other actions as the Governor or such eligible entity determines are appropriate, consistent with State law, and the requirements of this Act.

(f) CORE INDICATORS OF PERFORMANCE.—

(1) CORE INDICATORS FOR EMPLOYMENT AND TRAINING.—The core indicators of performance for employment and training programs conducted under this Act shall include:

(A) placement in unsubsidized employment;

(B) retention in unsubsidized employment for not less than 6 months and for not less than 12 months, respectively;

(C) increases in earnings, or in earnings in combination with employer-assisted benefits;

(D) attainment of industry-recognized occupational skills, including basic workplace competencies and industry-recognized skill standards, which may include the acquisition of a skill certificate in the occupation for which the individual has been prepared;

(E) attainment of a high school diploma or general equivalency diploma; and

(F) such other measures of performance that the State may wish to collect.

(2) CORE INDICATORS FOR EDUCATION.—The core indicators of performance for education programs conducted under this Act shall include:

(A) Student mastery of academic knowledge;

(B) Student mastery of work readiness, occupational, and industry-recognized skills for students in career preparation programs;

(C) Placement in, retention in, and completion of secondary education (as determined under State law) and postsecondary education, and placement and retention in employment and in military service; and

(D) Mastery of the literacy, knowledge, and skills, including English acquisition, adults need to be productive and responsible citizens and for parents to become more actively involved in the education of their children.

(3) ADDITIONAL CORE INDICATORS FOR SPECIAL POPULATIONS.—In addition to the core indicators described in paragraphs (1) and (2), the core indicators of performance for programs conducted under this Act shall include measures of the success in achieving State goals for special populations, including dislocated workers, low income individuals, at-risk youth, individuals with disabilities, displaced homemakers, welfare recipients, and individuals who are basic skills deficient.

SEC. . MANAGEMENT INFORMATION SYSTEMS.

Each State shall use a portion of the funds in receives for administration under this Act to operate a management information system in accordance with guidelines established jointly by the Secretaries in consultation with the Governors and eligible entities as defined in section ( ). Such guidelines shall include elements that promote the efficient collection and use of management information for reporting and monitoring the use of funds and the performance of programs conducted under this Act, including information relating to demographic characteristics of participants, and ensure appropriate privacy protections.

In all Appropriate notes: Strike the phrase ''representatives of employees'' and ''employees and representatives of labor organizations'' wherever such phrases appear, and substitute in lieu thereof ''representatives of labor organizations and employees''.

Note 364.—(relating to definition of public employment offices): Modify the staff-recommended amendment by striking all of paragraph (6), and redesignating paragraph (7) as paragraph (6).

Note 365.—(relating to duties of Secretary of Labor): Modify the staff-recommended amendment by striking out, ''pursuant to title II of this Act'' in subsection (a).

AMENDMENT NO. 5304

Insert at the appropriate place in the Kassebaum amendment the following amendments:

Strike the repeal of the School-to-Work Opportunities Act;

Amend Section 802 of the School-to-Work Opportunities Act of 1993 (20 USC 6251) by striking ''2001'' and inserting ''2000.''

AMENDMENT NO. 5305

Insert at the appropriate place in the Kassebaum amendment the following amendments:

''The Senate recedes with an amendment as follows:''

''Subsection ___. DISLOCATED WORKER ASSISTANCE.—

(a) IN GENERAL.—From the amounts allocated to the States in any program year that are available to carry out adult employment and training and the flex account, the States, in accordance with requirements of paragraph (2), shall expend an amount to provide employment and training services to dislocated workers that, when combined with amounts allocated for such workers in the national reserve account, is not less than $1.3 billion.

(2) STATE SHARES.—In order to meet the requirements of paragraph (1), the Secretaries shall determine, based on the relative share of each State of the funds allocated under this Act pursuant to the formula provided in section ___, an amount equal to the relative share for each State of $1.3 billion minus the amount allocated to the national reserve for emergency grants for dislocated workers. Each State shall expend, from funds available to such State for adult employment and training, and if such funds are insufficient, from the flex account, not less than the amount determined for such State pursuant to the preceding sentence to provide employment and training services to dislocated workers.''

AMENDMENT NO. 5306

Insert at the appropriate place in the Kassebaum amendment the following amendments:

''(a) ACTIVITIES.—(1)(A) Of the funds allotted to a State under section 102 for each fiscal year, a State shall use an amount that equals the total of the funds appropriated to it for fiscal year 1996 for the programs consolidated under this Act for workforce employment and training, adult education and literacy, vocational education, and at-risk youth program activities.

''(B) From such amount—

''(i) a portion equal to 45 percent of such amount shall be used for workforce employment and training activities;

''(ii) a portion equal to 7 percent of such amount shall be used for adult education and literacy activities;

''(iii) a portion equal to 28 percent of such amount shall be used for vocational education activities; and

''(iv) a portion equal to 20 percent of such amount shall be used for at-risk youth program activities.

''(2)(A) If, for any fiscal year, a State's allotment under section 102 is equal to or less than the total amount of the funds appropriated to it for fiscal year 1996 for Federal grants for the programs consolidated under this Act, the State shall use that lesser amount in accordance with paragraph (1)(B).

''(B) If, for any fiscal year, a State's allotment under section 102 exceeds the total amount of the funds appropriated to it for fiscal year 1996 Federal grants for the programs consolidated under this Act, the State shall, subject to subparagraph (C), use such excess for flexible workforce activities (referred to in section ___ as the 'flex account'.)

''(C) If, for any fiscal year, a State's allotment under section 102 exceeds 125 percent of its total amount of the funds appropriated to it for fiscal year 1996 for Federal grants for programs consolidated under this Act, the State shall use the amount in excess of 125% in the following manner:

''(i) a portion equal to 35 percent to such amount shall be used for workforce employment and training activities;

''(ii) a portion equal to 5 percent of such amount shall be used for adult education and literacy activities;

''(iii) a portion equal to 20 percent of such amount shall be used for vocational education activities;

''(iv) a portion equal to 15 percent of such amount shall be used for at-risk youth.

''(v) a portion equal to 25 percent of such amount shall be used for flexible workforce activities (referred to as the 'flex account').

AMENDMENT NO. 5307

Insert at the appropriate place in the Kassebaum amendment the following amendments:

''The Senate recedes with an amendment as follows.''

''Paragraph . USE OF CAREER GRANTS

''(i) DISLOCATED WORKERS.—Except as provided in clause (ii), training under this Act shall be provided through the use of skill grants to dislocated workers who are 18 years or older, who are unable to obtain Pell Grants under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and who are unable to obtain the training or employment they desire through the core services.

Note 337(a).—(relating to exceptions to use of skill grants): Senate recedes.

Note 337(b).—(relating to transition for skill grants): Senate recedes with amendment striking ''three years'' and inserting ''five years.''

Note 159.—(relating to incentives): Modify the proposed staff amendment by adding at the end the following new paragraph:

''(5) ACCELERATED IMPLEMENTATION OF CAREER GRANTS.—In order to encourage early implementation of the career grant system, the Secretaries may, from funds reserved under section ___, award incentive grants to States that implement the career grant system described in section ___, prior to the date required for such implementation under section ___.''

AMENDMENT NO. 5308

Insert in the Kassebaum amendment the following:

Note 219.—(relating to the allocation of workforce education funds): ''The House recedes with an amendment as follows:''

''(A) Secondary school vocational education, or postsecondary and adult vocational education, or both; and

''(B) 1 or more State corrections agencies to administer vocational education programs for juvenile and adult criminal offenders in correctional institutions in the State, including correctional institutions operated by local authorities.''

Note 227.—(relating to distribution of adult vocational funds): ''The House recedes with an amendment as follows:''

''Strike (A) on line 35.''

Note 233.—(relating to reservation of funds for corrections agencies): ''The Senate recedes.''

HATCH AMENDMENT NO. 5309

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

On page 9, line 2, strike ''or facilitate to manufacture'' and insert ''or to facilitate the manufacture of''.

On page 10, line 8, strike ''IMPORTATION REQUIREMENTS'' and insert ''IMPORTATION AND EXPORTATION REQUIREMENTS''.

On page 11, line 9, strike the comma after ''item''.

On page 11, line 12, strike beginning with ''For purposes'' through line 21 and insert ''For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.'.''.

On page 14, line 24, strike ''Iso safrole'' and insert ''Isosafrole''.

On page 15, between lines 5 and 6, add the following:

SEC. 210. WITHDRAWAL OF REGULATIONS.

The final rule concerning removal of exemption for certain pseudoephedrine products marketed under the Federal Food, Drug, and Cosmetic Act published in the Federal Register of August 7, 1996 (61 FR 40981–40993) is null and void and of no force or effect.

On page 21, line 23, strike beginning with '', except that'' through ''transaction'' on page 22, line 6, and insert '', except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine products by retail distributors or by distributors required to submit reports by section 310(b)(3) of this title shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction''.

On page 22, line 8, strike ''abuse'' and insert ''offense''.

On page 23, strike lines 1 through 14 and insert the following:

''(46)(A) The term 'retail distributor' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

On page 24, line 12, strike ''The'' and insert the following: ''Pursuant to subsection (d)(1), the''.

On page 25, line 17, strike ''effective date of this section'' and insert ''date of enactment of this Act''.

On page 26, line 1, after ''being'' insert ''widely''.

On page 26, line 4, strike ''in bulk'' and insert ''for distribution or sale''.

On page 27, line 15, strike ''effective date of this section'' and insert ''date of enactment of this Act''.

On page 28, between lines 19 and 20, insert the following and redesignate the following paragraphs accordingly:

(3) SIGNIFICANT NUMBER OF INSTANCES.—

(A) IN GENERAL.—For purposes of this subsection, isolated or infrequent use, or use in insubstantial quantities, of ordinary over-the-counter pseudoephedrine or phenylpropanolamine, as defined in section 102(45) of the Controlled Substances Act, as added by section 401(b) of this Act, and sold at the retail level for the illicit manufacture of methamphetamine or amphetamine may not be used by the Attorney General as the basis for establishing the conditions under paragraph (1)(A)(ii) of this subsection, with respect to pseudoephedrine, and paragraph (2)(A)(ii) of this subsection, with respect to phenylpropanolamine.

(B) CONSIDERATIONS AND REPORT.—The Attorney General shall—

(i) in establishing a finding under paragraph (1)(A)(ii) or (2)(A)(ii) of this subsection, consult with the Secretary of Health and Human Services in order to consider the effects on public health that would occur from the establishment of new single transaction limits as provided in such paragraph; and

(ii) upon establishing a finding, transmit a report to the Committees on the Judiciary in both, respectively, the House of Representatives and the Senate in which the Attorney General will provide the factual basis for establishing the new single transaction limits.

On page 29, between lines 14 and 15, insert the following:

(f) COMBINATION EPHEDRINE PRODUCTS.—

(1) IN GENERAL.—For the purposes of this section, combination ephedrine products shall be treated the same as pseudoephedrine products, except that—

(A) a single transaction limit of 24 grams shall be effective as of the date of enactment of this Act and shall apply to sales of all combination ephedrine products, notwithstanding the form in which those products are packaged, made by retail distributors or distributors required to submit a report under section 310(b)(3) of the Controlled Substances Act (as added by section 402 of this Act);

(B) for regulated transactions for combination ephedrine products other than sales described in subparagraph (A), the transaction limit shall be—

(i) 1 kilogram of ephedrine base, effective on the date of enactment of this Act; or

(ii) a threshold other than the threshold described in clause (i), if established by the Attorney General not earlier than 1 year after the date of enactment of this Act; and

(C) the penalties provided in subsection (d)(1)(B) of this section shall take effect on

the date of enactment of this Act for any individual or business that violates the single transaction limit of 24 grams for combination ephedrine products.

(2) DEFINITION.—For the purposes of this section, the term ''combination ephedrine product'' means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient.

On page 29, line 15, strike ''(f)'' and insert ''(g)''.

On page 29, line 17, strike all beginning with ''over-the-counter'' through line 20 and insert ''pseudoephedrine or phenylpropanolamine product prior to 12 months after the date of enactment of this Act, except that, on application of a manufacturer of a particular pseudoephedrine or phenylpropanolamine drug product, the Attorney General may, in her sole discretion, extend such effective date up to an additional six months. Notwithstanding any other provision of law, the decision of the Attorney General on such an application shall not be subject to judicial review.''

On page 35, line 5, after ''funds'' insert ''or appropriations''.

KENNEDY (AND SIMON) AMENDMENT NO. 5310

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. SIMON) proposed an amendment to the bill, H.R. 3756, supra; as follows:

Strike sections 301 and 302 and insert the following:

SEC. 301. PENALTY INCREASES FOR TRAFFICKING IN METHAMPHETAMINE.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide for increased penalties for unlawful manufacturing, importing, exporting, and trafficking of methamphetamine, and other similar offenses, including unlawful possession with intent to commit any of those offenses, and attempt and conspiracy to commit any of those offenses. The Commission shall submit to Congress explanations therefor and any additional policy recommendations for combating methamphetamine offenses.

(b) IN GENERAL.—In carrying out this section, the Commission shall ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a) and any recommendations submitted under such subsection reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine, including—

(1) the rapidly growing incidence of methamphetamine abuse and the threat to public safety such abuse poses;

(2) the high risk of methamphetamine addiction;

(3) the increased risk of violence associated with methamphetamine trafficking and abuse; and

(4) the recent increase in the illegal importation of methamphetamine and precursor chemicals.

SEC. 302. ENHANCED PENALTIES FOR OFFENSES INVOLVING CERTAIN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking ''not more than 10 years,'' and inserting ''not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical,''.

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking ''not more than 10 years,'' and inserting ''not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical,''.

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—The United States Sentencing Commission shall, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority of that section had not expired, amend the sentencing guidelines to increase by at least two levels the offense level for offenses involving list I chemicals under—

(A) section 401(d) (1) and (2) of the Controlled Substances Act (21 U.S.C 841(d) (1) and (2)); and

(B) section 1010(d) (1) and (3) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d) (1) and (3)).

(2) REQUIREMENT.—In carrying out this subsection, the Commission shall ensure that the offense levels for offenses referred to in paragraph (1) are calculated proportionally on the basis of the quantity of controlled substance that reasonably could have been manufactured in a clandestine setting using the quantity of the list I chemical possessed, distributed, imported, or exported.

On page 2, strike out the items relating to sections 301 and 302 and insert the following:

BIDEN AMENDMENT NO. 5311

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

Add at the appropriate place:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Methamphetamine Control Act of 1996''.

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

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Methamphetamine is a very dangerous and harmful drug. It is highly addictive and is associated with permanent brain damage in long-term users.

(2) The abuse of methamphetamine has increased dramatically since 1990. This increased use has led to devastating effects on individuals and the community, including—

(A) a dramatic increase in deaths associated with methamphetamine ingestion;

(B) an increase in the number of violent crimes associated with methamphetamine ingestion; and

(C) an increase in criminal activity associated with the illegal importation of methamphetamine and precursor compounds to support the growing appetite for this drug in the United States.

(3) Illegal methamphetamine manufacture and abuse presents an imminent public health threat that warrants aggressive law enforcement action, increased research on methamphetamine and other substance abuse, increased coordinated efforts to prevent methamphetamine abuse, and increased monitoring of the public health threat methamphetamine presents to the communities of the United States.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL DRUGS.

The Attorney General, in consultation with the Secretary of State, shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.

SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED CHEMICALS OUTSIDE THE UNITED STATES WITH INTENT TO IMPORT THEM INTO THE UNITED STATES.

(a) UNLAWFUL IMPORTATION.—Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended—

(1) in the matter before paragraph (1), by inserting ''or listed chemical'' after ''schedule I or II''; and

(2) in paragraphs (1) and (2), by inserting ''or chemical'' after ''substance''.

(b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—Paragraphs (1) and (2) of section 1009(b) of the Controlled Substances Import and Export Act (21 U.S.C. 959(b)) are amended by inserting ''or listed chemical'' after ''controlled substance''.

(c) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) in paragraph (5), by striking ''or'' at the end;

(2) in paragraph (6), by striking the comma at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 959 of this title.''.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

SEC. 201. SEIZURE AND FORFEITURE OF REGULATED CHEMICALS.

(a) PENALTIES FOR SIMPLE POSSESSION.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended—

(1) in subsection (a)—

(A) by adding after the first sentence the following: ''It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 303 of this title or section 1008 of title III if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration.''; and

(B) by striking ''drug or narcotic'' and inserting ''drug, narcotic, or chemical'' each place it appears; and

(2) in subsection (c), by striking ''drug or narcotic'' and inserting ''drug, narcotic, or chemical''.

(b) FORFEITURES.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraphs (2) and (6), by inserting ''or listed chemical'' after ''controlled substance'' each place it appears; and

(2) in paragraph (9), by—

(A) inserting ''dispensed, acquired,'' after ''distributed,'' both places it appears; and

(B) striking ''a felony provision of''.

(c) SEIZURE.—Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) in subsection (a)(3), by inserting ''or listed chemical'' after ''controlled substance''; and

(2) by amending subsection (b) to read as follows:

''(b) As used in this section, the terms 'controlled substance' and 'listed chemical' have the meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).''.

SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT SALES OF AGENTS USED IN METHAMPHETAMINE PRODUCTION.

(a) STUDY.—The Attorney General of the United States shall conduct a study on possible measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas, and other agents for use in the production of methamphetamine. Nothing in this section shall preclude the Attorney General from taking any action the Attorney General already is authorized to take with regard to the regulation of listed chemicals under current law.

(b) REPORT.—Not later than January 1, 1998, the Attorney General shall submit a report to the Congress of its findings pursuant to the study conducted under subsection (a) on the need for and advisability of preventive measures.

(c) CONSIDERATIONS.—In developing recommendations under subsection (b), the Attorney General shall consider—

(1) the use of red phosphorous, iodine, hydrochloric gas, and other agents in the illegal manufacture of methamphetamine;

(2) the use of red phosphorous, iodine, hydrochloric gas, and other agents for legitimate, legal purposes, and the impact any regulations may have on these legitimate purposes; and

(3) comments and recommendations from law enforcement, manufacturers of such chemicals, and the consumers of such chemicals for legitimate, legal purposes.

SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND POSSESSION OF EQUIPMENT USED TO MAKE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking ''(d) Any person'' and inserting ''(d)(1) Except as provided in paragraph (2), any person''; and

(2) by adding at the end the following:

''(2) Any person who, with the intent to manufacture or facilitate to manufacture methamphetamine, violates paragraph (6) or (7) of subsection (a), shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both; except that if any person commits such a violation after one or more prior convictions of that person—

''(A) for a violation of paragraph (6) or (7) of subsection (a);

''(B) for a felony under any other provision of this subchapter or subchapter II of this chapter; or

''(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $60,000, or both.''.

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the sentencing guidelines to ensure that the manufacture of methamphetamine in violation of section 403(d)(2) of the Controlled Substances Act, as added by subsection (a), is treated as a significant violation.

SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS TO LIST II.

(a) IN GENERAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by adding at the end the following:

''(I) Iodine.

''(J) Hydrochloric gas.''.

(b) IMPORTATION REQUIREMENTS.—(1) Iodine shall not be subject to the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

(2) EFFECT OF EXCEPTION.—The exception made by paragraph (1) shall not limit the authority of the Attorney General to impose the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRECURSOR CHEMICALS.

(a) OFFENSES.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (9), by striking ''or'' after the semicolon;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of this title or title III, with reckless disregard for the illegal uses to which such a laboratory supply will be put.

As used in paragraph (11), the term 'laboratory supply' means a listed chemical or any chemical, substance, or item, on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if a firm distributes or continues to distribute a laboratory supply to a customer where the Attorney General has previously notified, at least two weeks before the transaction(s), the firm that a laboratory supply sold by the firm, or any other person or firm, has been used by that customer, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals.''

(b) CIVIL PENALTY.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by adding at the end the following:

''(C) In addition to the penalties set forth elsewhere in this title or title III, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.''.

SEC. 206. INJUNCTIVE RELIEF.

(a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—Section 401(f) of the Controlled Substances Act (21 U.S.C. 841(f)) is amended by—

(1) inserting ''manufacture, exportation,'' after ''distribution,''; and

(2) striking ''regulated''.

(b) TEN-YEAR INJUNCTION OTHER OFFENSES.—Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in subsection (e), by—

(A) inserting ''manufacture, exportation,'' after ''distribution,''; and

(B) striking ''regulated''; and

(2) by adding at the end the following:

''(f) INJUNCTIONS.—(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section or section 402.

''(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

''(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 402.

''(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.''.

SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE LABORATORY SITES.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

''(q) The court, when sentencing a defendant convicted of an offense under this title or title III involving the manufacture of methamphetamine, may—

''(1) order restitution as provided in sections 3612 and 3664 of title 18, United States Code;

''(2) order the defendant to reimburse the United States for the costs incurred by the United States for the cleanup associated with the manufacture of methamphetamine by the defendant; and

''(3) order restitution to any person injured as a result of the offense as provided in section 3663 of title 18, United States Code.''.

SEC. 208. RECORD RETENTION.

Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended by striking the dash after ''transaction'' and subparagraphs (A) and (B) and inserting ''for two years after the date of the transaction.''.

SEC. 209. TECHNICAL AMENDMENTS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34), by amending subparagraphs (P), (S), and (U) to read as follows:

''(P) Iso safrole.

''(S) N-Methylephedrine.

''(U) Hydriodic acid.''; and

(2) in paragraph (35), by amending subparagraph (G) to read as follows:

''(G) 2-Butanone (or Methyl Ethyl Ketone).''.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

SEC. 301. TRAFFICKING IN METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—

(1) LARGE AMOUNTS.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

(A) striking ''100 grams or more of methamphetamine,'' and inserting ''50 grams or more of methamphetamine,''; and

(B) striking ''1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''500 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

(2) SMALLER AMOUNTS.—Section 401(b)(1)(B)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

(A) striking ''10 grams or more of methamphetamine,'' and inserting ''5 grams or more of methamphetamine,''; and

(B) striking ''100 grams or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''50 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

(b) IMPORT AND EXPORT ACT.—

(1) LARGE AMOUNTS.—Section 1010(b)(1)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(H)) is amended by—

(A) striking ''100 grams or more of methamphetamine,'' and inserting ''50 grams or more of methamphetamine,''; and

(B) striking ''1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''500 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

(2) SMALLER AMOUNTS.—Section 1010(b)(2)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(H)) is amended by—

(A) striking ''10 grams or more of methamphetamine,'' and inserting ''5 grams or more of methamphetamine,''; and

(B) striking ''100 grams or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''50 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

SEC. 302. PENALTY INCREASES FOR TRAFFICKING IN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking the period and inserting the following: ''or, with respect to a violation of paragraph (1) or (2) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals possessed or distributed, the penalty corresponding to the quantity of controlled substance that could have been produced under subsection (b).''.

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking the period and inserting the following: '', or, with respect to an importation violation of paragraph (1) or (3) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals imported, the penalty corresponding to the quantity of controlled substance that could have been produced under title II.''.

(c) DETERMINATION OF QUANTITY.—

(1) IN GENERAL.—For the purposes of this section and the amendments made by this section, the quantity of controlled substance that could reasonably have been provided shall be determined by using a table of manufacturing conversion ratios for list I chemicals.

(2) TABLE.—The table shall be—

(A) established by the United States Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission deems appropriate; and

(B) dispositive of this issue.

SEC. 303. ENHANCED PENALTY FOR DANGEROUS HANDLING OF CONTROLLED SUBSTANCES: AMENDMENT OF SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall determine whether the Sentencing Guidelines adequately punish the offenses described in subsection (b) and, if not, promulgate guidelines or amend existing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of such an offense.

(b) OFFENSE.—The offense referred to in subsection (a) is a violation of section 401(d), 401(g)(1), 403(a)(6), or 403(a)(7) of The Controlled Substances Act (21 U.S.C. 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in which in the commission of the offense the defendant violated—

(1) subsection (d) or (e) of section 3008 of the Solid Waste Disposal Act (relating to handling hazardous waste in a manner inconsistent with Federal or applicable State law);

(2) section 103(b) of the Comprehensive Environmental Response, Compensation and Liability Act (relating to failure to notify as to the release of a reportable quantity of a hazardous substance into the environment);

(3) section 301(a), 307(d), 309(c)(2), 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal Water Pollution Control Act (relating to the unlawful discharge of pollutants or hazardous substances, the operation of a source in violation of a pretreatment standard, and the failure to notify as to the release of a reportable quantity of a hazardous substance into the water); or

(4) section 5124 of title 49, United States Code (relating to violations of laws and regulations enforced by the Department of Transportation with respect to the transportation of hazardous material).

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMICALS.

(a) IN GENERAL.—Section 102(39) of the Controlled Substances Act (21 U.S.C. 802(39)) is amended—

(1) in subparagraph (A)(iv)(I)(aa), by striking ''as'' through the semicolon and inserting

'', pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise provided by regulation of the Attorney General issued pursuant to section 204(e) of this title;''; and

(2) in subparagraph (A)(iv)(II), by inserting '', pseudoephedrine, phenylpropanolamine,'' after ''ephedrine''.

(b) LEGITIMATE RETAILERS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (39)(A)(iv)(I)(aa), by adding before the semicolon the following: '', except that any sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996)'';

(2) in paragraph (39)(A)(iv)(II), by adding before the semicolon the following: '', except that any sale of products containing pseudoephedrine or phenylpropanolamine, other than ordinary over-the-counter pseudoephedrine or phenylpropanolamine products, by retail distributors shall not be a regulated transaction if the distributor's sales are limited to less than the threshold quantity of 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in each single transaction'';

(3) by redesignating paragraph (43) relating to felony drug abuse as paragraph (44); and

(4) by adding at the end the following:

''(45) The term 'ordinary over-the-counter pseudoephedrine or phenylpropanolamine product' means any product containing pseudoephedrine or phenylpropanolamine that is—

''(A) regulated pursuant to this title; and

''(B)(i) except for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base, and that is packaged in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches; and

''(ii) for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base.

''(46)(A) The term 'retail distributor' means—

''(i) with respect to an entity that is a grocery store, general merchandise store, or drug store, a distributor whose activities relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales, both in number of sales and volume of sales, directly to walk-in customers; and

''(ii) with respect to any other entity, a distributor whose activities relating to ordinary over-the-counter pseudoephedrine or phenylpropanolamine products are limited primarily to sales directly to walk-in customers for personal use.

''(B) For purposes of this paragraph, sale for personal use means the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.

''(C) For purposes of this paragraph, entities are defined by reference to the Standard Industrial Classification (SIC) code, as follows:

''(i) A grocery store is an entity within SIC code 5411.

''(ii) A general merchandise store is an entity within SIC codes 5300 through 5399 and 5499.

''(iii) A drug store is an entity within SIC code 5912.''.

(c) REINSTATEMENT OF LEGAL DRUG EXEMPTION.—Section 204 of the Controlled Substances Act (21 U.S.C. 814) is amended by adding at the end the following new subsection:

''(e) REINSTATEMENT OF EXEMPTION WITH RESPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE DRUG PRODUCTS.—The Attorney General shall by regulation reinstate the exemption with respect to a particular ephedrine, pseudoephedrine, or phenylpropanolamine drug product if the Attorney General determines that the drug product is manufactured and distributed in a manner that prevents diversion. In making this determination the Attorney General shall consider the factors listed in subsection (d)(2). Any regulation issued pursuant to this subsection may be amended or revoked based on the factors listed in subsection (d)(4).''.

(d) REGULATION OF RETAIL SALES.—

(1) PSEUDOEPHEDRINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of pseudoephedrine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for pseudoephedrine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of pseudoephedrine base, the Attorney General shall establish, following notice, comment, and an informal hearing that since the effective date of this section there are a significant number of instances where ordinary over-the-counter pseudoephedrine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802 (45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being used as a significant source of precursor chemicals for illegal manufacture of a controlled substance in bulk.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(2) PHENYLPROPANOLAMINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of phenylpropanolamine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for phenylpropanolamine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of phenylpropanolamine base, the Attorney General shall establish, following notice, comment, and an informal hearing, that since the effective date of this section there are a significant number of instances where ordinary over-the-counter phenylpropanolamine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802(45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being used as a significant source of precursor chemicals for illegal manufacture of a controlled substance in bulk.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(3) DEFINITION OF BUSINESS.—For purposes of this subsection, the term ''business'' means the entity that makes the direct sale and does not include the parent company of a business not involved in a direct sale regulated by this subsection.

(4) JUDICIAL REVIEW.—Any regulation promulgated by the Attorney General under this section shall be subject to judicial review pursuant to section 507 of the Controlled Substances Act (21 U.S.C. 877).

(e) EFFECT ON THRESHOLDS.—Nothing in the amendments made by subsection (b) or the provisions of subsection (d) shall affect the authority of the Attorney General to modify thresholds (including cumulative thresholds) for retail distributors for products other than ordinary over-the-counter pseudoephedrine or phenylpropanolamine products (as defined in section 102(45) of the Controlled Substances Act, as added by this section) or for non-retail distributors, importers, or exporters.

(f) EFFECTIVE DATE OF THIS SECTION.—Notwithstanding any other provision of this Act, this section shall not apply to the sale of any over-the-counter pseudoephedrine or phenylpropanolamine product initially introduced into interstate commerce prior to 9 months after the date of enactment of this Act.

SEC. 402. MAIL ORDER RESTRICTIONS.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by adding at the end the following:

''(3) MAIL ORDER REPORTING.—(A) Each regulated person who engages in a transaction with a nonregulated person which—

''(i) involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals); and

''(ii) uses or attempts to use the Postal Service or any private or commercial carrier;

shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.

''(B) The data required for such reports shall include—

''(i) the name of the purchaser;

''(ii) the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased; and

''(iii) the address to which such ephedrine, pseudoephedrine, or phenylpropanolamine was sent.''.

TITLE V—EDUCATION AND RESEARCH

SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE.

(a) ESTABLISHMENT.—There is established a ''Methamphetamine Interagency Task Force'' (referred to as the ''interagency task force'') which shall consist of the following members:

(1) The Attorney General, or a designee, who shall serve as chair.

(2) 2 representatives selected by the Attorney General.

(3) The Secretary of Education or a designee.

(4) The Secretary of Health and Human Services or a designee.

(5) 2 representatives of State and local law enforcement and regulatory agencies, to be selected by the Attorney General.

(6) 2 representatives selected by the Secretary of Health and Human Services.

(7) 5 nongovernmental experts in drug abuse prevention and treatment to be selected by the Attorney General.

(b) RESPONSIBILITIES.—The interagency task force shall be responsible for designing, implementing, and evaluating the education and prevention and treatment practices and strategies of the Federal Government with respect to methamphetamine and other synthetic stimulants.

(c) MEETINGS.—The interagency task force shall meet at least once every 6 months.

(d) FUNDING.—The administrative expenses of the interagency task force shall be paid out of existing Department of Justice appropriations.

(e) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the interagency task force.

(f) TERMINATION.—The interagency task force shall terminate 4 years after the date of enactment of this Act.

SEC. 502. PUBLIC HEALTH MONITORING.

The Secretary of Health and Human Services shall develop a public health monitoring program to monitor methamphetamine abuse in the United States. The program shall include the collection and dissemination of data related to methamphetamine abuse which can be used by public health officials in policy development.

SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.

(a) ADVISORY PANEL.—The Attorney General shall establish an advisory panel consisting of an appropriate number of representatives from Federal, State, and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals. The Attorney General shall convene the panel as often as necessary to develop and coordinate educational programs for wholesale and retail distributors of precursor chemicals and supplies.

(b) CONTINUATION OF CURRENT EFFORTS.—The Attorney General shall continue to—

(1) maintain an active program of seminars and training to educate wholesale and retail distributors of precursor chemicals and supplies regarding the identification of suspicious transactions and their responsibility to report such transactions; and

(2) provide assistance to State and local law enforcement and regulatory agencies to facilitate the establishment and maintenance of educational programs for distributors of precursor chemicals and supplies.

SEC. 504. SUSPICIOUS ORDERS TASK FORCE.

(a) IN GENERAL.—The Attorney General shall establish a ''Suspicious Orders Task Force'' (the ''Task Force'') which shall consist of—

(1) appropriate personnel from the Drug Enforcement Administration (the ''DEA'') and other Federal, State, and local law enforcement and regulatory agencies with the experience in investigating and prosecuting illegal transactions of listed chemicals and supplies; and

(2) representatives from the chemical and pharmaceutical industry.

(b) RESPONSIBILITIES.—The Task Force shall be responsible for developing proposals to define suspicious orders of listed chemicals, and particularly to develop quantifiable parameters which can be used by registrants in determining if an order is a suspicious order which must be reported to DEA. The quantifiable parameters to be addressed will include frequency of orders, deviations from prior orders, and size of orders. The Task Force shall also recommend provisions as to what types of payment practices or unusual business practices shall constitute prima facie suspicious orders. In evaluating the proposals, the Task Force shall consider effectiveness, cost and feasibility for industry and government, an other relevant factors.

(c) MEETINGS.—The Task Force shall meet at least two times per year and at such other times as may be determined necessary by the Task Force.

(d) REPORT.—The Task Force shall present a report to the Attorney General on its proposals with regard to suspicious orders and the electronic reporting of suspicious orders within one year of the date of enactment of this Act. Copies of the report shall be forwarded to the Committees of the Senate and House of Representatives having jurisdiction over the regulation of listed chemical and controlled substances.

(e) FUNDING.—The administrative expenses of the Task Force shall be paid out of existing Department of Justice funds.

(f) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the Task Force.

(g) TERMINATION.—The Task Force shall terminate upon presentation of its report to the Attorney General, or two years after the date of enactment of this Act, whichever is sooner.

LAUTENBERG AMENDMENT NO. 5312

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

SEC. . GUN BAN FOR INDIVIDUALS COMMITTING DOMESTIC VIOLENCE.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

''(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel.'';

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel,''; and

(3) in subsection (s)(3)(B)(i), by inserting before the semicolon the following: ''and has not been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel''.

(c) RULES AND REGULATIONS.—Section 926(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.''.

SHELBY AMENDMENT NO. 5313

Mr. SHELBY proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 19, line 2, before the period add the following new provision: '':*Provided further,* That of the funds appropriated $2,500,000 may be made available for the review of trade issues as authorized by Public Law 103–182''.

KERREY AMENDMENT NO. 5314

Mr. SHELBY (for Mr. KERREY) proposed an amendment to the bill, H.R. 3756, supra; as follows:

Insert at the appropriate place: ''*Provided further,* That from funds made available for Basic Repairs and Alterations, $2,000,000 may be transferred to the Policy and Operations appropriation''.

HATCH (AND OTHERS) AMENDMENT NO. 5315

Mr. HATCH (for himself, Mr. COVERDELL, Mrs. HUTCHISON, and Mr. WARNER) proposed an amendment to amendment No. 5295 proposed by Mr. BIDEN to the bill, H.R. 3756, supra; as follows:

Strike all after the first word and insert the following:

PROVISIONS RELATING TO USE OF A CONTROLLED SUBSTANCE WITH INTENT TO COMMIT A CRIME OF VIOLENCE.

(a) PENALTIES FOR DISTRIBUTION.—Section 401(b) of the Controlled Substances Act is amended by adding at the end the following:

''(7)(A) Whoever, with intent to commit a crime of violence as defined in section 16, United States Code (including rape) against an individual, violates subsection (a) by distributing a controlled substance to that individual without that individual's knowledge, shall be imprisoned not more than 20 years and fined as provided under title 18, United States Code.

''(B) As used in this paragraph, the term 'without that individual's knowledge' means that the individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual.''.

''(b) ADDITIONAL PENALTIES RELATING TO FLUNITRAZEPAM.

(1) GENERAL PENALTIES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(A) in subsection (b)(1)(C), by inserting ''or 1 gram of flunitrazepam'' after ''I or II''; and

(B) in subsection (b)(1)D), by inserting ''or 30 milligrams of flunitrazepam,'' after ''schedule III,''.

(2) IMPORT AND EXPORT PENALTIES.—

(A) Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended by inserting ''or flunitrazepam'' after ''I or II''.

(B) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended by inserting ''or flunitrazepam'' after ''I or II,''.

(C) Section 1010(b)(4) of the Controlled Substances Import and Export Act is amended by inserting ''(except a violation involving flunitrazepam)'' after ''III, IV, or V,''.

(3) SENTENCING GUIDELINES.—The United States Sentencing Commission shall amend the Sentencing Guidelines so that one dosage unit of flunitrazepam shall be equivalent to one gram of marijuana for determining the offense level under the Drug Quantity Table.

(d) INCREASED PENALTIES FOR UNLAWFUL SIMPLE POSSESSION OF FLUNITRAZEPAM.—Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after the sentence ending with ''exceeds 1 gram.'' the following new sentence: ''Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years and shall be fined as otherwise provided in this section.''

ASHCROFT AMENDMENT NO. 5316

Mr. ASHCROFT proposed an amendment to amendment No. 5234 proposed by Mr. DASCHLE to the bill, H.R. 3756, supra; as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. . WORKFORCE FLEXIBILITY FOR EMPLOYEES OF FEDERAL CONTRACTORS.—Subchapter II of chapter 61 of title 5, United States Code, shall apply to contractors and employees specified in section 03(a)(1) and to contractors with an entity of the executive branch of the Federal Government, and employees of such contractors, in the same manner, and to the same extent, as such subchapter applies to agencies and employees, respectively, as defined in section 6121 of title 5, United States Code.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forest and Public Land Management.