United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *105th* CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, TUESDAY, MAY 5, 1998 *No. 54*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign Lord of our Nation, You have created each of us to know, love, and serve You. Thanksgiving is the memory of our hearts and the thermostat of our souls, opening us to the inflow of Your Spirit and the realization of even greater blessings. You have shown us that gratitude is the parent of all other virtues. Without gratitude, our lives miss the greatness that you intended and remain proud, self-centered, and small.

We begin this day with gratitude for the gifts of life, intellect, emotion, will, strength, fortitude, and courage. We are privileged to live in this free land so richly blessed by You.

But we also thank You for the problems that make us dependent on You for guidance and strength. When we turned to You in the past, You gave us the leadership skills we needed. Thank You, Lord, for taking us where we are, with all our human weaknesses, and using us for Your glory. May we always be distinguished by the immensity of our gratitude for the way You pour out Your wisdom and vision when we call out to You for help. We are profoundly grateful. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will be in a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of H.R. 2676, the IRS reform and restructuring bill, for debate only, prior to the policy luncheon recess, except for the offering of a managers' amendment if one is agreed to and worked out. I have the impression they have made good progress in that area.

Members are encouraged to come to the floor to debate this IRS reform bill so the Senate can complete action as early as possible this week. It is certainly very important legislation. A lot of effort has been put into its development. I know Senators do want to make comments on it, but I hope they will not wait until later in the week. They have a golden opportunity this morning and this afternoon to go ahead and make statements they are prepared to offer.

As a reminder, a rollcall vote is scheduled this evening at 5:30 on passage of H.R. 1385, the workforce development bill. There will be 1 hour of debate prior to that, beginning at 4:30. Any votes ordered with respect to the IRS reform bill will be stacked to occur following the 5:30 vote.

I thank my colleagues for their attention to this. I hope we can have the type of cooperation this week that we received last week.

Mr. President, I do have a statement I would like to make, but before I begin that, let me observe the absence of a quorum just for a moment.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

INTERNAL REVENUE SERVICE REFORM

Mr. LOTT. Mr. President, today we begin our second day of floor debate on legislation to rein in the Internal Revenue Service. As hearings demonstrated last week, once again, the IRS is an agency with real problems. I should note, again, it has a job to do. It is not an easy job. We acknowledge that. We also have to give credit to those IRS employees who work hard, do an honest job, and don't target people for unnecessary audits or try to set up laundering schemes, things of that nature. A lot of IRS employees have put their own jobs on the line and have endured a lot of harassment because they have said there are problems here.

We heard from a number of them last week who came in. In fact, one lady came in, she is chief of a division, and complained about the slowness or inaction by the Deputy Commissioner of IRS where there has been misconduct within the IRS. It seems when complaints or problems develop and recommendations are made, they are put in a desk somewhere, or on a desk, and they seem to just disappear. It was an IRS agent who came and said the Deputy Commissioner is not following up on things.

We had a panel of IRS agents who came in and talked about the problems they had found. IRS agents are the ones who pointed out there had been targeted audits of people like Senator Howard Baker. It was three IRS agents who were, in effect, punished or moved because they said there is a rogue agent here out of control doing something that is wrong and illegal. So a lot of IRS workers are the ones who have brought these matters to our attention.

The most compelling testimony, though, last week, for me, involved small businessmen who had been raided unfairly. Some of them still, obviously, are emotionally distraught over what

they had to endure. One of them was a man by the name of John Colaprete. Mr. Colaprete is a small businessman, a restaurant owner, in Virginia Beach, VA. He told the Senate Finance Committee how the IRS almost destroyed his business. This morning you will get a chance to hear his story in his own words. I am going to read his testimony because it was so compelling. I fear a lot of Senators did not hear his testimony, and a lot of the American people didn't hear it, but this is just one of the three. I know there are many others in the country.

This is the type of thing that is being done by the Criminal Investigation Unit at IRS that has to be reined in.

My name is John Colaprete. I'm from Virginia Beach, and I'm in the restaurant business.

I'm also a husband, a father, and veteran, having served my country proudly as a U.S. Marine Corps captain from 1965 to 1969.

I have never been in any sort of trouble with the law, and I believe that every American has an obligation to pay their fair share of income taxes.

I have never failed to meet that obligation.

I have always considered myself both patriotic and a law-abiding citizen.

I will always be a law-abiding citizen. However, I feel I have literally been punished for upholding the laws of the nation I swore an allegiance to honor and defend.

Four years ago, I employed a bookkeeper in my restaurant who eventually embezzled approximately $40,000.00 from the business. She went to prison for her crimes, but not before turning my life, and the lives of countless others, upside down. With the full cooperation of the Internal Revenue Service, this woman, a multiple felon, who already had an outstanding warrant for her arrest, managed not once but twice, to victimize me, my family, partners, employees, patrons and others in the business community who depended upon me and my business.

This dance with the Devil began in March of 1994, when my partner and I became aware that we were being swindled by our bookkeeper. When we discovered substantial shortages in our accounts, we confronted her, and she admitted to stealing from our business. She told us she would make restitution. Unfortunately, rather than make restitution, she sought shelter with the IRS and told them a fantastic tale of money laundering, gun running and drug dealing by my partner and me.

Little did I know that the IRS would spend less than 48 hours investigating my bookkeeper's allegations before conducting raids on my business, my home, and the home of my manager.

Little did I know that the government I had so proudly served would accept these allegations to be true, despite the alarming lack of substantiation, probable cause, or proof of any sort whatsoever.

Little did I know that the IRS, when faced with the outrageous claim that I had thousands of pounds of cocaine stored like cordwood in my office, would subscribe to a policy of Guilty Until Proven Innocent. Unfortunately, in the case of the IRS, I now know this is standard operating procedure when dealing with law-abiding taxpayers.

This wasn't a matter of an honest mistake; in fact, a recently retired FBI agent divulged in a deposition taken for the case that I have pending against the IRS, that he had advised all involved to be skeptical about the claims of my accuser. The FBI specifically declined to become involved, and in the words of one of its agents, the whole story sounded like a ''Grade B'' movie.

On the morning that both my home and business were raided—raids executed solely on the word of my ex-bookkeeper—I was in a church for the occasion of my son's first holy communion. Armed agents, accompanied by drug-sniffing dogs, stormed my restaurant during breakfast, ordered patrons out of the restaurant and interrogated my employees. The IRS impounded my records, my cash registers, and my computers. Since the raids, we managed to get up and running, despite what can easily be perceived as our own government's best attempts to put us out of business.

Today, I still wonder how such a thing can happen, but I know it does. And I'd like you to know that for every taxpayer like me—those who have survived armed assaults on our businesses and our homes—there are perhaps several thousands of taxpayers who, in fear, lick their wounds, tally their losses, and consider themselves lucky that the IRS has finally left them alone, their innocence notwithstanding. I have nothing to hide, and I will never consider myself lucky when I ponder the events of the last four years. As for the taxpayers who have suffered similar injustices at the hands of the IRS, I hear from these people every week. They seek me out and relate horror stories that, at one time, would have evoked from me nothing more than simple skepticism. I used to believe that such things could only happen in a Communist bloc country, or a police state. I don't believe that anymore.

When the raid occurred at my home, the front foor was torn from the hinges. My dogs were impounded, along with my safe and 12 years of my personal income tax returns and supporting documents. When that safe was finally returned, an heirloom watch that I had received as a gift from my father was missing. In the aftermath of the raid, I returned to find my home in shambles. It was as if I had been burglarized, both in appearance and in the sense of having been grossly violated.

While my restaurant and my home were being raided by armed agents of the Internal Revenue Service, a raid was also being conducted on the home of my manager.

In that raid, my manager was pulled at gunpoint from the shower and forcibly restrained while he attempted to call an attorney. His teenage son was forced to the floor at gunpoint. His daughter, 14 years old at the time, had several friends over for a slumber party the night before. These young girls had to get dressed under the watchful eyes of male agents, despite the presence of female agents. The IRS agents stood in the doorway to the bedroom, refusing these young girls even a semblance of privacy.

We were never charged with any crimes. After scrutinizing our records for four months, the IRS returned most of them. A rental truck pulled up in front of my business one day, and the items that were returned were basically dumped in a pile on the street for us to sort through. I never received an apology.

Following the raids, I could get no answers as to why all of this occurred. I was met with ''No comment, Mr. Colaprete,'' at every turn. Freedom of information requests were ignored, ostensibly due to a backlog of such requests, and despite legally mandated time limits on such requests. Two newspapers in Virginia Beach made repeated requests under the Freedom of Information Act, only to have the Justice Department thumb its nose at those requests. When an investigative journalist began to get to the bottom of things, he was also subjected to the harassment of the IRS. He had an opportunity to interview Special Agent Carol Willman from the IRS office in Norfolk, Virginia. During that interview, Ms. Willman interrupted the reporter's inquiries with a demand for his Social Security number. Within the year, he was notified that the IRS wanted to audit his return. When a local publication reported this, the audit was abruptly canceled. An IRS agent stated at the time that the agency does not retaliate against citizens through the use of audits, but the facts would seem to indicate otherwise.

The ex-bookkeeper, meanwhile, was kept in protective custody by the IRS in a motel up until the time of the raids. It is almost unimaginable that there could be such a level of incompetence at the IRS that they would not only take the word of this woman and begin any sort of investigation, but they would shield her from the authorities who were trying to arrest her. The woman who the IRS was protecting and on whom they had relied had already been convicted numerous times. In fact, the outstanding criminal charge pending against her at the time she approached the IRS was for a crime involving lying and stealing. Ironically, just a week before this woman approached the IRS, I had specifically gone to the police and filed a complaint against her, alleging that she had lied, stolen and embezzled from me. In the face of all of that, how could anyone, let alone a supposedly trained, professional inspector with the IRS, accept at face value what this woman was saying? Based on her word, she—Carol Willman—not only commenced an investigation, but completely shut down a business and turned the lives of innocent people upside down less than 48 hours after first being introduced to the woman. Is there such a competitive atmosphere within the IRS to add another feather in their cap that they would ignore not only basic investigative techniques, but the obvious flaws in this woman's character and simply accept her at face value? It is frightening that such a woman could have conned the IRS into believing that her employer, despite all appearances to the contrary, was a high-level gangster and then shield her from the law in the belief that she would lead them to a bigger fish—like me.

To compound the Keystone Cop mistakes that had already been made, the IRS then allowed her to leave the jurisdiction of Virginia to go to North Carolina where she was only later sent to jail for embezzling from three other employers in that state. On the surface, it might appear that she acted alone, but that just isn't so. The IRS was her partner in crime—first, acting in concert to destroy my life, and then allowing her to flee the state and victimize others.

I looked for answers and was rebuffed at every turn. I suffered a deep depression that lasted a year. I was immobilized and could not get out of bed some days. My neighbors shunned me. My wife, who is an artist, has not been able to pick up a paint brush in four years. My children were taunted at school and told that their father was a gangster and a drug dealer—a Mafioso. I raised my children with a zero tolerance for dishonesty, and now they must hear allegations that I am a tax cheat. I am here to tell you that I am none of those things.

Relatively speaking, the trauma that has befallen me is mild, compared to what has happened to my manager. He has suffered severe depression, sought counseling from his pastor, literally been shunned by friends and acquaintances, and has yet to get his life back in order. He has been ruined financially and emotionally, with little or no hope of ever getting his life back to where it was prior to the raids.

I'm also here to tell you that we cannot treat our citizens this way—not in America. I have been repeatedly victimized over the

past four years, primarily by a government tax agency that is funded with my tax dollars. If Americans have a perception of the IRS as the Boogey Man, it is because the IRS itself has promoted that perception through policies that are fundamentally unconstitutional and illegal.

This is not a partisan issue—it is a people issue and a freedom issue.

I have a lawsuit pending against the IRS, and I will not rest until I have had my day in court. The IRS response to the lawsuit has been to cast doubt on my character by insinuating that they did, in fact, find evidence of wrongdoing, but they chose not to prosecute if. If I was guilty of anything, why would they ''choose'' not to prosecute? While any ''allegations'' will eventually be shown in court to be what they are, i.e., a smoke screen, until I can get into court to prove my case, these ''allegations'' linger in the community where I live and work and continue to compound my frustration.

The system does not work for the American taxpayer. The total sense of violation that we have experienced has had a devastating effect on us all. In the wake of all of this, I find there is no system in place to defend me, or others like me. I'd like to believe that someone takes responsibility for what has happened—for what continues to happen every day in this country. If the example we are to set for our citizens is one of no accountability and no remorse, then our form of government—the oldest surviving democracy on the planet—cannot survive much longer.

A day doesn't go by that I don't wonder what harassment will occur next. I would like to know why this dark entity known as the IRS has come into my life and refused to leave. So who protects me in the system? Who cares about my constitutional rights? Not the courts. Not the IRS. I am hoping that the buck stops here—with you, Senator Roth and this Committee.

I leave you with just three questions, Senators:

(1) Why did this happen?

(2) What will you do to see that it never happens again to innocent taxpaying Americans? We cannot employ inexperienced and immature people to play God with the lives of our taxpayers—IRS agents who decide that it's a beautiful day to go out and destroy someone's life; and finally,

(3) Once this ordeal has ended and I have obtained a verdict in a court of law and a judgment against the IRS, what will you do to assure me that the IRS pays the judgment, rather than continue to beat me into submission through endless appeals and an outright refusal to pay the judgment that I obtain?

In this great democracy, we have created this entity to collect taxes which we all agree must exist. However, we have empowered this agency to be subject to no one, to no laws, to no checks and balances, and all of us—including each and every one of you—are afraid of them! Why should we fear the very people we employ?

When these hearings began last September, I was told that Senator Roth would conduct these hearings because he has no fear. After my ordeal, I have no fear any longer, but when Americans receive that letter with the logo of the IRS in the upper left hand corner, their pulse rate, heart beat and blood pressure rise. There is a genuine fear. This fear must stop.

Mr. President, I want to open today's debate by sending messages to two groups of people.

To Mr. Colaprete, to his family, to his manager, to the employees of his restaurant, and to the residents of Virginia Beach whose lives were harmed by the IRS, I want to say that I'm sorry. Since the IRS apparently thinks they do not need to apologize to you, I will. On behalf of myself and the United States Senate, I apologize for the harm that your government has done to you.

I also want to say to Mr. Colaprete that it is our intent that this never happens again. The legislation we have before us is specifically designed to stop the kind of abuse you suffered, and we will continue to maintain a vigilant watch over this agency.

To the agents at the IRS, who have been out of control, and to the management who is protecting those agents, I want to say watch out. We are on to you, and we will not let you do this sort of thing to the American people.

That is our goal here, to provide some protections, some oversight that is free and separate from the IRS, a private citizen entity to look into their procedures and their conduct. It also is to give some relief to the taxpayers who now find quite often that the penalties and the interest far surpass the basic amount that was owed.

This action is overdue. I want us to have a strong bill because I don't want us to come back 2 years from now and find out what we did, in fact, did not change the culture at IRS. I do believe that the new Commissioner, Mr. Rossotti, is trying hard to turn things around, but it is not all the agency's fault. The laws that we have on the books have been inadequate. In fact, I am not sure we can fix these laws. We may have to just scrap what we have and start over again.

For now, until that is done, we must build in protections against this type of abuse of ordinary citizens and taxpayers.

I yield the floor.

RESERVATION OF LEADER TIME

THE PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m, with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Utah, Mr. HATCH, is recognized to speak for up to 30 minutes.

Mr. HATCH. Without losing my right to the floor, I am happy to yield time to the distinguished Senator from Idaho. Then I would like to make my statement.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I ask unanimous consent the time I use would not take away from the allocated time of the Senator from Utah.

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

ENDANGERED SPECIES REAUTHORIZATION

Mr. CRAIG. Mr. President, today I come to the floor to speak to the reauthorization of the Endangered Species Act. I ask unanimous consent my name be added to the cosponsorship of S. 1180, a bill reauthorizing the Endangered Species Act.

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

Mr. CRAIG. Mr. President, I would like to take a few minutes today to talk about S. 1180, the Endangered Species Act reauthorization bill, and why I have decided to cosponsor it at this time.

As our colleagues know, this bill was passed by the Environment and Public Works Committee last fall, and it is currently on the calendar, ready for consideration by the full Senate. I have been slow to cosponsor S. 1180 because of some reservations I had—and still have—about the bill. I will talk in more detail about those details in a minute.

However, I am absolutely convinced that the current Endangered Species Act is not only a dismal failure at saving species, but is actually working against that goal. Furthermore, every day we tolerate this defective law, its unfair and unnecessary burdens increase on citizens and the economy. Yet at the same time, the American people continue to believe that conserving fish and wildlife species for the enjoyment of future generations is the right thing to do. And I certainly agree with that. They want to make changes to the law, but don't want to see the Endangered Species Act thrown out.

That is why for the last three years, my colleague and friend from Idaho, Senator KEMPTHORNE, has been working mightily to improve this complex law. He has held hearings, built coalitions, drafted and re-drafted language to correct the problems while still advancing the goals of the Endangered Species Act. I congratulate him, as well as our other Senate colleagues who have worked with him to produce this bill.

S. 1180 would make some positive reforms in the current system. It would re-focus the process on actually saving species. It would create opportunities and benefits for people who are affected by the government's actions in these areas.

For example, the bill emphasizes *sound science—instead of politics*—to guide actions taken to conserve and recover species. It requires independent peer review for listing and delisting decisions, and for the establishment of a biological recovery goal in a recovery plan. Specific time limits would be observed, and States and local citizens would have a larger role in the process.

I believe these provisions and others would make significant improvements

in our current process, to the benefit of both our wildlife and our citizenry. While additional corrections could be made, those who drafted this bill believe that a more comprehensive overhaul of ESA is not going to pass this Congress. I tend to agree with that assessment and I am also willing to pursue the strategy of trying to pass these reforms now as a foundation for further reforms later. That is the message I would like to send with my cosponsorship of S. 1180 today.

Having said all that, Mr. President, I cannot endorse each and every provision within this legislation. I will be supporting amendments that will change or add to the bill in a number of areas.

For instance, while I support S. 1180's stated goal of providing incentives to promote voluntary habitat conservation by private landowners, I am very concerned about what the bill as a whole will fail to do in the area of protecting private property rights.

This is no small matter. The right to own and use property goes to the very heart of our American democracy. It was so important to our founding fathers that they enshrined the protection of private property in the Constitution's Bill of Rights.

It is equally important today. Yet our federal government has increasingly ignored these rights. President Clinton rejected the Constitution's guarantee outright when he pledged to veto any ''compensation entitlement legislation'' intended to strengthen Americans' private property rights. Representatives of this administration have even suggested that the idea of *private property is an outmoded notion*.

Let me say to them, how dare they. Nowhere in the administration's hostility toward private property rights is there more evidence of that than in their threat to veto an endangered species reform that has that in it.

Let's take a look at Secretary Babbitt's ''no surprises'' policy, for example. The basic idea is that if landowners surrender control over the use of part of their property for ESA purposes, then the Federal Government will let them use the rest of it without interference. To put it another way, Secretary Babbitt proposes that you pay the Government for the right to use your own land. By comparison, the Constitution of the United States promises that if the Federal Government wants your land used a certain way, the Federal Government has to pay you for it.

Even more outrageous than Secretary Babbitt's program is the fact that many landowners think it is actually a pretty good deal. How oppressive and tyrannical have ESA regulations become, when citizens are willing, even eager, to give up their property and their constitutionally protected right to compensation just to get the Government off their back, just to get the Government to leave them alone.

I applaud the goal of S. 1180 in reducing regulatory burdens and improving the certainty and finality of Government action in protecting endangered species. It is bad policy to require the American people to sacrifice their constitutionally protected rights for any Federal program, even this one.

I would like to see S. 1180 strengthen and protect fifth amendment rights to compensation. I will vote for amendments and/or legislation that strengthens our citizens' private property rights.

The paramount natural resource issue for Americans in the West is sovereignty of our States over water that flows and exists within the boundaries of those Western States. It is easy to say that all we need to do is remain silent on this issue and it will be OK. In fact, however, preserving State water sovereignty is not so easy. The reality of how Federal water rights are created, or not created, requires that we speak to the question, I believe, in this legislation.

The appropriation doctrine is the water law of Western States and has as its central premise that the first person to claim a water right has priority on its use over those water claimants who assert claims at a later date. In the arid West, this principle lies at the very heart of our economy. It is the ability to allocate this precious resource—the resource of water—that allows us to exist in the West.

It is for this reason we westerners become particularly agitated when the Federal Government tries to disrupt this principle or to ''take'' our water. Does this legislation create a Federal reserved water right? The answer is no, it doesn't. But it should say that very clearly. And I will support an amendment that I hope can pass, which will say very clearly that, within the Endangered Species Act reauthorization, it doesn't.

With all of those considerations, though, I believe it is important that we move S. 1180. I think it is a positive step forward. As I have said, I believe it lays the right foundation for further changes in Congresses to come. It says to the American people that we are concerned about preserving species of animals, insects, of all things on this earth, if we can possibly do it. At the same time, there is a reasonable right and a reasonable responsibility enshrined within the Constitution that we preserve the right of the citizenry to exist also.

It is for this reason that this legislation should clearly state the Congress' intent. For the record, this Senator does not intend for the endangered species reauthorization legislation to create a federal reserved water right. This is why I believe S. 1180 must state clearly that no implied or express federal water right is created in this legislation. I will support and vote for such an amendment.

With these areas of concern in mind, I am also inclined to support a shorter term of reauthorization than S. 1180 provides. As I mentioned previously, it is my goal to build additional improvements on the foundation laid by this legislation. Accelerating the opportunity for Congress to re-open the issue would only advance that goal.

In closing, Mr. President, let me repeat my endorsement for the goals that Senator KEMPTHORNE and the other supporters of this bill set out to achieve in reauthorizing the Endangered Species Act. I think the bill will make improvements that are critical to ongoing EAS efforts in my state and elsewhere in the nation, and amendments in the areas I have discussed today will enhance those improvements.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Utah is recognized.

COMPREHENSIVE ANTI-TOBACCO LEGISLATION

Mr. HATCH. Mr. President, to date, our efforts to develop comprehensive, bipartisan anti-tobacco legislation have been stymied by the lack of consensus on a number of major issues.

Over the next few weeks, I intend to devote full attention toward refocusing our efforts on a bill which can be enacted this year.

To accomplish that goal, it is important that Congress and the Administration reflect on what our objective actually has been—and should continue to be.

Last June, the 40 State Attorneys General, public health representatives, tobacco company officials, and representatives of the Castano group, announced a bold new initiative focused on eradicating the scourge of youth tobacco use.

This proposed global tobacco settlement presents Washington with a once-in-a-generation-opportunity to help families and communities raise a whole generation of youth tobacco-free.

Certainly, no one in Congress was bound to the particulars of the June agreement.

But, we would not have seen such virtually unprecedented legislative consideration of the tobacco issue in the past 11 months were it not for this settlement.

In short, our objective in 1997 was to improve the public health, and specifically the health of our youth, through a constitutional package of reforms which relies on a guaranteed stream of revenue from tobacco companies.

Our objective should be the same in 1998.

But it appears that it is not.

Unfortunately, partisan politics, fear, greed and Washington's pile-on mentality have caused us to lose sight of this objective.

Instead, we are simply trying to ''out-tobacco'' one another. If that continues, the public interest will not be served, and Big Tobacco will win.

As an optimist, I remain hopeful the Congress will succeed this year in passing strong, anti-tobacco legislation

that is comprehensive, workable, and Constitutionally-permissible.

But as a realist, I also know that the events of the last few weeks, in which this issue has become increasingly fractionalized and politicized, make our task that much more difficult.

Comprehensive tobacco legislation is now in jeopardy. Not for want of trying, to be sure, but for a lack of consensus on several crucial issues.

For us to consider comprehensive tobacco legislation, and then to fail, would be a terrible loss, a loss for our country, a loss for our political system, and a loss for the generation of our youth America's parents hope to bring up tobacco-free.

Let me be blunt. Our failure to enact comprehensive anti-tobacco legislation would also be a significant victory for the tobacco industry, an industry which has knowingly marketed harmful products for decades, deliberately targeting our youth in their quest for profits.

Let me be equally frank. Passage of just any bill will be a significant loss for the American people, who should be able to rely on their legislators to write sound, responsible legislation.

In writing a bill, we should not give in to the tobacco industry's demands. We should not give in to their less-than-veiled attempts to force both the Administration and the Congress into abandoning our objectives—addressing the problem of youth tobacco, reforming the legal system to allow for appropriate compensation to claimants, enhancing biomedical research with respect to tobacco, improving the public health, as well as helping our farmers transition away from growing tobacco.

At the outset of my remarks, I want to distinguish carefully and clearly any substantive concerns I have about the legislation that has emerged from the Commerce Committee with my respect and admiration for those who have brought the legislation to this point.

First and foremost, I commend the Chairman of the Commerce Committee, Senator MCCAIN. Anybody who knows anything about JOHN MCCAIN knows that he is a patriot and true American hero.

As I will lay out, while I do have significant concerns with many of the major details of the legislation that the Commerce Committee has put forward—and would have preferred that we could have worked more closely together—I do commend the efforts of all the members of the Commerce Committee in moving a bill forward for floor consideration.

But before I discuss the policies of tobacco control, I want to sound a cautionary note about its politics.

Pundits report that Democrats are in a ''win-win'' position on this issue.

As conventional wisdom goes, the minority can keep on moving the goal posts of this legislation, proposing more and more harsh amendments, defying Republicans to vote against their ever-changing version of the bill.

In this way, the Democrats can either foster the perception that they are tougher on Big Tobacco by making the bill more and more onerous, or they can tar and feather any recalcitrant Republicans with the charge that Republicans are in cahoots with Big Tobacco. That is pure bunk.

Listening to the President's press conference last week, I was impressed by his earnest statement that this not be an election year issue. But, as we all well know, any issue raised consistently fewer than six months before an election is an election issue. It cannot be avoided.

All rhetoric aside, the way to accomplish our goal—the reduction of youth tobacco use—is for the Congress and the White House to work together on a bill which can be enacted and implemented. We are not there yet, despite public protestations to the contrary.

A number of key differences in approach are major stumbling blocks to enactment of a bill. These barriers include:

ALLOCATING ANY REVENUES THAT ARE DERIVED FROM A BILL

The Senate budget resolution calls for all revenues to be devoted to Medicare.

While the House has not completed work on its version, there are some in the House who believe that tobacco revenues should be used for more general tax decreases.

Others suggest the tobacco revenues be used to help pay for health insurance for low-income people.

A fourth approach is embodied in the President's budget, which advances a number of new or expanded domestic spending programs that will be financed with tobacco revenues.

DETERMINING THE FINAL COST OF THE PROPOSAL

The bill approved by the Senate Commerce Committee has an initial price tag of $516 billion over the next 25 years, without any calculation of the lookback provision, which naturally could push that price tag much higher.

In contrast, the original settlement offered on June 20, 1997 was $368.5 billion.

Legitimate questions have been raised about the ability of various industry players to pay a sum as high as $500 billion to $700 billion, which is what, extrapolated out, the Commerce bill could cost in the end.

Let's face it, as much as many would like to penalize this industry, we are penalizing ourselves if we enact a new program predicated upon revenues that won't be there.

ASSESSING THE PER PACK OR PER CAN INCREASE

A related question is the price per product increase that will result from the new industry payments.

A widely-reported figure is the Treasury Department's estimate that the Commerce bill, for example, will result in a per cigarette pack increase of $1.10 five years from now.

As the Judiciary Committee's hearing last week revealed, we do not know the precise methodology the Administration used to make this price projection. Deputy Secretary Summers told the Judiciary Committee last week that he would provide us with the information that I requested, but we are still waiting.

We do know that Wall Street experts, like David Adelman of Morgan Stanley Dean Witter, Martin Feldman of Salomon Smith Barney, and Gary Black of Sanford C. Bernstein, have concluded that the Administration's projections are far too low and that the true retail price of a pack of cigarettes—measured in constant 1997 dollars—will be in the neighborhood of $5 per pack in year 5, more than a $3 increase.

Under this scenario, the price per carton will shoot up $30. This increase is almost twice as high, twice as fast, as the ''up to $1.50 per pack'' increase over 10 years called for by the President last September.

ASCERTAINING THE EFFECT ON LAW ENFORCEMENT

The Treasury Department testified before the Judiciary Committee last week that ''by closing the distribution chain for tobacco products, we will be able to ensure that these products flow through legitimate channels and effectively police any leakages that do take place.'' In fact, Deputy Secretary Summers said that with these regulatory controls, ''we do not expect a large-scale smuggling problem. . .''

Law enforcement officials at all levels with whom I have spoken are not so sanguine. These are the officers who will be on the front lines, policing against the violence, hijackings, smuggling, and other related crimes that are inherent in any opportunity for a black market.

One officer with whom I spoke termed the Treasury statement ''laughable.''

DEVELOPING A CONSENSUS ON THE AGRICULTURE PROVISIONS

One of the most unifying themes in the tobacco debate is the need to make certain that we provide an adequate program to transition American farmers out of tobacco production into other alternatives.

There are major divisions, however, on how to structure that program. There are two major approaches in the Senate, one developed by our colleague from Kentucky, Senator FORD (the ''LEAF'' Act), the other by our colleague from Indiana, Senator LUGAR.

The major difference between these two bills is that the Lugar bill terminates the tobacco price support program, while the LEAF bill does not.

The final key difference is in determining the extent of the role of the tobacco companies in any final legislation.

As many are aware, the Department of Justice has undertaken one or more investigations related to tobacco companies.

If there have been violations of the law, they should be prosecuted to their

fullest, and it behooves the Department to move forward on its investigations swiftly and conclusively.

But this specter of wrong-doing should not be allowed to cast such a shadow over the tobacco legislation that it becomes an excuse for inaction.

Some have castigated the companies for their departure from directionless congressional deliberations.

I do not believe that Congress needs the approval of the industry to pass tobacco legislation.

As everyone knows, I am no friend of the tobacco industry or their products.

But, having made these points, as a legislator with a deep appreciation of the process of building consensus in our democratic society, I do believe that Congress would be wise to consider the perspectives of the tobacco industry in fashioning legislation.

This is true for one very fundamental reason: we want a program which works, a program with which this tremendously-resourced, tremendously-creative industry will comply.

Perhaps I am just not as smart as those who believe the companies cannot contribute anything constructive to the process.

When Congress is dramatically affecting a sector of the economy, as long as that industry's products are legal, as long as they have a right to perform in our society, then that industry's views should be heard, no matter how much we don't like that industry.

That should not amount to a veto.

No outside group—not the tobacco companies, not the private attorneys, not the state attorney generals, not the public health groups, not anyone—should expect or be granted a veto over this legislation.

What all affected parties should get is a forum for their views, an opportunity to be heard. This is the very essence of democracy.

So I must ask those who pride themselves on not sitting down at the table with this industry to reexamine this position.

I echo the suggestion that Mississippi Attorney General Mike Moore made a few weeks ago, that the President reconvene all of the original participants in these negotiations. Congress should be part of such talks.

It just seems to me that beyond the purely public health issues, tobacco legislation has major social, political, and economic dimensions that argues for an inclusive process as possible.

Some 50 million Americans use these products. Public health experts almost unanimously agree that we should not make them go cold turkey overnight.

There is also the question of political philosophy of whether it is a proper role for the government to take away the freedom of adult Americans to consume tobacco products.

Moreover, as a conservative, I am generally loath to endorse any type of new taxes. I am particularly sensitive about advocating a regressive scheme whereby the lower income segments of our society which have disproportionately higher smoking rates are called upon, in essence, to fund social programs dictated by the political elites.

Tobacco revenue ought not be used to finance an explosion of new entitlements, a veritable ''honey pot'' of money to fund a mini Great Society.

I am afraid that the President's approach in the budget strays down this path by paying for child care and education initiatives with the as yet agreed upon and uncollected tobacco revenues.

To put it bluntly, the President has spent the money even before Congress has passed a bill.

Also from an economic standpoint, I am mindful that several million decent, tax-paying, Americans are dependent, directly or indirectly, on the tobacco industry for their livelihoods.

We have wisely, I think, sought to make an accommodation to the thousands of tobacco farmer families.

Do we not also have some similar responsibility to carefully consider the economic interests of those who work on the loading docks at Philip Morris or sell cigarettes at the local gas station or 7–11 Store?

Still other of our citizens are shareholders in these firms or may be dependent on pension funds with substantial holdings of tobacco securities.

I note that Yale University, home of one of the most absolutist anti-tobacconists, Dr. David Kessler, recently voted not to divest its tobacco holdings from its endowment investment portfolio. To me, this says a lot.

We in Congress and the Administration must take care not to engage in a game of political one-upsmanship in which we all trip over ourselves in the race to show the public who is the toughest on tobacco.

We may find that in the quest to punish the black-hatted tobacco industry we will have trampled over the interests and security of a lot of ordinary, hard-working Americans.

These are very hard questions to answer, but they are questions which must be resolved before Congress can write a tobacco bill.

Ten days ago, I received a bipartisan letter from four of the State Attorneys General who participated in last year's settlement negotiations.

This letter—which I believe is a serious effort to help Congress make the corrections necessary before we consider the Commerce Committee legislation—highlighted three areas of concern, three particular areas in which Congress runs the risk of undermining the settlement's objectives if it continues down the current road.

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLORADO DEPARTMENT OF LAW,
OFFICE OF THE ATTORNEY GENERAL,
Denver, CO, April 24, 1998

Hon. ORRIN G. HATCH,
U.S. Senate,
Russell Building, Washington, DC.

DEAR SENATOR HATCH: We are pleased to respond to your request for our legal views on pending tobacco legislation. You have specifically asked us about any constitutional concerns and the consequences. There are three key issues of concern to us: 1. the difficulty of accomplishing several provisions of the legislation without the industry's waiver of constitutional challenges; 2. the potential for creating a contraband market; and 3. potential bankruptcy of the industry.

We are glad that Congress is now seriously focusing on passing comprehensive tobacco legislation and that full Senate consideration is likely in the near future. We have appreciated the opportunity to work with you, Senator McCain, and others throughout the hearing process and committee consideration of tobacco issues. Your leadership in holding the first Congressional hearings last year addressing the legal complexities of the tobacco settlement was especially helpful. We look forward to continuing to share whatever insight and expertise we have gained from several years of engaging in legal battles with the tobacco industry.

The landmark agreement reached on June 20, 1997, was not perfect, but it includes critical themes which should provide the framework for any Congressional action. Tobacco legislation must be comprehensive. It must pass constitutional muster so the war against teen smoking moves to the streets and not the courthouse. And any financial settlement must not bankrupt the industry and produce even greater problems for the nation.

As lawyers, we believe that the industry's waiver of constitutional challenges is necessary to accomplish many of the public health goals within the bounds of the Constitution. Losing the voluntary nature of the settlement agreement may have severe legal repercussions. Therefore, the following consequences should be considered:

NO CONSENT DECREES

Consent decrees are essential to ensure long-term compliance by the industry with key elements of the comprehensive package. Consent decrees, by definition, require the consent of all parties to the litigation. If a party does not agree to the terms of a proposed decree, then the court cannot thrust a settlement upon the parties. *Theatre Time Clock Co., Inc.* v. *Motion Picture Advertising Corp.*, 323 F. Supp. 172, 173 (E.D. La. 1971). Therefore, If any party objects to a term contained within a proposed consent decree, a court cannot order its acceptance. *Flight Transportation Corp. Securities Litigation* v. *Fox and Co.*, 794 F.2d 318, 321 (8th Cir. 1986). Consequently, if the tobacco industry will not enter into the consent decrees, particularly the advertising restrictions, corporate culture, payments, and other enforcement mechanisms of the decree, the lawsuits cannot be settled with assurance. The states will lose those enforcement mechanisms that were contemplated to be included in such consent decrees.

LOOK-BACK PENALTIES

Penalties must have a direct relationship to the harm being prevented. Penalties imposed by the government must be ''rational in light of [their] purpose to punish what has occurred and to deter its repetition.'' *Pulla* v. *Amoco Oil Company*, 72 F.3d 648, 658 (8th Cir. 1995). Therefore, there must be a reasonable relationship between the penalties imposed and the harm likely to result from the defendant's conduct as well as the harm that

has actually occurred. *Id.* at 659 (quoting *TXO Prod. Corp.* v. *Alliance Resources Corp.*, 509 U.S. 443 (1993)).

Although the courts have not articulated any precise formula for ascertaining the ''reasonableness'' of penalties, Justice Scalia observed that the touchstone is the value of the fine in relation to the particular offense. *Austin* v. *United States*, 509 U.S. 602, 627 (1993) (Scalia, J., concurring in part and concurring in the judgment). If there is no reasonable relationship, the penalties would be considered an excessive fine and would not withstand judicial scrutiny. See generally *TXO*, 509 U.S. 443; *Pulla*, 72 F.3d 648.

The June 20 agreement with the tobacco industry had a formula for the penalties imposed, which linked the actual cost of a youth who begins smoking and the profit received from that youth over the course of his life, to the amount of the penalty. This demonstrates precisely the type of rational relationship required by courts.

However, the proposed look-back penalty may not pass judicial scrutiny. At $3.5 billion, the fines are the largest imposed on any industry for any conduct. As originally proposed, the penalties could be suspended if the manufacturers made serious, good faith efforts to curb youth smoking but, unfortunately, failed to successfully change the behavior of teenagers. This approach provided a due process review, rather than imposing penalties through strict liability. Under the current Senate Commerce bill, the companies will be penalized even if they make every reasonable attempt to halt youth smoking.

A look-back penalty closely tied to tobacco company behavior, or a penalty voluntarily agreed to by the companies, is constitutionally sound and a valuable mechanism for fighting youth smoking.

ADVERTISING AND MARKETING RESTRICTIONS

The District court in *Beahm* v. *U.S. Food and Drug Administration*, 966 F.Supp. 1374 (M.D.N.C. 1997), held that the FDA's regulations relating to restrictions on tobacco advertising were beyond the authority of the FDA and, therefore, were invalid. This case is currently on appeal to the Fourth Circuit. Although that court has not yet ruled on the validity of existing FDA advertising regulations, even if it should find that those regulations are within the purview of FDA control, the advertising and marketing restrictions set forth in the June 20th agreement may not survive First Amendment review. This is in part because the restrictions envisioned by the June 20 agreement are much more expansive than the FDA restrictions currently being litigated. The total ban on outdoor advertising, black and white only ads, prohibition on Internet advertising, and prohibition on event sponsorship are but a few examples of the marketing and advertising restrictions contained in the June 20 agreement, implemented by the voluntary Master Settlement Agreement, Protocol and consent decree.

It has been recognized that the First Amendment ''directs us to be especially skeptical of regulations that seek to keep people in the dark for what the government perceives to be their own good.'' *Liquormart, Inc.* v. *Rhode Island*, 116 S.Ct. 1495, 1508 (1996). Furthermore, even communications that do no more than propose a commercial transaction are entitled to the coverage of the First Amendment. *Id.* In recognition of the seriousness of this issue, the Supreme Court has stated that ''when a State entirely prohibits the dissemination of truthful, nonmisleading commercial messages for reasons unrelated to the preservation of a fair bargaining process,'' strict scrutiny is applicable. *Id.* at 1506. Consequently, in order to survive judicial review, the government must demonstrate that its restriction on speech was no more extensive than necessary. *Id.* at 1509. Because of this heavy burden, ''speech prohibitions of this type rarely survive constitutional review.'' *Id.* at 1508.

Although the June 20 agreement with the tobacco companies does not propose a total ban on advertising, its expansiveness may nonetheless cause a reviewing court to apply the strict scrutiny review utilized in *Liquormart*. As that court recognized, not all commercial speech regulations are subject to a similar form of constitutional review. *Id.* at 1507. Therefore, when a state regulates commercial messages to protect consumers from deceptive, misleading, or otherwise harmful advertisements, ''less than strict review'' is appropriate. *Id.* However, because the advertisements forbidden by the June 20 restrictions would have presumably been truthful in nature and the restrictions are being implemented for purposes other than protecting the bargaining process, it seems likely that this less stringent standard of review would be inapplicable. Consequently, the government would have to demonstrate that there were no less intrusive means available to accomplish their goals. As the court in *Liquormart* recognized, application of this standard usually acts as the death knell for government restrictions. *Id.* at 1508.

In this same vein, the restrictions included in the June 20 agreement could probably not be characterized as time, place or manner of expression restrictions, which carry with them a less stringent standard of review. Specifically, such bans are content neutral. See generally *Kovacs* v. *Cooper*, 336 U.S. 77 (1949). Conversely, the bans envisioned in the agreement are obviously content driven.

In sum, the expansiveness of the proposed advertising restrictions as well as the high burden that must be met in order to justify such restrictions, raise serious concerns that without the industry's voluntary consent and participation, the advertising prohibitions envisioned in the June 20 agreement may not survive First Amendment scrutiny.

Additionally, the June 20 agreement incorporated the FDA regulations, which, if overturned by the Fourth Circuit, would also be unavailable as a regulatory mechanism. While it is true that the industry would have some incentive to limit its advertising and marketing to achieve the look back requirements, if the look back penalties are also found to be legally deficient, their value as an incentive would be eliminated.

ADVERTISING RESTRICTIONS AGAINST RETAILERS, DISTRIBUTORS, WHOLESALERS, AND ADVERTISING BUSINESSES

The June 20 agreement contemplated that the participating companies would police their retailers, wholesalers, distributors, and advertising agencies by contract and by refraining from placing ads with them. These voluntary implementation mechanisms were to be built into the Master Settlement Agreement, Protocol and consent decrees. However, any legislation that could be unconstitutional as to the industry could also be unconstitutional as to the related agents. Therefore, the same First Amendment issues that could preclude the government from instituting blanket prohibitions on advertising by tobacco manufacturers may also preclude prohibitions affecting industry agents.

DOCUMENT DISCLOSURE

The public depository of documents set forth in the June 20 agreement presumed some level of voluntary participation on the part of the tobacco industry. While documents filed in court, or otherwise made available to the public, can certainly be put in a central public depository, it is questionable that the industry can be required to release documents not otherwise available, including documents it considers privileged or confidential, as well as any future documents or research.

Obviously, almost any American business would object to the government seizing its internal corporate documents and opening them for inspection. The depository raises both private property and search and seizure concerns.

The Fifth Amendment provides in part: ''nor shall private property be taken for public use, without just compensation.'' U.S.C.A. Const. Amend. 5. It has been widely recognized that the property to which this amendment applies is that which ''is made up of mutually reinforcing understandings that are sufficiently well grounded to support a claim of entitlement.'' *Nixon* v. *U.S.*, 978 F.2d 1269, 1275 (1992) (recognizing that former President had a property interest in presidential papers). Those property interests may be created in a myriad of ways, including uniform custom and practice. *Id.* at 1276.

Accordingly, the documents that were to be deposited by the tobacco companies in a public depository constitute ''property'' for Fifth Amendment purposes. This conclusion is consistent with the district court's decision in *Nika Corp.* v. *City of Kansas City*, 582 F. Supp. 343 (W.D. Mo. 1983), wherein it was held that a corporation's documents constituted ''property'' invoking Fifth Amendment protections. See also *U.S.* v. *Dauphin Deposit Trust Co.*, 385 F.2d 129 (3rd Cir. 1967) (trust company had a property interest in various business records). In *Nika* the court held that the government could not confiscate particular business documents without providing for a method of compensation for such taking. *Id.* Although the court found that there were adequate means provided in that case, this clearly demonstrates that corporate documents constitute ''property'' for Fifth Amendment purposes, thereby invoking the necessity for compensation when the government takes such for public purposes. Consequently, there is a strong possibility the tobacco companies could not be compelled to deposit the documents specified in the June 20 agreement without just compensation.

Furthermore, if the Fifth Amendment protects the industry from being required to hand over to the government all of its documents, it seems that it would also protect them from being required to pay the costs of the depository, unless the costs are somehow built into other licensing fees.

The tobacco companies would almost certainly raise objections based on case or controversy and standing against individuals wishing to challenge a decision by the companies to withhold documents. Under Article III, §2 of the Constitution, the federal courts have jurisdiction over disputes only where there is a ''case'' or ''controversy.'' *Raines* v. *Byrd*, 117 S.Ct. 2312, 2317 (1997). One element of that test requires the complainant to establish that they have standing to sue. *Id.* This requires the complainant to demonstrate that he has suffered a personal injury fairly traceable to the defendant's allegedly unlawful conduct * * *.' *Id.* Therefore, any individual wishing to protest tobacco companies' refusal to disclose documents would have to establish that they were injured by such refusal Presumably, the only means of doing so would be to assert that the refusal negatively impacted their own personal pending litigation with a particular tobacco company. However, this would be difficult to demonstrate because a tobacco company's refusal to deposit documents in a public depository is not the equivalent of refusing to produce those documents in a particular action. Consequently, any individual

wishing to protest the tobacco companies' refusal to disclose documents might have to wait until their own suit was filed, motions for discovery were made, and a particular tobacco company refused to comply, before they would have standing on this issue. Even then, they might not be able to demonstrate that they were somehow injured by the tobacco company's refusal to place such documents in a public depository.

One of the primary benefits to individual claimants of having the industry documents placed in a public depository, aside from having ready access to the documents, is the voluntary agreement of the companies not to challenge the authenticity of the documents when they are offered as evidence in individual trials. The companies are now well-known for fighting vigorous evidentiary battles. If the industry does not enter into the voluntary agreements, one can also assume that they will challenge the introduction of these documents in individual trials, resulting in considerably more expense for the plaintiffs than was envisioned under the June 20 agreement.

CONTRABAND

As law enforcement officials of the states, we are also concerned about the danger of creating a contraband market for tobacco products. Our children will not be helped by creating a new product line for organized crime, nor by providing a new entry market for drug dealers. Additionally, the adverse health consequences of smoking cigarettes produced in unregulated foreign or clandestine domestic markets are likely to be even more significant than cigarettes produced by the existing U.S. companies.

The experience of the states with relatively high tax rates on tobacco products has been studied in some detail. Revenues lost to smuggling cigarettes into these states has been a major concern. This is estimated to be a $1 billion per year problem nationwide. In 1988 California increased its tobacco tax from 18 cents to 35 cents per pack and today the contraband market is estimated to be between 17.2 and 23% of cigarettes sold. Michigan increased its cigarette tax in 1994 from 25 cents to 35 cents a pack. Michigan lost an estimated $144.5 million per year in tax revenue. Washington State increased its tax in 1997 to 82.5 cents per pack, and lost an estimated $110 million a year to smuggling. New York State, with a 56 cent state tax estimates it is losing about $300 million of tax revenue per year due to smuggling. The typical scenario after a state makes a significant increase in its cigarette tax is a decrease in sales in that state, but a marked increase in sales in neighboring states. Smoking rates in the higher-tax state typically remain the same, so the increase in sales reflects purchases to take into the higher-tax state.

There is a definite correlation between tax rates and the level of smuggling. For many years, the differential in tax rates on tobacco products was mainly an interstate problem with contraband products being smuggled into those states with the highest tax rates. The problem has now reached international proportions. At first, popular American brands were smuggled into other countries. We are now seeing that as tobacco taxes rise nationwide, foreign manufactured cigarettes and other products are being smuggled into the United States.

BANKRUPTCY

Finally, we believe it to be in the best interests of accomplishing the broad public health goals of legislation to avoid bankruptcy of the tobacco industry.

Critics of the June 20 settlement have suggested that bankruptcy is not a great risk. This industry has a history of annual domestic profits. For example in 1996 Philip Morris and RJR (76 percent of the market) had domestic profits of $6.3 billion. While it is not possible to determine precisely the market value of the domestic tobacco companies (not the parent companies), it is possible to estimate their market value—if they were sold today. The stock of the Nabisco Food Company, which is 80.5 percent owned by RJR, trades publicly. This allows an extrapolation of the value which the market places on RJR's tobacco operations. That value is $1.184 billion. Part of that is comprised of international operations and part is domestic. Foreign tobacco companies like Imperial and Gallaher trade at price earning rations of 10 to 11. If one uses a 10.5 P/E for Reynolds' international earnings, Reynolds' domestic operations have a negative market value of $1.1196 billion. Using similar valuation methods for the other companies, Brown & Williamson is worth a negative $240 million; Lorillard is worth a positive $641 million and Philip Morris USA is positive $3.855 billion. If one were to ignore the fact that foreign tobacco companies trade at P/E's higher than the imputed value of domestic companies and assume identical valuation of domestic and foreign companies, the entire domestic industry could be worth as much as $21.484 billion. On this basis, the total market of the industry (both foreign and domestic) is estimated to be less than $50 billion. Liability to the states alone exceed several hundred billion dollars. The conclusion is obvious—this is an industry that produces significant cash but has questionable inherent value as many industry assets cannot be converted to other uses and have little value outside the tobacco environment.

State Attorneys General do not seek financial ruin of any industry. It is our job to bring about compliance with the laws and that is what we seek from the tobacco companies. This is an industry that sells a legal product, employs thousands of people, and provides a living to many more, ranging from farmers to retailers. Our goal has been to hold the industry accountable for its actions, and to provide for significant public health gains. If the current companies are liquidated, new companies can be expected to step into the breach, within or outside this country. We would have virtually no claims against these replacement tobacco companies for past industry practices. Further, foreign tobacco companies (possibly with manufacturing operations abroad) might immediately step in to satisfy US demand for cigarettes. This, of course, could hurt our farming communities and those whose employment depends on this industry.

In conclusion, we appreciate your interest and efforts to move comprehensive legislation forward. We are concerned that the fundamental goal of reducing youth smoking may be lost in the current political rhetoric. It's time for action and for comprehensive legislation to achieve this goal now, not after years of additional litigation and debate.

Sincerely,

GALE A. NORTON,
Attorney General,
State of Colorado.
BETTY D. MONTGOMERY,
Attorney General,
State of Ohio.
JAN GRAHAM,
Attorney General,
State of Utah.
CHRISTINE O. GREGOIRE,
Attorney General,
State of Washington.

Mr. HATCH. In brief, the concerns highlighted in this letter from the Attorneys General of Colorado, Ohio, Utah and Washington are:

(1) The difficulties created by enacting legislation without the industry's voluntary waiver of several constitutional prerogatives.

The Generals raise specific legal concerns about attempting to legislate in the absence of consent decrees and other voluntary agreements with the industry.

These concerns go to several major features of any comprehensive bill: advertising and marketing restrictions (including restrictions affecting retailers, distributors, and advertisers); look back penalties; and document disclosure.

We should also take to heart General Mike Moore's observation that, in the nearly three years since it was first proposed, the FDA's rule on tobacco advertising has not gone into effect.

We all know the cause: litigation.

But by settling the lawsuit, in Mississippi, there is no billboard advertising today, a result that goes far beyond the FDA rule and what the Constitution would permit us to do legislatively.

(2) The second concern of the Attorneys General is the untoward effect that the potential bankruptcy of the tobacco industry would entail. Let me be clear about my position on this.

I would like nothing more than for the tobacco industry to pay a trillion dollars. But I also want an anti-tobacco program which works. All of the bills before Congress have in common a serious effort to curtail youth tobacco use. All of the bills rely on industry payments to fund those efforts.

If we bankrupt the companies, or if we drive them offshore, ultimately no one wins, because we need the industry payments to fund the massive anti-tobacco program the American public wants. Without that funding source, the whole program goes down the drain.

If the companies become bankrupt or move offshore, it is a whole new ball game, and one which we cannot control.

It would be more intellectually honest just to ban tobacco.

On this subject, the AGs' letter said: State Attorneys General do not seek financial ruin of any industry. It is our job to bring about compliance with the laws and that is what we seek from the tobacco companies. This is an industry that sells a legal product, employs thousands of people, and provides a living to many more, ranging from farmers to retailers. Our goal has been to hold the industry accountable for its actions, and to provide for significant public health gains. If the current companies are liquidated, new companies can be expected to step into the breach, within or outside this country. We would have virtually no claims against these replacement companies for past industry practices. Further, foreign tobacco companies (possibly with manufacturing operations abroad) might immediately step in to satisfy U.S. demand for cigarettes. This, of course, could hurt our farming communities and those whose employment depends on this industry.

(3) The third major point of concern for the Attorneys General is the potential for increasing the black market for illegal contraband cigarettes.

A recent case study from Alaska is illustrative. Five months ago, Alaska increased its cigarette tax from 29 cents to one dollar. From all we know about nicotine addiction, the resulting decrease in sales cannot be explained by sudden cessation. Rather, it appears that legal sales were replaced in part by black market cigarettes. The Alaskan legislature is considering rolling back some of the tobacco taxes.

With respect to the issue of contraband the AGs' letter says:

As law enforcement officials of the states, we are also concerned about the danger of creating a contraband market for tobacco products. Our children will not be helped by creating a new product line for organized crime, nor by providing a new entry market for drug dealers. Additionally, the adverse health consequences of smoking cigarettes produced in unregulated foreign or clandestine markets are likely to be even more significant than cigarettes produced by the existing U.S. companies . . .

The letter from the AGs notes that the cigarette contraband problem is already a $1 billion nationally. For example, the AGs provide an estimate that in the state of California—which raised its state tobacco tax in 1988 from 18 cents to 35 cents a pack—that today between 17% and 23% are smuggled. That's about 1 in every 5 cigarettes.

The AG's letter goes on to say:

There is a definite correlation between tax rates and the level of smuggling. For many years, the differential in tax rates on tobacco taxes was mainly an interstate problem with contraband products being smuggled into those states with the highest tax rates. The problem has now reached international proportions. At first, popular American brands were smuggled into other countries. We are now seeing that as tobacco taxes rise nationwide, foreign manufactured cigarettes and other products are being smuggled into the United States.

I have also received letters from a number of law enforcement organizations, whose thousands of members will be expected to provide the first line of defense against these smugglers. These law enforcement officers are extremely apprehensive that passage of this legislation will precipitate the emergence of a thriving black market in cigarettes, posing huge problems for law enforcement at every level. They say the Commerce bill, in particular, will inevitably lead to the creation of a massive black market, giving organized crime a new line of business and undermining not only respect for the rule of law, but also the real goal of the legislation, preventing underage tobacco use.

I might also add that one of the most frightening outcomes of a new black market would be the likelihood that children will find it easier than ever to purchase tobacco products.

One of government's principal responsibilities is to help families and communities keep children from smoking. A large, lucrative black market could have the unintended consequences of making parents' job harder.

It is not too hard to envision unregulated cigarettes being sold on literally every street corner.

In response to this concern we have been told by the Administration not to worry because the system contemplated by the Commerce Committee bill is a closed system.

When our colleague from California, Senator FEINSTEIN, asked a series of questions about this black market she was repeatedly told about this purported closed system.

I believe that Senator FEINSTEIN shares my concern about the government's ability to design a ''closed system,'' given our experience with guarding the nation's borders and safeguarding our children in the costly and never-ending battle against illicit drugs.

I share Senator's FEINSTEIN's pointed remarks on this issue because I, too, simply do not believe that this closed system will prove so easy to implement.

It seems to me that the real question for policymakers is this. Given these facts, how can we shape a comprehensive national tobacco control strategy that can help prevent the next generation of young Americans from choosing to use tobacco and help those already addicted to stop?

In my view, most of the essential elements for answering this question can be found in the proposed global tobacco settlement announced last June 20th.

In return for funding a comprehensive anti-tobacco education and cessation program with an unprecedented payment of $368.5 billion spread over 25 years, under the agreement the industry would be granted a measure of financial certainty and predictability by settling a series of pending lawsuits.

Now, almost 11 months after that settlement was proposed, it still holds forth the best model for comprehensive legislation which can be enacted this year.

It contains the limited liability provisions which are necessary to evoke tobacco industry compliance with the program.

The President's most senior representatives have said, both publicly and privately, that they would not oppose some version of those provisions in a bill which was otherwise acceptable. It is not the breaking point some assert it to be.

The AGs' proposal also avoids some of the pitfalls inherent in legislation currently being discussed. For example, it will pass Constitutional scrutiny.

At some point, you have to stand up for some principles like the First Amendment's protection of commercial speech—a principle that, according to virtually every constitutional law expert that has testified before the Judiciary Committee, will be subject to court intervention if advertising and promotion restrictions of tobacco products are written into a federal statute.

For example, noted First Amendment practitioner Floyd Abrams has stated that attempting to codify the existing FDA rule—currently in held in abeyance pending further judicial proceedings in the Fourth Circuit Court of Appeals, would run afoul of First Amendment protection.

By virtually insisting that the Commerce Committee codify the FDA rule, the Administration is risking a protracted Constitutional battle over advertising provisions that industry will voluntary go far beyond.

Still others point out that, absent industry agreement by contract and consent decree, it will be unconstitutional to require so-called industry lookback penalties if certain tobacco reduction targets are not met.

Mr. President, these are issues that concern me very much.

They are issues which merit serious study, and then concerted action, but they should not be stumbling blocks to enactment of a final bill.

I am alarmed.

I see the sands racing through the hourglass as we move toward adjournment, but I do not see consensus emerging on the shape of tobacco legislation.

Indeed, I see the Congress increasingly polarized, as members race into either one of two camps: the ''keep-upping-the-ante'' faction, those who will ''pile on'' any punitive bill, or the ''minimalist approach'' contingent.

The result of this polarity is a paralysis which cannot be breached until we realize we are jeopardizing our effectiveness through politicization.

Surely there is a middle ground, a basis for legislation which focuses on our real target—weaning a generation of kids off of nicotine—not on the politics of punishment.

These political games not only disappoint those we represent, but also, as I have outlined, punish them as well.

We owe our kids, and we owe their parents, hard-working Americans in every state, so much, much more.

RELEASE OF WINDOWS 98

Mr. HATCH. Mr. President, I am told that this afternoon in New York City Bill Gates and a number of other executives from throughout the computer and software industries will be holding a press conference urging law enforcement officials not to interfere with the release of Windows 98.

I certainly do not begrudge Mr. Gates or others in the industry to make their views known. That is what makes our democracy work. Indeed, I would like nothing more than to see more enlightened debate on this terribly important policy issue. But I cannot help but wonder how many of these executives are on that stage because they truly want to be. It strikes me as curious that it was only after calls from Microsoft that many of these individuals saw fit to sign letters and make public appearances. Indeed, I have been told that some executives in fact hope to see the Justice Department pursue further its case against Microsoft, but

have chosen to join Mr. Gates on that stage today because they feel they have little choice but do so in order not to jeopardize their relationship with the industry's most powerful and important player. I understand perfectly well that no one would publicly admit as much, but, given recent developments, I do believe it is a question worth considering.

But, I also think it is timely to review where we stand today as the Justice Department considers whether to bring a broader suit alleging anti-competitive or monopolistic practices by Microsoft.

I first raised the question of Microsoft's seemingly exclusionary licensing practices last November. While we are not privy to all of the licensing and other practices the Justice Department has been scrutinizing, over the past few months a number of specific practices have come to light. In particular, we have learned that Microsoft not only tied the shipment of its browser, Internet Explorer, to its monopoly operating system, Windows, but also engaged in a series of licensing practices with respect to computer makers, Internet Service Providers, and Internet Content Providers which appear designed not to serve consumers but rather to exclude competing browser companies from the marketplace. For a company with a monopoly in the personal computer operating system market—and nobody other than Microsoft would dispute that the firm has monopoly power—to use its monopoly power to exclude potential rivals clearly raises serious antitrust concerns.

Let me point out that such seemingly predatory and exclusionary practices raise concerns for even the most conservative, free-market antitrust thinkers. Judge Robert Bork, one of the most brilliant and highly respected conservative antitrust thinkers, and author of the renowned ''Antitrust Paradox,'' just yesterday explained in The New York Times why even he is troubled by what he has learned of Microsoft's practices. As Judge Bork wrote:

[w]hen a monopolist employs practices and makes agreements that exclude competitors and does so without the justification that the practices and agreements benefit consumers, the company is guilty . . . of an attempt to monopolize in violation of Section 2 of the Sherman Act. When its own documents display a clear intent to monopolize through such means, the case is cold.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 4, 1998]

WHAT ANTITRUST IS ALL ABOUT

(By Robert H. Bork)

WASHINGTON.—Rarely does a prospective antitrust case roil public passion. But since it became known that I represent a company urging the Justice Department to challenge certain of Microsoft's business practices, my mail has certainly livened up. One letter writer complained that I had sold my ''sole.'' His spelling aside, that writer was at least kinder than the one who labeled me senile.

There seems to be a widespread impression that the Microsoft controversy should be resolved by an ideological litmus test: liberals are bent on punishing success, and conservatives must defend Bill Gates' company from any application of the antitrust laws. But the question is not one of politics or ideology; it is one of law and economics. And that is why an outspoken free marketeer like me can be found arguing against Microsoft.

Indeed, in Congress and among the players, liberals and conservatives, Democrats and Republicans are found on each side of the controversy. What, then, is the complaint of the many companies that are urging action by the Justice Department?

These companies—customers as well as rivals of Microsoft—challenge some of Microsoft's business practices as predatory, intended to preserve the company's monopoly of personal computer operating systems through practices that exclude or severely hinder rivals but do not benefit consumers. Microsoft's effort to maintain and expand a market dominance that now stands at 90 to 95 percent violates traditional antitrust principles. Specifically, it violates Section 2 of the Sherman Act, territory visited decades ago by the Supreme Court.

The case, from 1951, was Lorain Journal Company v. United States, and the Court's ruling is directly on point. The Journal, in the Court's description of the case, ''enjoyed a substantial monopoly in Lorain, Ohio, of the mass dissemination of news and advertising.'' The daily newspaper had 99 percent coverage in the town.

''Those factors,'' the Court said, ''made The Journal an indispensable medium of advertising for many Lorain concerns.'' A minor threat to The Journal's monopoly arose, however, with the establishment of radio station WEOL in a nearby town. The newspaper responded by refusing to accept local advertising from any Lorain County advertiser that used WEOL.

The Supreme Court called that an attempt to monopolize, illegal under Section 2 of the Sherman Act. There being no apparent efficiency justification for The Journal's action—that is, no evidence that it resulted in an operation whose efficiency somehow benefited consumers—it was deemed predatory. To those who say I have altered my longstanding position to represent an opponent of Microsoft, I'm happy to note that 20 years ago I wrote that the Lorain Journal case had been correctly decided.

The parallel between The Journal's action and Microsoft's behavior is exact. Microsoft has a similarly overwhelming market share, and it imposes conditions on those with whom it deals that exclude rivals without any apparent justification on the grounds of efficiency. In fact, the case against Microsoft is stronger, for there are many documents in the public domain that make clear that Microsoft specifically intended to crush competition.

We may not yet know all of the exclusionary practices, but we do know many. Here's a sampler:

Microsoft's operating system licenses have forbidden ''original equipment manufacturers''—makers of personal computers—to alter the first display screen from that required by Microsoft. Microsoft thus controls what the consumer sees. This restriction also hampers consumers' use of competing browsers to search the Internet or to serve as an alternative platform for other programs.

Microsoft has restrained Internet service providers and on-line services, which are forced to deal with Microsoft because of its monopoly in the Windows system. For instance, it has forbidden service providers to advertise or promote any non-Microsoft Web browser or even mention that such a browser is available. Netscape and others are denied an important distribution channel to consumers.

Companies that provide content on the Internet, to gain access to Microsoft's screen display, have been forced to agree not to promote content developed for competing platforms.

When a monopolist employs practices and makes agreements that exclude competitors and does so without the justification that the practices and agreements benefit consumers, the company is guilty, as was The Lorain Journal, of an attempt to monopolize in violation of Section 2 of the Sherman Act. When its own documents display a clear intent to monopolize through such means, the case is cold.

Netscape and the other companies seeking an end to these practices are not asking the Justice Department to take any action that would interfere in the slightest with Microsoft's ability to innovate. The department is simply being asked to stop Microsoft from stifling the innovations of others. The object is to create a level playing field benefiting consumers. That is what antitrust is about—a view that should require no one to sell his ''sole.''

Mr. HATCH. Anyone who knows Judge Bork knows that he would never take the position he has taken were he not convinced that it was 100 percent consistent with the antitrust views he has long espoused.

Similarly, Daniel Oliver, former chairman of the Federal Trade Commission under President Reagan, just published a piece in the May 4 edition of The National Review. Mr. Oliver, long known as a free-market proponent who generally opposes all but the most justified government intervention in the marketplace, had this to say:

If ever there was a case that raises consumer-welfare issues, this would seem to be it. Microsoft has a 90 per cent share of a world market; there are reasons to think that share will endure; Microsoft has engaged in restrictive practices; and many of those practices do not appear to have any efficiency justifications that would benefit consumers rather than the company. Where you find a dead body, a bloody knife, fingerprints, and a motive, there may have been a crime.

I ask unanimous consent that this article as well be printed in the RECORD, along with a personal letter I received several weeks ago from Mr. Oliver and from Mr. James Miller, also a former chairman of the Federal Trade Commission and director of the Office of Management and Budget under President Reagan.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the National Review, May 4, 1998]

NECESSARY GATESKEEPING . . .

DOES ANTITRUST LAW PROTECT CONSUMER WELFARE, OR PUNISH THE FIRMS CONSUMERS PREFER?

(By Daniel Oliver)

The Department of Justice is pursuing Microsoft on antitrust grounds, and a number of conservative writers and organizations have gone to Microsoft's defense, including the Wall Street Journal, Jack Kemp, Adam Thierer of the Heritage Foundation, Thomas

Sowell—and National Review. They proclaim that the free market is a better protector of consumer welfare than government; and their visceral distrust of government activity is welcome in this post-the-era-of-big-government-is-over era. But for antitrust cases, which are complex and fact-specific, the head is a better guide than the viscera.

The charges against the Justice Department's lawyers are familiar—and all the more persuasive because government lawyers have certainly been guilty of such things in the past. They are accused of arrogant industrial planning, micromanaging, trying to second-guess the market and pick winners, supporting Microsoft's competitors rather than competition, and going off on a leftward regulatory lurch. However, even if all those charges against the Justice Department were true, there could still be a case against Microsoft that would benefit consumers.

The central problem the critics of the Justice Department have to deal with is that Microsoft probably has ''market power''—or the ability to threaten consumer welfare. (Market power is determined by looking at market share and a company's ability to maintain it.) Microsoft has approximately 90 percent of the world market for PC operating systems. In a large market—the world—90 percent is huge.

But the critics are reluctant to concede the importance—or even the existence—of Microsoft's large market share. One critic claims the appropriate market in which to measure Microsoft's share is the entire $570-billion computer industry, of which Microsoft controls only a small portion. Alternatively, he suggests that the appropriate market is all software, of which Microsoft produces only 4 percent. In antitrust whoever defines the market controls the debate. If you define the market broadly enough, no one company will ever seem to have enough power to harm consumer welfare.

Some of the Justice Department's critics maintain that Microsoft's large market share is irrelevant by claiming that barriers to entry into the software business are low, and that we can expect competitors to come along and unseat any incumbent monopolist.

The software industry, however, is characterized by extremely low marginal costs. Unlike the second automobile off an assembly line, the second copy of a new software program costs virtually nothing to produce—which gives established companies a tremendous advantage over their competitors. In addition, what economists call ''network effects'' make entry into the software business difficult. The more people there are who use a particular computer system, the more valuable that system will be—and the more difficult it will be for the producer of a new product to get it accepted by the ''installed base'' of consumers using both the established product (the operating system) and the ancillary products (software written for that system). The unprecedented economies of scale resulting from low to no marginal cost for production combined with network effects make the ''natural'' barriers to entry into the software market substantial.

The fact is, Microsoft seems to have a monopoly (i.e., market power), and that should be a source of concern to consumers—not because Bill Gates might turn out to be an evil genius, but because he will be inclined to behave like—a monopolist.

Microsoft may have earned its monopoly in operating systems by providing a product preferred by most customers. But can we say the same thing about its share of, say, the word-processing market? In 1995, WordPerfect was the most popular word-processing program, with 60 per cent of the market. Today WordPerfect is down to 13 per cent, and Microsoft's MS Word has about 80 per cent. That's a remarkable shift of consumer preferences.

How did Microsoft do it? Did consumers find it difficult to run WordPerfect on Microsoft's operating system? Suppose, hypothetically, that Microsoft used its monopoly position in operating systems to make WordPerfect work less perfectly, with the intention, and result, of driving people from WordPerfect to Microsoft's own word-processing product. It shouldn't take a leftwinger to spot the consumer harm. Consumers would be denied real choice.

The point is not that Microsoft has misused its position, but that if Microsoft is in a position to misuse its position, consumers, and their champions at the Justice Department, should be concerned.

The current concern is that Microsoft might use its position in the operating-systems market to: (1) monopolize access to Internet content; (2) monopolize the market for web browsers; or (3) maintain its current share of the operating systems market by making sure that other web-browser products will not, when combined with Internet applications, amount to an alternative operating system. If Microsoft succeeds in any of those endeavors, consumers will be harmed by not being free to choose other products.

Bill Gates ''scoffs'' at rivals' charges of anti-competitive behavior and ''bristles'' at the mention of the word monopoly. But the evidence suggests that Microsoft has routinely engaged in sharp-elbow practices that seem designed to preserve or extend its monopoly. Under repeated questioning at a Senate hearing in March, Gates finally conceded—for the first time publicly—that Microsoft puts restrictions in its contracts that bar some of the websites featured in its Internet software from promoting Netscape or being included in Netscape's rival listing. Microsoft has also required computer manufacturers to pay license fees for products even if they didn't install them. Once they have paid for the Microsoft product, they will have less incentive to pay for a competing product. That makes it more difficult for competitors to sell to the computer manufacturers.

The Justice Department's action is designed to assist competition and innovation. A software geek with a new idea, or the investors he goes to for seed capital, may rightly fear that, even if he can get to production, his product will be duplicated by Microsoft and then bundled into its operating system. While he might develop property rights that would be protected by the intellectual-property laws, he is not likely to have the cash to assert those rights against monopoly-rich Microsoft.

There are three policy options for dealing with monopolies: outlaw all monopolies; allow monopolies to function completely unfettered; or allow monopolies to exist but with some limitations on what they can do. U.S. public policy has selected the third option in the belief that it will produce more consumer welfare than the others.

If ever there was a case that raised consumer-welfare issues, this would seem to be it. Microsoft has a 90 per cent share of a world market; there are reasons to think that share will endure; Microsoft has engaged in restrictive practices; and many of those practices do not appear to have any efficiency justifications that would benefit consumers rather than the company. Where you find a dead body, a bloody knife, fingerprints, and a motive, there may have been a crime.

Objecting to the Microsoft case is tantamount to saying we shouldn't have any antitrust laws at all. That may not be intellectually scandalous, but it is certainly a minority position, and not the position of the Chicago School or the people who served in the Reagan Administrations—or even one dictated by common sense.

MARCH 19, 1998.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR: As the two chairmen of the Federal Trade Commission during the Reagan Administrations, whose responsibility it was to enforce the antitrust laws, we want to applaud your investigation into whether those laws are adequate to deal with competition issues in our information technology economy.

A number of prominent conservatives have criticized you, as well as the Justice Department which has brought a case against Microsoft, on two grounds: that the free market will protect consumers' interests; and that government intervention will in no event be beneficial.

We disagree with these criticisms in the instant case. Although we are and have been extremely skeptical of government intervention in the economy—as is evidenced by the innumerable statements we have made over the years—we believe government does have a role to play in keeping markets free and that the Microsoft situation deserves serious review.

Whether Microsoft has ''market power''—a technical term—which raises antitrust concerns is, of course, a separate question. Microsoft clearly plays a dominant role in the market for computer software systems. Moreover, as you discovered—with some difficulty—at the Senate Judiciary Committee hearing on March 3rd, Microsoft appears to have engaged in certain practices designed to restrict the activities of its competitors. On the other hand, Microsoft's dominant role in the PC operating systems market may not imply monopoly power and in any event may evanesce within a few years. This is an empirical matter, and an informed judgement awaits further information and analysis.

The purpose of this letter is not to write a brief against Microsoft. It is only say what we think should be obvious: that the Microsoft situation raises serious concerns about the vigor of competition in the market for PC operating systems. After all, Microsoft is not the corner drug store, or the local bakery. It is a world wide company, with a market value greater than IBM and General Motors combined, doing business in this country's, and perhaps the world's, most important industry. The extent of competition in this industry should be of vital concern to your committee as you contemplate the efficacy of the antitrust laws to protect the interests of consumers.

Those who profess to be unconcerned by Microsoft's position and behavior may say they are followers of the Chicago School of economics—which is a shorthand way of expressing great skepticism about antitrust enforcement and government intervention into the economy.

We share those concerns, as is evidenced—to repeat—by the myriad public statements we have given over many years. But in our judgement, not to be concerned by Microsoft is neither good public policy, nor does such an attitude reflect an accurate understanding of the Chicago School.

Finally, we want to address what we think is a strawman issue: that government (the Justice Department and the Senate Judiciary Committee) is only acting in response to the whining of Microsoft's competitors who are attempting to get from politicians what they have been unsuccessful in obtaining in the market place. We know from experience that such protestations are not an accurate

guide to the competitiveness of the market. But even if the current inquiry is prompted by the efforts of Microsoft's competitors, this motivation bears little relation to the facts of the case. Microsoft either is or is not behaving properly, and the antitrust laws either are or are not adequate for current circumstances wholly independently of what Microsoft's competitors are trying to accomplish.

For that reason we applaud your investigation, wish you every success, and offer to help in any way we can.

Yours sincerely,

JAMES C. MILLER III.
DANIEL OLIVER.

Mr. HATCH. There are those who object that the Government should not interfere with the dynamic hi-tech marketplace. I agree with those who espouse a natural, instinctive skepticism toward any Government intervention in the marketplace. But enforcement of the antitrust laws may be all the more important if innovation in the most important, fast-growing sector of our present and future economy is being suffocated under the thumb of a company both willing and able to exploit its monopoly power.

The media campaign surrounding the public release of Windows 95 was accompanied by a theme song. As I recall, it was the Rolling Stones' hit song Start Me Up. For innovators seeking to compete with Bill Gates, for PC makers who feel that they have little choice but to steer clear of any actions that might upset their relationship with Microsoft, and for consumers, beholden to Microsoft for software products, I wonder whether the theme song for Windows 98 shouldn't be another Rolling Stones hit—Under My Thumb.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

THE FARM CRISIS IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rose yesterday to discuss the farm crisis in my home State of North Dakota. Yesterday, I showed a chart that showed what has happened to farm income in our State between 1996 and 1997, and I start today with that same chart because it shows North Dakota farm income being washed away in 1997.

In 1996, we had $764 million of farm income in the State of North Dakota; in 1997, $15 million—a 98 percent reduction in farm income from 1 year to the next. If that is not a crisis, I don't know what would constitute one. The total farm income of the State of North Dakota in 1997 was $15 million. That is divided up among the 30,000 farmers of our State. In other words, the average farmer had a profit, or net income, of only $500 for the entire year. That is a crisis.

The problems for agriculture go much further, deep into the pockets of farm producers. In my State and many other States, the economic difficulty in agriculture means trouble on Main Street. If the pockets of farmers are empty, so are the pockets of bankers, grocers, implement dealers, cafe and gas station owners—you name it; any Main Street business is negatively affected, and so are the workers whose businesses are affected.

About a week and a half ago, a meeting was held on the border of northeastern North Dakota and northwest Minnesota, where the farm troubles in our region are the worst. At that meeting, which was held by the State Farm Service Agencies, there were agricultural lenders, implement dealers, agricultural suppliers, and other agribusinesses in attendance. Today I thought I would share some of the comments made at that meeting by those people who are dependent on the agricultural economy. These comments illustrate the problems we are facing in agriculture in North Dakota.

The first comments were made by agricultural suppliers—the providers of fuel, seed, fertilizer, and other farm inputs. Here is what two of them said at this meeting. The first one said:

My daughter sells seed to farmers. Earlier she distributed the seed, now she is going around to pick it up.

That is a very bad sign, when those who are selling seed are going around to pick it up after it has been distributed. That means acreage is not going to be planted, and it is not going to be planted because farmers can't cash flow. They didn't cash flow last year; they aren't going to cash flow this year. That is because of this stealth crisis that is occurring out in my State. I am alerting my colleagues, it is in my State today; it may be in your State tomorrow. This is a crisis that has no Federal response.

The second ag supplier said:

Yesterday, six farmers wanted anhydrous ammonia fertilizer. I turned four of them away. The question this year is not, ''Do you have a loan?'' but ''Is that check any good?''

All across North Dakota, those are the kinds of questions that are being asked.

Also at this meeting there were implement dealers. The implement dealers also had some interesting comments. One said:

Last year, all the combines I sold went to senior citizens. That should tell you something about the condition of our young farmers.

The second implement dealer said:

In 1974 it took 5,600 bushels of wheat to buy a 250 horsepower four wheel drive tractor. Today it takes 26,000 bushels to buy the same horsepower, and it doesn't cover any more ground than the old one. There just isn't any buying power left in the bushels they produce.

When asked yesterday, Why are we having this crisis in North Dakota? It flows from a number of factors.

No. 1 is low prices.

No. 2, it flows from widespread disease as a result of 5 years of overly wet conditions.

No. 3 is a very weak Federal farm policy.

Those are the fundamental causes for the crisis in our State.

It is not just the implement dealers at this particular meeting who are talking about it. In addition, I have also heard from other implement dealers in recent news articles about the crisis in agriculture. Jon Sundby, a farm machinery dealer in Hillsboro, ND, said:

A year ago at this time, I think we sold 42 tractors. This year we have sold three.

Mr. President, that reflects the depth of the crisis that is hitting North Dakota.

Bob Lamp, the executive vice president of the North Dakota Implement Dealers Association, said:

At this point, there isn't much of a market for machinery because of the economy.

Comments from implement dealers and others reflect what is happening all across our State. It is not just implement dealers. Ag lenders are also weighing in. They were at this April 23 meeting. About a week and a half ago that meeting occurred. As anybody in agriculture knows, if you don't have money to operate your farm, you simply can't farm. It is rare in my State for producers to farm without loans to cover their operating expenses. That is why ag lenders are critically important to farmers.

Here is what some of them are saying about our current agricultural economy.

One ag lender said at this April 23 meeting:

Too many are trying to farm this year on credit cards —

On credit cards—

That is a recipe for disaster.

I was just with somebody from the State department of agriculture. He had been looking at farm plans. He saw one farmer who had credit card advances of $130,000—$130,000 on credit cards—to farm. That is a recipe for disaster.

A second ag lender said:

The farmers in trouble are good, honest producers who are suffering in silence. USDA needs to raise loan limits and make interest assistance more widely available on existing loans.

A third said:

This is, by far, the worst year ever, even considering the 1980s.

Mr. President, suffering in silence, I found that. I just took a tour of my State, held farm meetings all across North Dakota during the 2-week break in April, and what I found was that farm producers are shellshocked. They are suffering in silence. They don't know where to turn.

One recommended that ''USDA needs to raise loan limits.'' He is exactly right. The Secretary of Agriculture supports lifting the caps on commodity loans, but does not have the authority to do it. The Congress has the authority. We are the ones who have to make a decision to provide some relief.

Those loan levels are unusually low. In the 1996 farm bill, caps were set on wheat at $2.58 a bushel. There is no one who can farm and make it on $2.58 a

bushel. That doesn't cover your operating expenses.

Were we to simply remove the caps, we calculate the loan rate would be 62 cents higher, $3.20 a bushel. That, too, is inadequate, but it would be a help and it is the one thing we could do quickly to put some money in the pockets of these farm producers who are otherwise going to go under.

I indicated yesterday that we are going to lose 3,000 farmers in North Dakota this year. We only have 30,000. Ten percent of the people are going to go out of business this year, and the situation next year, unless we act, is going to be far worse.

I very much hope that my colleagues are listening, because this is a crisis. Last year, we had a very visual crisis in North Dakota with the floods, the fires and the most powerful winter storm in 50 years. The news media paid attention. As a result, we received a strong response. Well, the disaster continues, but there is virtually no attention being paid to it. That is why I say we have a stealth disaster this year. The conditions are undermining our agricultural producers in a way that is unprecedented. We have never seen such economic hardship on the farm, and yet there is almost no Federal response.

If we are going to avert disaster, the Federal Government needs to respond; this Congress needs to respond. Why is it? Because Congress passed a farm bill that forces farmers to face greater risk and succeed or fail based on the whims of the marketplace. It is because Congress has failed to act on the research title of the farm bill and has placed in jeopardy not only the future of agricultural research, but stability in our crop insurance system and rural development in the Fund for Rural America. Those items are funded in the research bill. It is because our crop insurance system is based on a formula which unfairly penalizes producers who experience repeated disaster, and it is especially because when our farmers face a disaster in crop production, there is no program to help.

As I indicated yesterday, if you have a disaster in agriculture today, the only help is a low-interest loan. So we are saying to these people at the very time they don't have the money to cash flow, ''Go deeper into debt.'' That is no answer.

All of these problems need to be addressed, and they need to be addressed as soon as possible. The livelihood of our farmers, our Main Street businesses, our rural infrastructure and the very health of our Nation depend on it.

I have one last comment from an ag lender. This is in North Dakota, and he said:

> Agriculture needs to be on the top of the agenda for the President, the Secretary and Congress, but, unfortunately, it doesn't seem to be.

Mr. President, we have to make it part of the agenda or we are going to have a calamity in North Dakota. I say to my colleagues, we are the first to experience this. Others of my colleagues will probably not be far behind, because if you have a weather disaster, if you have a series of bad years, as we have experienced, you will find there is precious little Federal assistance. That is because of the changes that have been made in the farm bill and other measures taken by Congress.

I alert my colleagues, North Dakota may be experiencing this stealth disaster today, but our colleagues are probably not far behind. I urge them to pay attention to this problem. We are an early warning signal, just like they used to send the birds down the mine shaft to see if there was air. North Dakota is the little bird in the mine shaft warning the rest of the Nation that we have a badly flawed farm policy in place. A 98-percent reduction in farm income in 1 year—98 percent. I don't think there is another industry that could survive that kind of fiscal calamity. I know our industry cannot.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. GRASSLEY). One minute, 24 seconds.

MANAGED CARE

Mr. CONRAD. Mr. President, on another matter, I want to address the issue of a young man named Ethan Bedrick. Let me put up Ethan's picture so we can see who we are talking about. This is Ethan. Ethan was born on January 28, 1992. His delivery went badly, and as a result of asphyxiation, he has suffered from severe cerebral palsy and spastic quadriplegic which impairs motor functions in all of his limbs.

You can see him. He is a fighter. Look at that look on his face. He is a happy young fellow, even though he faces severe restrictions.

He was put on a regimen of intense physical, occupational and speech therapy to help him overcome some of these obstacles.

At the age of 14 months, Ethan's insurance company abruptly cut off coverage for his speech therapy and limited his physical therapy to only 15 sessions per year. Mr. President, can you imagine, this little boy was damaged at birth, and when he is 14 months old, the insurance company cuts off coverage for his speech therapy, limits his physical therapy to 15 sessions a year. At 14 months, when the insurance company made these decisions to cut off this young child from the therapy he needed, the change was recommended by an insurance company representative performing a utilization review of his case. The reviewer cited a 50 percent chance that Ethan could walk by age 5 as a minimal benefit of further therapy.

Further, the reviewer never met personally with Ethan, his family, or Ethan's team of regular doctors. Upon review, the insurer affirmed its position with a second company doctor, citing a single New England Journal of Medicine article on physical therapy and child development. That article was published in 1988, 4 years before Ethan was born.

I want to go back to the point here that was made by the insurance reviewer. The change was recommended by the insurance company reviewer, citing a 50 percent chance that Ethan could walk by age 5 as a ''minimal benefit.'' Shame on that reviewer; shame on that company. A 50 percent chance of walking is a minimal benefit? How would they feel if it were their child? How would they feel then? A 50 percent chance of walking is a minimal benefit?

Further, the doctor declared the prescribed therapeutic equipment, including a bath chair designed for aiding his parents and care providers in his bathing, and an upright walker to allow him upright movement and muscle development, were merely convenience items—convenience items—and costs not to be covered by his insurance. Can you imagine if you were the parents of this little boy and you were told a walker is a convenience item? You were told that a device to help in the bathing of this multiply handicapped child was a convenience item?

The Bedricks, the parents, didn't feel that way. They filed suit. In 1996, the fourth circuit ruled that the insurer's decision to restrict therapy was arbitrary and capricious because the opinions of their medical experts were unfounded and tainted by conflict. Further, the court concluded that neither the insurance plan nor corporate guidelines require ''significant progress'' as a precondition to providing medically necessary treatments. The court noted, ''It is as important not to get worse as it is to get better. The implication that walking by age 5 would not be significant progress for this unfortunate child is simply revolting.'' Those are the words of the court, that the position of this insurance company ''is simply revolting.''

This is a quote from the attorney for young Ethan. ''The implication that walking by age 5 would not be a 'significant progress' for this unfortunate child is simply revolting. . . . The delivery of health care services should be based on the promotion of good health and not the margin of profit.''

During the time of review and litigation, Ethan lost 3 years of vital therapy, and ERISA, the Employee Retirement Insurance and Savings Account which governs HMOs, left the Bedricks with no remedy for compensation for Ethan's loss of therapy. The Bedricks' ability to give justice for what the HMO did to Ethan was erased because of ERISA.

I raise this issue today because very soon Congress is going to have a chance to act and we, in conscience, must insist that children like Ethan have a fair shot at fair treatment. This little boy, now 6 years old, should not be told that a 50/50 chance of being able

to walk is, as described by the insurance company, ''a marginal, minimal benefit.'' That simply cannot be what we do in this country to little boys like Ethan.

I yield the floor.

Mr. DORGAN. Mr. President, the story that was just described by my colleague, Senator CONRAD, is one that occurs all too often across this country in this new era of managed care. Every day we intend to describe the circumstances of managed care in this country that require us to bring a Patients' Bill of Rights to the floor. Every day we will discuss this issue on the floor of the Senate, hoping that we will be able to persuade those who schedule the Senate to bring the Patients' Bill of Rights to the Senate.

Every person in this country seeking health care ought to have a right to know all of their options for treatment, not just the cheapest option for treatment. Everyone seeking health care in this country ought to have a right to show up in an emergency room and get necessary treatment for an emergency medical need. The list goes on. That is why we want to see a piece of legislation called the Patients' Bill of Rights brought to the floor of the Senate.

The PRESIDING OFFICER. Under a previous order, the Chair recognizes the Senator from North Dakota, Mr. DORGAN, for 9 minutes 31 seconds of the previously allotted time.

AGRICULTURE

Mr. DORGAN. Mr. President, for the remaining moments I will speak on the subject of agriculture. I know it is probably something a lot of people do not think about or don't want to talk much about. Family farmers in my State are in trouble. At night when you fly across my State in a small airplane and look down, those family farmers have the brilliant yard lights that peek up at you. Each of these points of light represent a family living in the country, trying to make a living on the family farm.

Recently there was an editorial cartoon in the Forum newspaper of Fargo, ND, showing a truckload of family farmers going down the road surrounded by a landscape of farm problems, including low prices, crop disease, and inadequate programs. The road sign in the cartoon stated, ''The point of no returns.'' Why? Here is what is happening to the price of wheat. We passed a new farm bill and the price of wheat goes down, and down. Wheat prices are down 42 percent since May of 1996, following the passage of the new farm law. The point is that the new farm law pulls the rug out from under family farmers in terms of a safety net and tells the farmers, ''Go to the marketplace to get your price.'' Then the marketplace has a pathetically low price, and farmers go broke.

I had a farm meeting in Mandan, ND, and a fellow stood up. He was a big burly guy with a beard. He said his grandfather farmed, his dad farmed, and he has farmed for 23 years. His chin began to quiver, and he began to get tears in his eyes, and he said, ''I can't keep farming. I am forced to quit this year.''

We have all heard the stories. One by one. I suppose people say that is just one farmer. Yet ''one by one'' means that across this country, there are hundreds and thousands of farmers leaving farming. It is especially evident in my State. When farmers can't make a living and go out of business, it seems to me that is an enormous step backwards. Family farmers contribute something very important to this country.

Family farmers have had to fight several things in my State recently. They had to fight the weather. We went through a winter in which we had 3 years' worth of snow in 3 months. We had seven blizzards, the last of which put nearly 2 feet of snow on the ground. It was the worst blizzard in 50 years. Farmers had to fight that. Then they had to fight low prices. Then they had to fight a crop disease known as fusarium head blight or scab which wiped out a quantity of their crop. And, then they have to fight a Congress and a farm policy which has been constructed by people in Congress who say it doesn't matter who farms.

These folk think agrifactories are fine. They can farm as far as the largest tractor will go, until it runs out of gas, and that is fine with them. It is not fine with me. If we end up with a land of giant agrifactories farming America's farmland, we will have lost something forever in this country that is very important. As a matter of social and economic policy, we ought to fight with every fiber of our being to make sure we have a network of families living out on the farms in this country's future.

I watched one day when somebody came in that door, breathless, and walked to the floor of the Senate on the supplemental appropriations bill and offered an amendment for $177 million to be added to star wars national missile defense system. They added $177 million that wasn't even asked for. But that wasn't a problem. It was accepted by consent. A total of $177 million was added early in the morning. That was OK with this body because it was for star wars. But somehow we don't have enough money to provide a decent wheat price for a family farmer who is struggling out there.

I got a letter from a man and his wife who quit farming recently. The letter is from George and Karen Saxowsky, of Hebron, ND. I will read just a couple of paragraphs, since I have 2 more minutes. It describes for those who don't know about family farming what this family went through. She wrote a Christmas letter and described part of what they went through in the storms. She talked about the last blizzard.

I will read a couple paragraphs:

As the storm abated Sunday evening I could hear Glendon yelling and ran to see what was going on now, but couldn't find him. Here, they had found a cow laying on its side drowning in muck. Glendon was laying flat on his belly holding the cows head out of the muck while George was trying frantically to get the tractor down to him. I plowed through four foot deep snow to help—the first tractor got wet and quit. [All during the storm we had distributor caps in the oven drying out!] He got the Bobcat—it quit; he got the next tractor and we made it down there, tore a fence down, put chains on the cow and pulled her out. She died; as did a calf that had been buried in the snow someplace in the ten feet we pulled the cow and we didn't even see, until the snow melted enough, that it was under her; as did those two calves in the basement; as did a calf that had followed its mother to the water fountain, got stuck in the snow and froze to death standing up—we must have walked by that calf fifty times but with the blizzard didn't see it—they get snow covered really fast; as did the cow in the corral with a roof over her head with water and hay right beside her; as did—well, you get the picture. It continued for fourteen days after the storm, every day we lost at least one cow and/or calf. We took them to the vets for autopsies and what-not but it just seemed there was nothing we could do to save them. One day we made it to 5:00 without any dying and thought the curse was broken but by midnight we had lost a cow and a calf. It was a terrible, terrible time, but we lived through it—but not alone. Friends were there for us. On the Friday after the storm one called to tell us to get out of the house and come to town for a Fireman's Dance—we were just too exhausted and depressed—but he was really pushy (he did the same thing for us after last year's cow incident on I–94). We went and visited with other farmer-ranchers who were in the same boat—it really was so helpful and encouraging?

We were really dreading the first snow of this winter. Long about October, George started talking about quitting farming—I took it as a mid-life crisis; a one time slide. But he kept talking—and then started making plans. We would put in a crop in '98 and quit in '99. I still thought 'this-too-shall-pass' but he just go more serious. In November I started getting calls asking if I would like a job off the farm? I have to tell you, I was so flattered that they even considered me capable of doing what they needed; I had been self-employed for almost 25 years! I turned them down, but it did start the wheels turning. Then, there was an ad in the paper for a job in Hebron with benefits. We talked about it and I applied; they offered me the job and I took it. This was not easy, now we couldn't put a crop in this spring as the job is 40 hours a week including every other Saturday and George can't farm without me.

The bottom line is: a 47 year old, 4th generation farmer in this 27th year of farming is quitting farming.

This is why this farm couple is quitting farming. It is not just because of the storm and the dead cattle. It is about making a living and getting some return for their efforts.

North Dakota farmers had a decline of $750 million in farm income in 1997. Low prices, crop disease, weather. Senator CONRAD pointed out that 98 percent of the net income of farmers was washed away by this set of problems. And, there is one more problem that farmers face. They face a Congress that doesn't seem to care whether there are family farmers.

The new farm program pulls the rug out from under our family farmers. They are told to go to the marketplace to get their price. When they go there, the big millers are there and the big grocery manufacturers are there, and the big grain traders are there. They all want lower prices, so they drive prices down so when family farmers go to the marketplace, they find pathetically low prices, well below their costs of production for grain.

The fact is they lose money year after year because farm prices are consistently below the full economic costs of production. Then they suffer through crop disease on top of it all, and find out the crop insurance program doesn't work. When they turn to the safety net, they find that, no, that has been pulled away. When they ask what is the loan rate on a bushel of wheat, they find it is the lowest it has been in decades.

So the question is: Is somebody here going to start to care about whether we have family farmers or not? Or is the priority here that you can waltz through these doors and offer a couple hundred million dollars for star wars, and get plenty of money for things like that; but when it comes to family farmers we don't have enough money for a decent support price to help them stay on the farm?

Mr. President, I and others will be talking about this in the coming days. I hope, as we search for some solutions, this Congress will decide family farmers are worth finding solutions for, and that we will develop a better farm program, one that really works to provide protection for family farmers.

I yield the floor.

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

Ms. COLLINS. Mr. President, on May 2–4, 1998, more than 1,200 students from across the nation were in Washington, D.C. to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that a class from Old Orchard Beach High School represented the State of Maine. These outstanding young scholars worked diligently to reach the national finals by winning local competitions in Maine.

The distinguished members of the class representing Maine are: Lauren Asperschlager, Lucy Coulthard, Chad Daley, Rose Gordon, Krista Knowles, Nathan LaChance, Sarah Lunn, Sandra Marshall, Katie McPherson, Cindy St. Onge, Sam Tarbox, and Sharon Wilson. I also want to recognize their teacher, Michael Angelosante, who deserves much of the credit for the success of the class. The district coordinator, John Drisko, and the state coordinator, Pam Beal, also contributed a significant amount of time and effort to help the class reach the national finals.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a congressional hearing whereby the students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary constitutional issues. The simulated congressional hearing consists of oral presentations by the students before panels of adult judges.

Administered by the Center for Civic Education, The We the People . . . program has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. Members of Congress and their staffs enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program is designed to help students achieve a reasoned commitment to the fundamental values and principles that bind Americans together as a people. The program also fosters civic involvement as well as character traits conducive to effective and responsible participation in politics and government.

I commend these student constitutional experts from Maine and throughout the nation who have participated in the We the People . . . national finals for their achievement in reaching this level of the competition.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2676, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The PRESIDING OFFICER. The time until 12:30 p.m. shall be for debate only, unless the managers' amendment is offered.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I urge my colleagues to come down to debate this important piece of legislation. A number of individuals have indicated they want the opportunity to discuss this legislation, the restructuring of IRS. We do have an hour and a half available for any Senators who want to come down and give their comments with respect to this legislation. This is their opportunity, and I urge that they do so immediately.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

Mr. KERREY. Mr. President, the Internal Revenue Service Reform and Restructuring Act of 1998 will touch the lives of hundreds of millions of Americans.

More Americans pay taxes than vote. The perception of how our government treats us—its citizens—is rooted more in our contact with the IRS than with any other U.S. agency or entity.

How we are treated by the IRS—and our tax laws—effects our perception of whether or not we believe we have a fair shot at the American Dream and whether or not we are a government of, by and for the people.

During our deliberations this week, we must be mindful of Congress's complicity in allowing the IRS to become what it has become. The IRS is not Sears & Roebuck—we are its Board of Directors. We write the tax laws, we are responsible for the oversight and it was on our watch that the IRS became the mess we now try to clean up.

Mr. President, I remind my colleagues that Congress has changed the tax code 63 times since 1986, and these changes have created a tax code that costs the American taxpayers $75 billion a year to comply. We do so without considering the cost for the IRS to administer it, and without considering the cost for taxpayers to comply. If you doubt that we have made things difficult I challenge you to take a look at this year's Schedule D on capital gains and losses. A few years back Dave Barry noted that we were making progress in our mission to ''develop a tax form so scary that merely reading it will cause the ordinary taxpayer's brain to explode.'' He cited Schedule J, Form 118 ''Separate Limitation Loss Allocations and Other Adjustments Necessary to Determine Numerators of Limitation Fractions, Year-End Recharacterization Balances and Overall Foreign Loss Account Balances.'' If that is not complicated enough, I'd suggest he go back and take a look at this year's Schedule D.

The American public knows that Congress plays a leading role in all of this. In a recent poll, 72 percent of Americans blamed Congress for the ills of the IRS, and not the IRS itself.

According to a special Harris Poll conducted on April 15th, ''[t]ax evasion is believed by most people to be more widespread than harassment by the IRS.'' The poll also found that by a margin of 50 to 33 percent, Americans believe more people ''get away with not paying all the taxes they should'' than pay ''all their taxes and are unfairly harassed by the IRS.'' Willful noncompliance with our tax laws cost

those of us who do comply an estimated $100 billion annually. IRS Commissioner Rossotti testified last week that taxpayer noncompliance costs the individual American taxpayer $1,600 annually.

Today 85 percent of Americans comply with our tax laws willfully, without incident. If we do not adequately address the issue of noncompliance, we will be sending the wrong message.

It is our responsibility to not only change the culture at the IRS so that those who do comply are treated fairly and with respect, but we must also change the law to allow Commissioner Rossotti the authority to make the changes he needs to and to provide the IRS with the proper resources to catch those who choose to break the law.

I urge my colleagues to consider the overall importance of the bill before us this week. What we do will have a profound impact on the IRS, how Congress writes tax law and how Americans perceive this body and our government.

Let us move forward, swiftly and in a cooperative manner, and give the IRS the overhaul it needs, provide the congressional oversight that is required, the IRS Commissioner the statutory authority he lacks, and the taxpayers the relief they deserve.

Mr. President, I know from the hearings in the Finance Committee held by the distinguished chairman, Senator ROTH, last September, and over the last several weeks—very, very needed and very, very worthwhile oversight hearings—that among other things which were focused on in those hearings were the actions taken by the Criminal Investigation Division. I know that there were an awful lot of citizens—in fact, every single member of the Finance Committee—who were outraged listening to some of the stories told about how the strong arm of the law was used to go after not necessarily innocent but certainly taxpayers that were not a threat to the life and limb of their neighbors. There was a substantial amount of force used in all of the cases. I don't pass judgment as to whether or not the IRS was right in the claim itself. But there is no question that there are times when the IRS uses more force than is necessary to carry out its function under the Criminal Investigative Division.

We hope that the changes in our law and instructions to Commissioner Rossotti will enable us to reduce and eliminate that kind of excessive use of force. Mr. Rossotti himself has indicated that he is going to ask former FBI Director William Webster to evaluate the Criminal Investigation Division and come up with a set of protocols that will enable them to eliminate the times when they use unnecessary force to enforce the law.

Let me caution Members who are outraged to be careful when they come and propose amendments to that particular section of this law. The caution needs to be based upon our desire, I hope, to keep the streets safe for Americans. It is my judgment that mission No. 1 for a government is to protect its citizens. We don't have public safety if we do not have citizens feeling safe when they are walking the streets, or when they are engaging in commercial transactions. If that doesn't occur, we have anarchy, and citizens not only are going to be quite concerned but they are apt to throw all of us out of office.

All of us know that a combination of events has reduced crime across the Nation. Americans like that. They want to feel safe. They don't want to feel they are at risk, having people preying on them for a variety of reasons.

The IRS is an important part of our effort to get that done. All Members who are concerned about the Criminal Investigation Division and who may have some changes they want to make in that division, I am likely to support those if it will reduce the incidents of force being used against citizens who pose no threat but will oppose those that I fear will make it easier for drug dealers, money launderers, and other sorts of criminals who are preying on the American people. If Members come to the floor and want to weaken the capacity of the Criminal Investigation Division to keep Americans safe, I will introduce into the RECORD, as I did in the hearings, 14 examples, and more if necessary, to show this body what the Criminal Investigation Division is doing to keep Americans safe. If there is somebody out in America who is a drug dealer or a money launderer, they don't have on their forehead ''drug dealer'' or ''money launderer.'' They are apt to look normal. One of the things we very often fail to do is get both sides of the story when we hear stories of abuse.

I could bring every single person who is in Nebraska's prison system in front of any committee here in Washington, DC, and every single one of them will tell you the government abused their rights. There is nobody who is guilty in our prisons. They are all innocent. They are all abused by the government in some way, shape or form.

So let's be careful as we evaluate the Criminal Investigation Division. We have Mr. Webster who has been assigned by Mr. Rossotti to examine their procedure and protocol, but let's be careful that we don't change the law to make it easier for people to prey on Americans to get their job done.

All of us understand there is an amendment to the Constitution, the fourth amendment, that provides us protections against unreasonable searches and seizures. I am encouraged that many who have been silent on this protection that is guaranteed to all citizens are now starting to understand that it can be a substantial problem to infringe upon that fourth amendment right. But if a law enforcement entity has probable cause and gets an arrest warrant as a consequence of having probable cause that somebody is violating the law—a drug dealer, money launderer, and so forth—again, walk down the street. These people don't stand out for you and say, well, there's somebody who is a threat to our society. If they have probable cause, if they believe it is necessary to get a search warrant, they don't call that person up and say, hey, Jim, next Wednesday I am going to be over to get the evidence, because they know that unless they have the element of surprise, the evidence is going to be destroyed.

I believe the legislation before the body today, the variety of things that are being done, will substantially improve the operation of the IRS and will give the American people better service, will shift more power to the taxpayer. In title I, there is a section I may end up reading on this floor. I am a cosponsor of the bill. It was originally introduced by JOHN BREAUX.

The Taxpayer Advocate will be much more independent, have much more power, and I guarantee you that the taxpayers will know the independence that the Taxpayer Advocate has; that he will be required annually to come to us and say, here are provisions of the Tax Code that are causing the IRS special problems. These are problems and difficulties that we are facing as a result of the laws that you all pass and make recommendations for changing those laws. So that, again, the goal ought to be to write the law so that the IRS presumes all Americans are law-abiding citizens willing to voluntarily comply. They just want to know the size of their tax bill so they can pay it but reserve the authority and power of the IRS to go after individuals who either intentionally do not want to comply or, worse, are criminals who are preying on innocent Americans in a variety of different ways.

I hope during the deliberations we will have a constructive debate. I know we are waiting for the caucuses to find out what Members are going to do with both nongermane amendments as well as germane amendments that could kill the bill. I say, again, the importance of this cannot be overstated. The citizens' confidence in Government of, by, and for the people is at stake. We now have a declining number of Americans who believe the IRS is getting the job done. It is one of the least popular agencies at the Federal level. We have a significant role in creating that unpopularity because we wrote the law to begin with. The law that governs the IRS has not been rewritten since 1952. It is long since passed the time it was necessary to rewrite those laws.

I thank Senators ROTH, MOYNIHAN, GRASSLEY, Congressman PORTMAN, Congressman CARDIN, and many others who have been involved in this from the very beginning. It started way back in 1995 when Senator SHELBY, the distinguished manager, and I were managing an appropriations bill. We had attempted to fence an appropriation dealing with tax systems modernization in 1994. It failed. We got it fenced

in 1995. We didn't believe it was enough. We saw the taxpayer money being wasted. We created in the appropriations bill the National Commission for Restructuring the IRS. That Commission deliberated with Congressman PORTMAN and 16 other people for well over a year. Senator ROTH, last year, picked the ball up and had wonderful oversight hearings, and did so again this year.

It is time to get the bill passed. The House bill passed 426 to 4 last September. The bill that is before us today is a substantial improvement over that bill in what the House has done. I say on behalf of 200 million Americans who pay their taxes every single year, let's get this thing done as quickly as possible so they can have these new powers that they will have under the law and so the IRS Commissioner has the power and authority he needs to manage this agency.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mr. BREAUX. Are we on the bill or are we in morning business, Mr. President?

The PRESIDING OFFICER. We are on H.R. 2676, the IRS reform bill.

Mr. BREAUX. I thank the Chair.

I rise in support of the legislation and say to all of my colleagues, and to the American public as well, it is very good news that we are now at the point of not talking about it as much as we are actually trying to do something to fix the problem. The problem I speak of is the information that Congress and the Senate have received over the past several weeks regarding what I will argue are fundamental abuses within the Internal Revenue Service and how they treat many American citizens.

The hearings the Finance Committee held really brought out some very disturbing facts and information about the interaction of the Internal Revenue Service with average Americans. We have a tax system in this country with which most people completely and totally comply. We have one of the highest rates of compliance of any free nation anywhere in the world. It is something of which we can be very proud.

Also, it is interesting to note—and maybe people don't realize—that less than 2 percent of American taxpayers are audited each year, substantially less than 2 percent as a matter of fact, which means most Americans file their tax returns, pay what they owe during the year, and at the end of the year that is it in terms of their dealings with the Internal Revenue Service. But still, in all, it seems there is a very disturbing feeling by most Americans that the Internal Revenue Service, an agency of our own Government, is not only on their side but actually is against their basic interests in how they deal with their own Government. I know that for a fact. I even feel somewhat intimidated by calling the agency myself on behalf of a constituent. The response seems to come back: How dare you call us. We are the IRS and you have no business making an inquiry.

The other story that goes around is people have pointed out one of the greatest lies ever told is: I'm from the Government and I'm here to help you.

It is like someone who gets a letter from the Internal Revenue Service; generally it evokes a tremendous amount of fear from the average citizens in this country when they get such a letter. It is always the butt of so many evening television shows, jokes about people actually having a fear of their own Government and an actual fear of the agents of our own Government, who are Federal employees, who actually work for the citizens of this country.

I think the hearings show this is a feeling among far too many people in this country. What we are doing is bringing legislation to the floor to try to correct some of those abuses and make it work more on behalf of American citizens instead of against American citizens.

A couple of weeks ago, I was back in Louisiana and someone from my State said, ''What do you have coming up this week?'' I said, ''We are going to have more hearings on the Internal Revenue Service.'' And my constituent said in response, ''My God, you have had enough hearings. When are you going to do something about fixing the problem? We know there is a problem; when are you going to fix it? Are you going to spend the whole year talking about it? We got the message; there is a problem. The question is, What is Congress going to do to attempt to fix the problem?''

I am pleased to report that is why we are on the floor of the U.S. Senate today with legislation that has been reported out in a bipartisan fashion. Under the leadership of the distinguished chairman, Senator ROTH, and the ranking Democrat, Senator MOYNIHAN, we have brought this piece of legislation to the floor. I want to particularly commend Senator KERREY from Nebraska, who has been on the floor this morning and yesterday outlining this legislation. He chaired a commission which really did a great deal of work prior to the Congress bringing up this legislative proposal. His work as commission chairman really was the genesis for bringing about this real effort to reform the Internal Revenue Service.

Some would say, ''Just throw it out, scratch it, do away with it.'' That is all fine and good. I can give a great speech anywhere in the country talking about abolishing the IRS. But also, it is important to find out, what are you replacing it with? What type of agency do you have to collect the revenues to run the Government?

I think people legitimately are concerned. They want the services of Government. They want the highway trust fund to work. They want the highway program to work. They want Medicare and they want the Medicaid programs to work. They want education to work. They want the services of Government, but in order to have that, you have to have some mechanism to collect taxes in a fair manner. We should do everything we can to make the system more fair and make it more simple than it is, but eventually we are going to have to have some agency that is going to participate in helping collect those taxes under a fair system.

I think what we do today is to try to improve that system. We say we are going to make it work better, we are going to attempt to eliminate the abuses in the system and abuses by people who work for the Internal Revenue Service.

I would like to concentrate just on one feature of the bill that is now before the Senate, and that is something that I have worked on hard—in fact, introduced a separate bill on, to create a National Taxpayer Advocate to help taxpayers when they have problems with the Internal Revenue Service.

Back in 1996, in the Taxpayers' Bill of Rights, we established this Taxpayer Advocate. The concept was not very complicated. It was, when people have a problem with the Internal Revenue Service, they generally are at the mercy of the system. The Government has literally thousands of attorneys and tax attorneys and prosecutors to go after individuals, but the individual citizens don't have anyone to represent their interests in dealing with the Internal Revenue Service. The National Taxpayer Advocate concept was to have someone who was on the side of the taxpayers, to help the taxpayers put together what they need to show what they have done was entirely honest and appropriate.

The National Taxpayer Advocate did establish this position of a Taxpayer Advocate Office, and the function was to assist the taxpayers in resolving their problems and to identify areas in which taxpayers have problems in dealings with IRS, and also propose any administrative changes that would help make the system more fair, and identify any legislative recommendations that we in Congress could institute to make it more fair and easier for the average taxpayer.

The problem with the old law in 1996 was that the Taxpayer Advocate designated authority, under these assistance programs, to the local and regional resolution officers who worked for the Internal Revenue Service. This really undermined the independence of the Taxpayer Advocate. It is very important, if you are going to have people who help the taxpayer, that they should not be totally dictated to by the

Internal Revenue Service itself. It was something that, while it had the right intention, did not work as it should.

This legislation contains several very important changes. I am very pleased to report to our other colleagues that this legislation corrects some of the problems with the original Taxpayer Advocate Office. We are going to make it more independent, which it has to be in order to work. We are going to make it more accountable to the taxpayers of this country, who are the people they are there to serve, and make it easier for them to resolve disputes between the taxpayer and the Internal Revenue Service.

The bill, in doing that, replaces the present law's problem resolution system with a system of local taxpayer advocates who report directly to the National Taxpayer Advocate Office and who will be employees of the Taxpayer Advocate Office, independent from the Internal Revenue Service's examination, collection, and appeals function. In other words, they will be working directly for the Taxpayer Advocate Office and will be independent of the IRS examination and collection offices and appeals office.

The National Taxpayer Advocate has a responsibility to evaluate and take personnel actions with respect to any local taxpayer advocate or any employee in the Office of the National Taxpayer Advocate. And to further ensure their independence, the National Taxpayer Advocate may not have been an officer or employee of the Internal Revenue Service during the 2-year period ending with their appointment and will not be able to accept employment with the IRS for at least 5 years after ceasing to be the National Taxpayer Advocate. That means the people who are going to be running this office cannot just have come out of the Internal Revenue Service, where their loyalties would be legitimately questioned. And they have to agree they will not go to work for the Internal Revenue Service for at least 5 years after they leave this position.

So what we are creating, I think, is a truly independent National Taxpayer Advocate Office, to be on the side of the taxpayer for a change instead of being on the side of the Government, saying they are going to represent the interests of the taxpayer. There is a conflict there. If you are going to have adequate representation for the individual taxpayer, the person cannot be an IRS employee; they have a different obligation of what they are trying to do.

So this Taxpayer Advocate Office will not be able to be a previous IRS employee and not be able to go to work right after giving up the job as a National Taxpayer Advocate. I think that feature is very, very important, because if you were still an employee of the IRS directly under their responsibility, it simply would not work. If you just came out of the IRS, it would not work. And if you knew you were going to go to work for the IRS as soon as you finished the job as a National Taxpayer Advocate, then you would be looking over your shoulder to make sure you didn't make them mad or unhappy in what you did in representing America's taxpayers.

That conflict has been eliminated by what we have in the legislation which is now before the Senate. The whole concept is to have a truly independent National Taxpayer Advocate whose one focus will be making sure that taxpayers have good representation, are fairly treated, and have someone, for a change, who is really on their side when they have a conflict with the Internal Revenue Service.

It is interesting to note that we go further in this legislation and say that at the initial meeting with any taxpayers seeking assistance with the Office of Taxpayer Advocate, that the local taxpayer advocate is required to notify that taxpayer that they operate independently of the IRS office and that they report directly to Congress through the National Taxpayer Advocate. At the discretion of the local taxpayer advocate, he shall not disclose to any IRS employee any contact with or any information that they provide to the taxpayer.

We are really trying to build some walls between the IRS and the Taxpayer Advocate and their work with the taxpayers, the American citizens of this country, to make sure that they, the taxpayers, know the person they are dealing with is independent, has their interests at heart, and doesn't have to go report to the Internal Revenue Service district director about what he or she has discussed or talked about with the taxpayer who is seeking assistance.

In addition, each local office of the Taxpayer Advocate is to maintain separate phones, separate faxes, and other electronic communications access, and a separate post office address. We are really trying to make it as separate and independent as we possibly can, so that when the average person gets that letter talking about an audit or a question that they have, they know there will be someplace they can go without having to incur the expense of hiring outside CPAs or outside attorneys and pay them sometimes very high fees just to have someone help them with their problem. There will be someplace they can go, which will be independent of the IRS, which will have as their first, second, third, and last mission to help that taxpayer. They can be comfortable there will not be communication or sharing of information of their discussions with the Taxpayer Advocate with the Internal Revenue Service.

I think this is a very important part of the bill that is before the Senate today. Other features in the bill are equally as important, certainly, and I think in the end will go a very long way to assuring the American taxpayers that they have a system that is not out to get them, that is not out to intimidate them, that is not out to embarrass them; that if they are honest taxpayers, they will be treated honestly and will be treated fairly and, if they have a problem, there will be someplace they can go to get honest information and help and assistance that is not directed by the Internal Revenue Service but is being directed by the Office of the Taxpayer Advocate. That is now part of this bill, and I think it is a very important part of it as well.

With that, Mr. President, I yield the floor, as I see other Members who are waiting to speak.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I compliment the Senator from Louisiana. I have done it a couple of times previously. I was pleased to be able to cosponsor his legislation having to do with strengthening the Taxpayer Advocate in this bill. If we can keep the nongermane amendments off and stick to the business of changing the law to give the taxpayers this new authority and power with this one provision, the Taxpayer Advocate, it will be noticed immediately.

This Taxpayer Advocate will be truly independent, with separate phone numbers, separate faxes, a separate operation, with the capacity to organize taxpayer advocates in each of the 50 States, to operate independently, not only settling problems that taxpayers have but bringing to Congress' attention repetitive problems that they identify that they think need to be solved by us either changing the law or changing some other procedures.

We have had the Taxpayer Advocate created before under the Taxpayer Bill of Rights II, when it was created. The change from Taxpayer Advocate to National Taxpayer Advocate is not by accident. I hope colleagues have a chance to look at this particular section of the bill as they consider how we are going to proceed this week. Look at the language in this particular section and ask yourself the question: Do I want to give the taxpayers in my State this kind of Taxpayer Advocate, this kind of power, this kind of representation? Do I think that they will appreciate the changes they will see in the way IRS operates and the kind of service they get from that IRS? I think Senators will look at that and say, ''My gosh, I don't want to slow this bill down. We need to get this thing done. We have waited long enough. We need to get this bill done so these new powers can be felt by the taxpayers in my State.''

Again, I appreciate very much what the Senator from Louisiana has done. This is one of the most important sections of this bill. It is not in the House bill. Senator ROTH, the chairman of our committee, talked many times about the need to make certain we took the House bill and made it as strong as we could. I was constantly pressing that

we move in an expeditious fashion. This is one of several examples where the House bill has been substantially improved.

I hope colleagues, as they look at this bill, will remember we are trying to give the taxpayers in all the States in this Nation new power, new authority, and an IRS that will much better serve their needs in a much more courteous and expeditious fashion.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate the fact that the leader is bringing to the floor this week the Internal Revenue Service reform bill and giving the Senate the opportunity to act expeditiously on this matter. It is my hope that as soon as we act, there will be a prompt conference committee with the House, which has already passed analogous although not as comprehensive legislation, so that soon the American people will have the benefit of the reforms that are contained in this legislation.

We did not get to this point easily. I compliment particularly Senators Bob KERREY and Charles GRASSLEY, who served on the commission that reviewed the IRS from which many of the ideas contained in this legislation have emanated. I congratulate Senators ROTH and MOYNIHAN of the Finance Committee for having led us to this point. And I congratulate new Commissioner Rossotti of the IRS, who has brought a fire, an energy, to reform the agency from the inside that has facilitated the consideration of these structural changes that will be contained in this legislation.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, before I proceed further, I ask unanimous consent that Kate Mahar, Ed Moore, and Maribel Garcia-Romero of my staff be allowed the privilege of the floor for the pendency of the debate on the IRS reform bill.

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

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, first, I will comment on some provisions which will be in the Senate bill that I have had a particular interest in and then to alert the Senate to an amendment I will be offering, possibly with others, when we reach the consideration of this bill.

This bill follows many months of investigations and hearings by the Finance Committee, both in Washington and throughout the Nation. It follows a process in which the committee has first tried to do a careful diagnosis of what was the problem and then consider the options, the prescriptions that might deal with that problem, and then incorporate into this legislation that prescription which was considered to be the most appropriate.

I compliment the people who have participated in this process. Specifically, I held a hearing in January in Orlando, FL, where a number of Floridians had the opportunity to participate in this thoughtful process of diagnosis and prescription. I know that Senator NICKLES held a similar hearing in Oklahoma. Other Senators communicated with their constituents through various forums. So this is, in a real sense, a product of the people of America.

Let me review some of the diagnoses and the pathologies in the IRS that surfaced. One of those was the need to help taxpayers resolve their debts. What was discovered was that many taxpayers want to resolve their IRS debts but the Code imposes so many penalties that once a liability is established, it is very difficult to satisfy that debt.

As an example, a Floridian, Carl Junstrom of Tampa, over 10 years ago, because of misinterpreted advice of an IRS agent, ended up being responsible for $25,000 in taxes. He entered into an agreement with the IRS under which he paid $181 a month towards that debt owed. After having faithfully met that monthly obligation for almost a decade, and having paid $28,000 towards an original $25,000 indebtedness, Mr. Junstrom was informed that he still owed $26,000.

How is that possible? The answer is, because the penalty clock kept running during the pendency of this agreement and, therefore, although he thought he was paying off his indebtedness and, in fact, paid $3,000 more than he originally owed, because of accumulated penalties during that same 10-year period, he ended up owing more than he had at the beginning of the process.

What is the remedy? This bill includes a provision that encourages the IRS and the taxpayers to engage in installment agreements by, one, assuring the availability of payment plans for taxpayers with liabilities of $10,000 or less and, two, eliminating the failure-to-pay penalty for periods where the taxpayer is making payments pursuant to an installment agreement.

In the case of Mr. Junstrom, the penalty clock would have stopped as long as he was making his $181-a-month payments.

Another remedy is to adopt proposals to eliminate the differential between the interest rate the IRS charges individuals and the rate that the IRS pays taxpayers. Previously, there had been a higher interest charged to the taxpayers on a deficit than the interest which the taxpayer would receive if it was found that they were owed a refund. That differential is eliminated in this legislation.

A second problem identified was protecting the innocent taxpayer. What is the problem? One example of the problem is that many individuals filing joint returns find out subsequent to filing those joint returns that their spouse has understated income or overstated deductions. Although the individual may have had little or no income and little or no knowledge of this, the IRS holds that person responsible for 100 percent of the taxes attributable to the individual spouse's action. This typically surfaces after there has been a divorce and one spouse, often the husband, has left town. The wife, who usually has custodial responsibility for the children, is still there and is accessible, so she becomes the target for the IRS collection activity. About 50,000 women a year are in that category which is generically referred to as the ''innocent spouse.'' An example is Karen Andreasen, a Floridian. Her signature was forged on a joint return, but she ended up being held liable for her ex-husband's debts.

The remedy? The remedy incorporates legislation which Senator D'AMATO and others, including myself, have introduced as discrete legislation. This generally would adopt an approach recommended by the American Bar Association which essentially says that each spouse is to pay his or her share of the tax liability in proportion to what he or she contributed to the original tax return. If, for example, the return represented income that was 80 percent the husband's earning and 20 percent wife's earning, in a subsequent dispute the wife would be limited to a responsibility of 20 percent of any deficiency. That is a very important provision in this legislation, which will have an immediate benefit, because this legislation applies this new standard retroactively to existing open cases for many tens of thousands of spouses caught in this vice.

Another issue that surfaced was assisting taxpayers in their negotiations with the IRS. What is the problem? The problem is that many taxpayers, especially small businesses and moderate-income families, find themselves unable to negotiate with an agency which has the power to seize, levy and garnish wages. An example, Betty Bryant of Miami, Florida started a small business to supplement her income as a State employee. She actually overpaid her taxes but filled out the form incorrectly and ended up with wages being garnished while this matter was in controversy. Another example, Thomas Jones, submitted an offer-in-compromise to the IRS. The offer was rejected even though the IRS admitted they couldn't find his file. They rejected his offer even though they didn't have the information upon which to make an intelligent judgment as to whether the offer was appropriate or not. He also was not apprised of his right to appeal the rejection of his offer.

What is the remedy? The Finance Committee includes proposals to require a review of any IRS decision to reject an offer-in-compromise by collection. This will assure that there will be some independent party reviewing the offer in compromise. Moreover, the bill requires that the taxpayer be notified of this right.

In addition, the bill requires the IRS to suspend collection efforts if the taxpayer appeals the rejection of an offer-in-compromise.

The committee also approved proposals to expand the IRS Alternative Dispute Resolution Program. In many jurisdictions, the development of alternative dispute resolution procedures has provided a significant and frequently much more efficient alternative to traditional litigation. This proposal would build upon a pilot program initiated by the IRS pursuant to the Alternative Dispute Resolution Act of 1996. It would allow third-party mediation of cases of tax disputes. It would also establish a pilot program for the use of arbitration in tax disputes.

The legislation also provides a proposal to require acceptance of an offer-in-compromise if the IRS has lost the taxpayer's file.

Another area where Senators found deficiencies in the IRS is customer service. What is the problem? Many taxpayers feel they are treated as criminals rather than as customers. The IRS is often unreachable and difficult to pin down on advice they give to taxpayers on how to properly fill out a return. Jim Stamps of Jacksonville provided testimony that it had taken him 4 years to get a letter stating that he had paid off all the taxes that he owed. Without that letter, many opportunities that were available to him personally and in business were frustrated.

Mr. Junstrom, who I mentioned earlier, the man who had the $25,000 bill, paid $28,000 but still owed $26,000, and had requested the IRS to sit down with him to explain what he owed. He never was afforded that opportunity and continued to receive confusing and conflicting notices.

What is the remedy? The bill reported out of the committee includes a requirement that the IRS evaluate employees on their customer service as well as on their collection ability. The Finance Committee heard testimony indicating that in the past not only was there almost a total focus of evaluation based on how much money an agent collected, but that those standards became numeric, and if you didn't meet the standard of collections, then you received a downgrade on your evaluation.

This legislation repeats and expands upon a directive that Senator GRASSLEY wrote into the Taxpayer Bill of Rights that made it illegal to evaluate an IRS employee based on a numerical standard of how much was collected. But this legislation goes beyond that and says that employee evaluation will give emphasis to their customer service as well as their other responsibilities.

The IRS reform bill will also increase accessibility by a very simple thing—pick up the telephone book today and look under U.S. Government in virtually any community in America and then look under IRS. One thing you will see is an 800 number as to where to call to get service. There are two things that you typically do not see. First, you may not find a local telephone number that you can call in the event that the 800 number is busy, which happens frequently, particularly during periods just before April the 15th. Second, what you don't see is an address so that the taxpayer who wants to go down and actually meet face to face with a human being to review their problem will know where to call and where to go. This legislation will require the IRS publish both its local telephone number and its local address.

The legislation requires the IRS to issue annual statements to taxpayers who have entered into installment agreements, like Mr. Junstrom. The statement would include amounts paid, remaining balance, and projected payoff time so that the taxpayer will be in regular knowledge of where he or she stands with the IRS.

None of us purports that this legislation will solve all of the problems and all the taxpayer complaints with the IRS. And we should resist the temptation to oversell this legislation. The IRS will have to take many administrative actions to implement these laws and undertake other reforms to achieve that goal. Fortunately, I believe the IRS is moving expeditiously to become a more user-friendly agency. It is dealing with a culture which in the past has focused inside the agency, what was to the convenience of the agency, like not publishing the address so that taxpayers wouldn't come down to the IRS office and ask a lot of questions, to an agency that is moving to a culture of being consumer friendly and saying: Here is where we are, come down and we seriously want to render service to the taxpayer.

Commissioner Rossotti has implemented a broad range of reforms and has undertaken investigations to get to the bottom of other allegations that have been made about the agency's activities. The IRS has extended its hours, implemented problem resolution days, and has stopped evaluating collection agents based on the numerical amount of taxes they collect. This legislation will continue that effort. Mr. President, all of what I have just said is in the bill that we will soon be considering, and I recommend that bill and these provisions to my colleagues.

Let me now turn to a provision that is not currently in the bill. It is my intention to offer an amendment to ensure that the new IRS Oversight Board will have at least one member with expertise on small business issues.

One of the recurring themes of the hearings that we have had is the concentration of problems between taxpayers and the IRS, especially when that taxpayer was a small businessman or woman—an individual who frequently is relatively new to business, learning what the difference was between an expense deductible item and an item that had to be amortized over time, a person who frequently did not have access to or could not afford expert professional advice, but a person who was trying to comply with their legal responsibilities.

These are not evaders of taxation, they are people who need help, and up-to-date information, in order to meet their responsibilities.

We are creating in this legislation an oversight board. That oversight board is intended to provide a new window of enlightenment, in both directions, from the public to the IRS, and from the IRS back to the public. Under legislation crafted in the Finance Committee, the current board would be composed of 9 individuals. Those 9 individuals will include the Secretary of the Treasury, the IRS Commissioner, and a representative of the IRS employees. In addition to those 3 named individuals, there will be 6 Presidential appointees. Each of these 6 must possess expertise in at least one of the following areas: Management of large service organizations, customer service, Federal tax laws, information technology, organization development, and the needs and concerns of taxpayers.

Missing from this list is any specific requirement for expertise in small business issues—an omission that I consider to be glaring given the fact that small businesses are the backbone of the American economy and such a large target of concern for IRS activities.

I believe that at least one of the members of the IRS oversight board should have practical experience in small business issues.

Let me outline the reasons why I feel so strongly about this, and why I will be introducing an amendment to make this part of the IRS reform legislation.

Small businesses have more difficulty dealing with the complex Internal Revenue Code. Small businesses have relatively less time, money, and expertise than large corporations. They need an IRS that is sensitive to these limitations.

Let me explain how I came to this conclusion with a specific example that relates to this bill.

In January of this year, I hosted a Retirement Security Summit at the University of South Florida in Tampa. One session of that Retirement Security Summit specifically focused on the issue of small businesses and their pension plans.

Delegates, small business owners and their representatives discussed their frustrations and their experiences with the IRS. They told me that many small businesses do not offer retirement plans for their employees because they fear the draconian penalties that the IRS can impose for inadvertent violations of complex pension laws.

Mr. President, this is a very serious issue of security for tens of millions of Americans who work for small businesses, the fastest-growing sector of

our economy, but whose employers do not provide pension and retirement programs.

We identified that one of the reasons for that unwillingness to provide these programs is the concern of the consequences of subsequent IRS enforcement if the small business finds itself in some technical violation.

Several of my Senate colleagues and I began to consider whether congressional action would help solve this problem. We drafted legislation to provide that companies that correct errors prior to audit would not be subject to sanction. But before we offered the proposal as an amendment to the IRS Reform bill, we wrote to the IRS commissioner, Mr. Rossotti, and asked him if the IRS proposed to change the imposition of penalties for inadvertent errors.

Commissioner Rossotti responded immediately, in a matter of days, and committed to expanding existing self-correction programs and allow taxpayers to rely on those self-correction programs. We were pleased with the quick action of the commissioner in issuing Revenue Procedure 98–22, which many small businesses have characterized as a common sense, reasonable solution to their problem.

That process made me realize how difficult it is for many small businesses to comply not only with the complexities of tax laws as they relate to pension plans, but the whole array of rules that the Internal Revenue Code has spawned. It made me further realize that the IRS needs to be sensitive to small businesses when it issues regulations and enforces the tax laws.

Small business owners often have fewer resources, but must still comply with the same complicated Tax Code as large businesses. Small businesses cannot afford to hire full-time lawyers and accountants to monitor the Tax Code for changes that may apply to them. And small businesses should not have to wait for Congress to be able to change the law where solutions can be found by administrative action.

The myriad of challenges that small businesses face have been reflected in the hearings the Finance Committee has held this year on IRS reform. Many of the taxpayers who have testified so persuasively about mistreatment at the hands of IRS agents have been small business owners.

In my opinion, by adding a small business person to the IRS oversight board, we will be able to provide for a more prompt, more sensitive understanding of the needs of small businesses and the ability of IRS to respond internally.

Even the IRS has acknowledged the unique needs of small businesses. In testimony before the Senate Finance Committee on January 28 of this year, Commissioner Rossotti proposed reorganizing the IRS into 4 units—each charged with end-to-end responsibility for serving a particular group of taxpayers. He proposed dedicating one of those four working units to small businesses.

Mr. President, it is for those reasons that it is my intention, with other Members of the Senate, to offer an amendment to this bill, when it is before the Senate, to include a representative of small business as one of the 6 presidential appointees to the IRS oversight board. I believe this would be of substantial benefit to the enforcement of our tax laws as they relate to the special needs of small businesses.

Mr. President, before I conclude, I want to acknowledge the efforts of Senator KIT BOND, who chairs the Small Business Committee. He has included a similar provision in legislation that he will be introducing.

Should the requirement that the oversight board have small business expertise not be incorporated in the bill through Senator BOND's amendment, I will urge adoption of this targeted amendment that I will intend to offer.

The amendment is simple, fair, and essential if we are to bolster our Nation's small businesses. Mr. President, I urge my colleagues to support legislation to include small business on the IRS oversight board. I ask the managers to let us know when it would be appropriate to introduce this amendment.

Mr. President, I appreciate this opportunity to discuss the process by which the items in the IRS reform bill have been developed. It has been thoughtful and it has received the strong, steady support of our chairman, Senator ROTH, and has led to a set of reforms that I believe the Senate will be very much carrying out the wishes of the American people in adopting.

With respect to small business, Commissioner Rossotti stated:

> Another very important group of taxpayers are small businesses, including sole proprietors and small business corporations. There are about 25 million filers in this category. Compared to other individual taxpayers, this group has much more frequent and complex filing requirements and pays much more directly to the IRS, including tax deposits, quarterly employment returns, and many other types of income tax returns and schedules. Providing good service to this group of taxpayers is more difficult than wage and investment filers, and compliance and collection problems are also much greater. Small start-up businesses in particular need special help. By dedicating a fully responsible unit to providing all IRS services for the self-employed and small business, this unit will be able to work closely with industry associations, small business groups and preparers to solve problems for the benefit of all.

Commissioner Rossotti is right. The IRS needs to focus resources on helping small businesses, and that focus needs to be reflected on the Oversight Board.

The amendment that I propose to offer is also needed because small businesses play such a central role in our nation s economic strength. The numbers tell the story:

Small Business Administration figures indicate that of the 5,369,068 employer firms in 1995, 78.8% had fewer than 10 employees, and 99.7% had fewer than 500 employees.

Employers with fewer than 500 employees increased from 4,941,821 in 1988 to 5,261,967 in 1994, a 6.5% increase.

The number of small business owners (as measured by business tax returns) in the United States increased by 57% since 1982.

According to the Small Business Administration, America's small businesses created 11,827,000 jobs from 1992 to 1996. This number represents the vast majority of all new jobs created during that period.

Small microbusinesses with 1–4 employees generated about 50% of all the net new jobs from 1992–1996, while firms with 5–19 employees created another 27% of new employment opportunities.

The fastest growing of small-business-dominated industries during the past several years include restaurants, outpatient care facilities, offices of physicians, special trade construction contractors, computer and data processing services, and credit reporting and collection.

Ninety-four percent of high technology firms have less than 500 employees; 73% have fewer than 20 employees.

In my home state of Florida, the productivity of small business is astounding.

In 1996, Florida had 348,000 businesses with employees. 99% of all businesses with employees had less than 500 workers.

The state also had 412,000 self-employed persons in 1996, for an estimated total of 760,000 businesses.

In Florida, small businesses created 1,081,000 or the 1,194,000 net new jobs from 1992 to 1996. Very small businesses (less than 20 employees) created 71.7% of the small business growth with 775,000 new jobs. These numbers reflect the importance of small businesses as job creators.

Recent IRS statistics reflect the rapid growth of small businesses. They indicate that net income reported by sole proprietors has doubled in the last decade.

It is because of these reasons and trends that I urge my colleagues to support this effort to give small businesses a voice on the IRS Oversight Board.

Mr. President, I want to acknowledge the efforts of Senator KIT BOND, Chairman of the Small Business Committee, in this area. He included a similar provision in his IRS Reform bill.

Should the requirement that the Oversight Board have small business expertise not be adopted via a broader amendment, I will urge the adoption of this targeted amendment.

The amendment I propose is simple, fair, and essential if we are to bolster our nation's small businesses. I urge my colleagues to support it—and ask the managers to let us know when it is appropriate to introduce the amendment. The amendment that I propose to offer will extend its benefits in a very significant way to the most important part of the American economy, the small business community of this Nation.

Thank you, Mr. President.

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

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ABRAHAM. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for the purpose of introducing a piece of legislation in conjunction with Senator ALLARD, who will be soon joining me to speak.

The PRESIDING OFFICER. Does the Senator have a time limit on that?

Mr. ABRAHAM. I would like to speak for up to 10 minutes, to be followed by Senator ALLARD for up to 10 minutes.

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

Mr. ABRAHAM. Mr. President, I also seek unanimous consent that at the conclusion of Senator ALLARD's remarks the Senate stand in recess for purposes of conducting the weekly policy luncheons.

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

The Senator from Michigan is recognized.

Mr. ABRAHAM. I thank the Chair.

(The remarks of Mr. ABRAHAM and Mr. ALLARD pertaining to the introduction of S. 2033 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

RECESS UNTIL 2:15

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:49 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. THOMAS].

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 2676 for debate only until 3 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent that I may talk about an amendment I plan on offering after the debate time has expired. I would like to explain a little about the amendment, if I may have the time.

Mr. ROTH. Mr. President, I didn't hear the distinguished Senator's request.

Mr. GRAMS. I was asking unanimous consent to speak about an amendment. I am going to offer an amendment this afternoon following the time set aside for the debate.

Mr. ROTH. It is the hope of the manager that upon the passage of 3 p.m., we will move ahead with the managers' amendment.

The PRESIDING OFFICER. The Senator has a right to discuss his amendment at this time.

Mr. GRAMS. Mr. President, I just wanted to inform the Senate of my intentions today—later on, after this time for debate—to offer an amendment that would permanently exempt interest payments owed by disaster victims to the Internal Revenue Service.

This is a very simple and straightforward amendment. The amendment is actually derived from the ''Disaster Victim Tax Extension Act,'' legislation I introduced on April 29, 1998 with Senators COVERDELL, FRIST, MCCAIN, HUTCHINSON, SMITH of Oregon, GRAHAM of Florida, and D'AMATO.

As I stated in a Dear Colleague letter circulated on April 22, this amendment permanently exempts interest payments for disaster victims who reside in presidentially declared disaster areas and have been granted an extension for their tax filing.

The reason for this amendment is very clear:

Each year, our country is hit by natural disasters of all kinds—such as hurricanes, tornadoes, earthquakes, floods, and ice storms—causing extreme hardship for hundreds of thousands of Americans.

This year, 15 states have already been hit by deadly disasters:

Starting March 7, severe storms and flooding struck the state of Alabama, damaging nearly 1,200 homes, and the city of Elba in Coffee County was evacuated as a result of a levee failure. Three deaths were attributed to the floods and one person was reported missing.

On February 9, twenty-seven California counties were wracked by severe storms.

During the period of January 28 through February 6, a series of severe winter storms hit communities in Sussex County in Delaware.

Also in February, three southern Florida counties were victimized by tornadoes and other violent weather.

In February, six counties in Georgia were struck by tornadoes. On March 20, amid flood recovery efforts, tornadoes and windstorms tore through northeast Georgia, adding to the overall devastation. Tornadoes again touched down in west Georgia, metro Atlanta, and southeast Georgia on April 9.

In February, Atlantic and Cape May counties in southern New Jersey were hit by the coastal storm that lashed the area.

On April 16, six Tennessee counties were ravaged by deadly tornadoes and other violent weather.

And, Mr. President, on March 29, seven counties in my own state of Minnesota were hit by deadly tornadoes, damaging thousands of homes and businesses along an 86-mile path carved through the communities of St. Peter, Comfrey, and Le Center.

Just days after the March storm, I traveled to the disaster site in south-central Minnesota to witness the destruction and meet with the Minnesotans—families, farmers, and other business owners—forced to cope with this tragedy. Mr. President, I've never witnessed devastation on such a scale. I have heard of tornado-damaged areas being compared to ''war zones,'' but had no idea how close that was to the truth. This was indeed a war zone, and the Minnesotans I met with that Friday and Saturday were very much its innocent victims.

Two of those victims tragically lost their lives.

The property damage was widespread. Grain storage bins were leveled, the fronts of homes were sheared off, farm fields were choked with debris, making it impossible to plant, rows of telephone poles snapped, brick houses leveled, countless trees were downed at Gustavus Adolphus College, and the spire of its church was torn off, vehicles were scattered by the winds, some landing in farm fields, the historic Bell Tower of the courthouse in downtown Saint Peter was destroyed.

I am told the March tornadoes were some of the largest and longest in Minnesota's history. It's hard to imagine, but the Comfrey and Saint Peter tornadoes were a mile and a quarter wide—2,200 yards. That is nearly twice as wide as any previous tornado to hit my state, and far larger than the average tornado, which is only 100 yards wide. The tornado that destroyed Comfrey created a damage zone of 77 square miles. Just how large is that? Larger than the entire city of San Francisco, which is contained within 75.2 square miles.

The estimated total dollar value of insured losses caused by the south-central Minnesota tornadoes has reached $175 million, exceeding insured losses incurred in my state during the floods one year ago. Minnesotans have come together to clean up and begin the rebuilding, as we always do when our neighbors need help, and I'm impressed with their spirit in facing this disaster. Still, it's going to take many months, perhaps years, before life returns to normal in those towns caught in the tornadoes' paths.

Minnesota's experience is, unfortunately, not unique. Deadly natural disasters occur every year. Lives are lost, homes are demolished, property is destroyed, businesses are ruined, and

crops are wiped out. The survivors of these disasters need our help to get their feet back on the ground.

Federal disaster assistance has been effective. In fact, almost all of the major disaster sites have been subsequently designated as presidentially declared disaster areas and are eligible to receive federal disaster assistance.

However, there is one hurdle Congress must remove. Residents in presidentially declared disaster areas can often get an extension to file their tax returns. However, interest owed cannot be exempted by the IRS. The IRS charges an 8 percent interest rate for taxes owed, even if disaster victims get an extension for tax filing. So this is adding insult to injury.

Exempting interest payments owed to the IRS requires congressional action. Many states, like Minnesota, immediately grant exemptions for interest payments on state taxes when disaster areas are declared. Although Congress has granted such federal waivers in the past, they must be done legislatively each time a disaster occurs, and appropriate vehicles are not always available. This creates one more uncertainty for disaster victims.

My amendment would once and for all remove this barrier and give residents of presidentially declared disaster areas an interest payment exemption on any federal taxes owed. Under my amendment, the exemption is effective retroactively to tax year 1997, so that all of this year's disaster victims will be covered for their late filing.

Mr. President, this may seem like a small matter, but for disaster survivors in Minnesota, Georgia, Alabama, California, Delaware, Florida, New Jersey, Tennessee, and every state devastated by events entirely and utterly out of their control, every dollar counts in their efforts to begin to repair and to rebuild their lives. I urge my colleagues to support this amendment to make sure that we put in place permanently an exemption so the IRS will not charge interest on taxes that are due and that are not paid on time because of extensions due to disasters.

Again, it may seem like a small matter, but to those people who have experienced these disasters, it is a lot.

I urge my colleagues to support this amendment. I will be sending this to the desk as soon as the chairman's time on his debate has been concluded.

I thank you very much.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, let me speak about the same issue which my colleague has spoken about. As I talk to other Senators, I think we are going to hear the same thing that Senator CLELAND from Georgia, I say to the chairman of the Finance Committee, was saying—that in his State it is the same issue. In my State of Minnesota, it is the same issue. I have essentially the same amendment that Senator GRAMS has. I think we can all join in one effort. That is the way it should be. What we are saying—and what my colleague said happened in St. Peter really put it best—I make this appeal to colleagues. This is just a matter of, I guess, just trying to help people out. People have enough on their minds. There has been such devastation.

The last time around when we dealt with the devastation of the flooding in Minnesota and a number of other States, we were able to get not only an extension on the filings of the IRS tax forms but also, in addition, an extension on the actual payment. Along with that, we had congressional action which led to a forgiveness on the interest for late payments. But that did not automatically exempt. So this effort that a number of us have been working on is a terribly important amendment.

I think both Senators from Minnesota and other Senators from other States who have been hit with these disasters just in the last several months this year would provide some help to people. That is what it is all about—providing help to people. It is my hope—in talking with other Senators and we had a discussion in the caucus at lunch as we look at whether or not it is a relevant amendment—it is certainly my belief this meets that test. This deals with a specific provision already in this bill that deals with the forbearance on interest payments and, therefore, I think it would meet the test of relevant amendments. I know that will be one of the questions that will be raised by my colleagues.

I join in with Senator GRAMS and with Senators from other States, all of whom really feel we want to try to get this done, and we want to try to get this done on this bill. We will have a chance later on to come out here and speak about our amendments, although I think the floor amendments will essentially merge into one amendment. I make an appeal to colleagues—Democrats and Republicans, Republicans and Democrats alike—to please give us your support. This is very important to the people in our State.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, I will be offering, after the 3 o'clock timeframe, an amendment to the Internal Revenue Service Restructuring and Reform Act. I commend the chairman of the committee and the members of the committee who have done so much good work in crafting a measure that I think is a strong measure that will do much to resolve the questions many citizens of America have about whether the IRS is treating them fairly, whether they are getting a fair shake.

I have talked with a lot of people in my State, and I can tell you that there are a very large number of people in the IRS who have the confidence of the private sector folks, the taxpayers, and their representatives who work with them.

Coming from Missouri, we can say that the overwhelming number of IRS agents who are dealing with the public are dealing on a fair, evenhanded basis. But we have had examples brought forth in the Finance Committee of abuses that are clearly outrageous. Something needs to be done to shape up the system so that a rogue agent cannot give the entire agency a bad name and that a rogue agent cannot impose or inflict upon a taxpayer burdens and penalties and requirements that are nowhere in the statutes.

I will be offering an amendment which changes the proposed structure for the advisory board. I believe if you are going to have an advisory board, if you are going to put the IRS into some kind of board, then you need to do the job all the way. It is clear from the hearings and from the testimony that there is significant support for saying the IRS ought to be run by a board, it ought to have an insulation from political influence—it should be kept free from direct interference by the White House or even guidance out of the Treasury in terms of enforcement of the laws. Not tax policy. Tax policy is rightly one in which we expect the Secretary of the Treasury and the President to offer advice, counsel, and work with the Congress on carrying out the policy.

But given the example of audits which at least raise the question of whether they have been conducted or directed by political influence, I think the only safeguard for the American people is to make the board a full-time professional board composed of five members—four from the private sector plus the Commissioner of IRS—and give it the full authority to run the day-to-day operations of the IRS. It would have a consultative role in developing tax policy. But let's take a look at it. We have full-time boards that conduct some agencies with very sensitive responsibilities—the Securities and Exchange Commission, the Federal Communications Commission. These are boards which run agencies with very important economic powers over the economy and over citizens in the economy. To the extent that we have entrusted powers to them, we see that they are able to provide a buffer between political influence and the work of the agency.

On the other hand, if you are concerned about reforming an agency and you find that the agency is out of control, as the committee has found the IRS to be, then how can you expect a

part-time advisory board to get the job done? Nobody has been able to cite me an example where a part-time advisory board came in and got control of the agency. The purpose of a part-time advisory board is to give advice which can be accepted or ignored, and, from the hearings, we have seen that a part-time advisory board type of advice is not what the IRS needs.

I think the time has come, if we are going to fulfill the mandate given to us by our constituents to do something about the IRS, to reform it, then we ought to set up a full-time board so the members do not have to split their time between private activities—between their own jobs and their own responsibilities—and looking over the IRS on a day-or-two-a-month basis. It just does not make any sense.

As a former chief executive of my State, I know that agencies can run a unit of Government and they can do so without political interference. In my experience, sometimes agencies of State government were too immune to interference or guidance or leadership from the Governor. But if the question here is to make sure that there is not improper influence on tax audits and tax investigation targets, the only way to do the job and to do it properly is to put the management and the authority over the work of the IRS in the control of a board with full-time members on an equal footing with the Commissioner so that they can insulate the IRS from any political influence. I believe this is a very logical step to ensure that the reformed IRS meets the standards we would all expect to see for this agency. If we are going to go for a board, let's go big time. Either go for an independent, full-time board with executive authority or get back up on the porch and let the existing agency run itself.

Mr. President, I look forward to discussing this amendment when the time ripens for its consideration in the Chamber. I appreciate the chairman and the manager on the other side bringing to the floor a very good bill. I believe this provision will make it an even better bill, and I look forward to debating it, I hope this afternoon.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I assume that we are on the IRS restructuring legislation; is that right?

The PRESIDING OFFICER. That is correct.

Mr. GRASSLEY. Mr. President, we are here today in the second day of debate on this legislation to discuss a very important issue, and that is the restructuring of the Internal Revenue Service. As my colleagues know, I have worked very hard on this issue—serving on the National Commission on Restructuring of the IRS and joining Senator KERREY of Nebraska in introducing the first piece of comprehensive legislation that would comprehensively restructure the IRS. In addition, Senators REID, KERREY and I introduced the Taxpayers' Bill of Rights III earlier this year.

There are real problems in dealing with the IRS, and there are real problems at that agency, as shown in the Senate Finance Committee hearings—which were so ably chaired by Senator ROTH from Delaware, the chairman of that committee—and not only the recent ones which were probably the most shocking, but also starting last September with hearings that brought out horror stories.

These hearings about the horror stories were about our Government's treatment of taxpayers. Every time I go home I hear from constituents who tell me about their firsthand experiences with the IRS. Rarely are they good. For this reason, it is not good enough to just try. We have to succeed in this reform.

I would like to tell you what I learned about this issue in the Restructuring Commission's hearings and deliberations that took place during the fall of 1996 carrying over to the first 9 months of 1997, at these hearings and our deliberations there—but also, as I have already alluded to, the Finance Committee hearings which also were a very good basis for this legislation. Then we have all had some of our own studies of this issue as well. This is what I have learned: The IRS routinely abuses taxpayers, and the rules the IRS lives by are unfair to the taxpayers and not according to the rule of law.

The structure of the IRS was not set up with its consumer, the taxpayer, in mind. The IRS functions without accountability. The IRS agents are not held accountable for their acts. This breeds a culture of abuse and a culture of coverup, and this is where we stand today. We have a chance to fix this culture. We have one chance to enact real, solid, IRS reform. We in the Senate are supposed to be in the business of improving people's lives. We must pass real, solid and lasting IRS reform. We must set up a system that makes the IRS accountable for its actions, and then we in the Congress, who have constitutional responsibilities of oversight, have, over the next several months, with intensity, but on an ongoing basis, a responsibility to make sure that we continue the oversight work that has been done. We bear some responsibility in the Congress for an out-of-control agency. But I think with proper congressional oversight we will make sure that this does not happen again.

This legislation before us now makes many strides towards fixing the IRS. For starters, it strengthens oversight of the IRS. It creates an IRS Oversight Board. This Board will be made up of nine individuals who will oversee the administration, the management, the conduct, the direction and even the budget of the IRS. The IRS Commissioner and a representative of the National Taxpayers Employees Union will also serve on this Board. The union representative is especially important. Our IRS Restructuring Commission had a union representative on it. Bob Tobias, the president of the NTEU, was instrumental in the Commission's work. The Commission would not have made recommendations for such strong reforms and made them by such a strong majority if it were not for his involvement. Working with him, I learned that the union also wants strong reforms within the IRS.

Another important provision of this bill that increases IRS oversight is the creation of a new Treasury Inspector General who will be devoted exclusively to IRS matters. This office will have all the powers and authority granted under the Inspector General Act, resources dedicated specifically and only to the IRS oversight, and independence from being in the Treasury Department rather than being at the IRS.

This bill also takes an important step in helping Congress' oversight efforts and in making sure that the public and press can assist us in these efforts. This bill requires a new Inspector General for Tax Administration to randomly audit 1 percent of all IRS documents that the IRS redacts before it releases those documents. In our Restructuring Commission hearings we learned that the IRS uses its privacy privilege to hide its own wrongdoing from us in the Congress and, hence, from the public and also from the press. This is illegal, but more important it is deceitful. This bill requires that a small percentage of documents be audited to ensure that the IRS can't hide behind laws designed to protect the taxpayers.

These provisions, although great, are still not enough. In addition, Congress must continue its diligent oversight efforts. The IRS is important to us now, but will it be important to us even 5 years from now? Or will we be focused on another issue of the day then? We need to commit to have strong, thorough oversight hearings on an ongoing basis.

This bill also gives taxpayers important new rights. It helps taxpayers know their rights and to navigate the tax collection system. I believe that Americans are smart people. If you give Americans enough information, and if you treat Americans fairly, they can usually take care of themselves.

This bill empowers taxpayers with important new rights and puts the taxpayers on a more equal footing with the IRS. I say a more equal footing. I think it would be intellectually dishonest for me to say with the passage of this legislation that we have totally leveled the playing field, which the

taxpayers ought to expect and which I hope I am surprised some day and I can say that we have, but I don't want to categorically say that today.

This bill also has innocent spouse reforms so that innocent spouses are treated exactly as they are, and that is they are innocent.

This bill limits the seizure authority of the IRS. It allows taxpayers to sue the IRS if its agents are negligent in violating the code and the constitutional rights of our citizens. It prohibits the IRS from contacting third parties without prior notification to the taxpayer. It requires that the IRS exhaust all collection options, including installment agreements, before seizing a business or a principal place of residence.

I could go on and on, but the point is that the bill before us is strong, comprehensive reform. This bill is stronger than its House-passed companion, and we can all thank Chairman ROTH and the Finance Committee generally—but without his leadership, it would not have happened—for making this strong, because we do need to pass this legislation. We need to insist that the conference report be equally as strong. And then we need to get it on the President's desk as soon as possible.

The American people deserve to be treated with respect, especially by their own Government. The American people deserve this bill, and the American people deserve to be represented by Senators who have the courage and foresight to not only enact this legislation, but after it is enacted, to see, through the constitutional responsibilities of oversight, that it is actually carried out.

When this legislation is passed, I want to be able to say to the American people, ''We're on the road to eliminating the culture of intimidation within that agency.'' I want to be able to say to the American people, ''On April 15th next that you're treated by the IRS with the same courtesy, with the same accurate information and with the same timely response that they expect out of you, the taxpayer, on April the 15th.''

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, Senator GRASSLEY not only was on the National Commission on Restructuring the IRS, along with myself and Congressman PORTMAN and Congressman CARDIN on the House side, but long before I ever became interested in this issue, Senator GRASSLEY, along with Senator Pryor—indeed, Senator GRASSLEY may want to offer some historical reflections on this—has been involved with trying to change the law and put the law on the side of the taxpayers, to give them more rights.

I believe, I say to the Senator, the first taxpayers' bill of rights legislation was enacted, was it 1994? I ask the Senator from Iowa, the first taxpayers' bill of rights—I know Taxpayers' Bill of Rights II was 1996.

Mr. GRASSLEY. I think the first one would have been in 1988 or 1989.

Mr. KERREY. The Senator from Iowa and Senator Pryor were partners in developing that legislation. Did the two of you work together on the Taxpayers' Bill of Rights II?

Mr. GRASSLEY. Yes.

Mr. KERREY. Both of those pieces of legislation were landmark bills. The reason they were landmark bills is they laid a foundation upon which we are building this legislation. All of title III, which adds additional powers to what the taxpayers will be granted, was added as a consequence of evaluating whether or not the Taxpayers' Bill of Rights II has gone as far as we want to go.

I say that because a lot of colleagues have come up and said, ''Well, does this legislation go too far; does it give taxpayers so many new rights that the IRS will not be able to do their job?'' which is to collect taxes? ''Is there any power left in the IRS?'' And the answer is yes.

All through this we have been conscious of the need to balance, and what we have been able to do is look at the impact of Taxpayers' Bill of Rights II. We can see additional authority needs to be granted to taxpayers. I think it is an admirable balance, and it would not have been possible to get it done without Senator GRASSLEY's longstanding interest and understanding and leadership on this issue. I publicly thank him for making certain that we extend additional rights without undercutting the authority of the IRS to do what we have asked it to do.

Mr. GRASSLEY. Mr. President, I thank the Senator from Nebraska very much for his kind remarks and for the background of the Taxpayers' Bill of Rights I and II, but most importantly for his thoughtful leadership on the Commission, because that was 1 year of very hard work for Senator KERREY. He gave it the attention that this problem deserves. The strong piece of legislation that has gone through the House of Representatives and now strengthened by the Senate Finance Committee under Senator ROTH's leadership would not have been possible without the digging and leadership that Senator KERREY has shown.

Mr. KERREY. Now let's do trade.

Mr. GRASSLEY. We will do trade. I yield the floor.

Mr. KERREY. Likewise, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate continue H.R. 2676 for debate only until 3:30 p.m.

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

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

The PRESIDING OFFICER. (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate continue the debate on H.R. 2676 for debate only.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask permission to speak as in morning business.

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

PAY AND CHASE

Mr. GRASSLEY. Mr. President, I would like to talk about ''pay and chase'' today. ''Pay and chase'' is a Pentagon term used to describe another misguided policy. With pay and chase, the Pentagon pays the bills first and then tries to track down the receipts later on. Sometimes they find them; sometimes they don't And sometimes, they don't even bother to look. This is not a good policy. It is un-businesslike, and it's dangerous.

Under current law, payment is not due until a valid receipt is in hand. A certified receipt tells you that the goods and services have in fact been delivered.

So, to me, pay and chase is a mystery. Why, Mr. President, would anyone—in or out of government—want to pay a bill without a receipt? That defies understanding. It makes no sense. Unfortunately, this is exactly what the Pentagon bureaucrats are urging Secretary of Defense Cohen to do.

Today, pay and chase is unofficial policy. It's practiced but not authorized by the law. But the Pentagon bureaucrats want Secretary of Defense Cohen to change that and make it O.K.—with the law.

Secretary Cohen made his request in a letter to the Senate dated February 2, 1998.

Mr. President, I ask unanimous consent to have his letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, February 2, 1998.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am forwarding for your consideration draft legislation that, if enacted, would be entitled the ''Department of Defense Reform Act of 1998.'' This bill is intended to form the core of the Defense Reform Initiative (DRI). I request prompt action by the Congress on this proposal.

The DRI is an exciting, sweeping reform of the ''business'' of the Department of Defense. It will affect the Department from its corporate headquarters at the Pentagon to each service member and his or her family throughout the world. While aspects of our reforms can and already are being accomplished within existing statutory authorities, the proposed bill is crucial to implementing many of the most important and far-reaching reform elements that will make the Department more business oriented. The DRI will give us the authority to use those practices that our American industry counterparts successfully have used to become leaner and more flexible in a world of increasing change and flexibility.

Re-engineering the Department. We will re-engineer by adopting the best private sector business practices in defense support activities. For example, we propose to incorporate state-of-the-art business procedures in our travel system. Section 301 would streamline our household goods transportation so that simplified ''Do-it-Yourself'' (DITY) moves would be available to every service member. Section 401 would authorize streamlined procurement payment practices so that our civilian contractors would get prompt and accurate payments for their goods and services. Section 403 would enable all Federal agencies more freely to use private sector practices in the sale of surplus personal property, alone or in conjunction with current Government reinvention and streamlining initiatives, and to foster more expedient and efficient disposals of property.

Consolidation. Next, we will consolidate organizations to reduce unnecessary redundancy and to move program management out of Pentagon corporate headquarters and back into the field. The Office of the Secretary of Defense and defense agency personnel will be cut, as will personnel in Department of Defense field and related activities. Section 202 supports this initiative by extending current force drawdown authorities through September 30, 2003. Section 107 would clarify that I can make organizational changes as the National Defense University in order that I can move parts of organizations into that structure when appropriate.

In addition to cutting the size of staffs, the DRI will establish a number of new organizational arrangements. Among these is a Threat Reduction & Treaty Compliance Agency created to address the challenges of weapons of mass destruction. Section 102 supports this initiative by eliminating the requirement for an Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs. Sections 104 through 107 support another important consolidation initiative—establishing a Chancellor for Education and Professional Development to raise the quality of civilian training and professional development to world-class standards. Part of our consolidation effort will enhance the role of the National Guard and other Reserve elements in domestic emergency responses. Sections 501 through 503 support this effort by making our Reserve component and National Guard members more available and an even closer member of our family.

Competition. We will compete many more functions now being performed in-house, which will improve quality, cut costs, and make the Department more responsive. While this initiative will apply throughout the Department, some candidates for competition include civilian and retiree payments, personnel services, surplus property disposal, national stockpile sales, leased property management, and drug testing laboratories. Section 402 would permit use of contractor employees of a contractor whose system is being tested, to provide the analytic and logistic support in those cases where contractor impartiality is assured.

Elimination. Finally, we will eliminate excess infrastructure. Since the end of the Cold War, the Department of Defense has reduced its military forces significantly, but infrastructure cuts lag behind. The defense budget has been reduced by 40 percent, and military personnel will have declined by 36 percent by 2003. At the same time, after four rounds of base closures, the Department's domestic base structure is only 21 percent slimmer. Consequently, we need to make more infrastructure reductions. Money is wasted on keeping open excess installations. These resources can better be directed to support the warfighter. Title VII of our bill would authorize two additional rounds of base closures. Each round will provide annual savings of $1.4 billion.

The DRI would increase direct spending annually by less than $10 million during fiscal years 1999–2002; therefore, it is subject to the pay-as-you-go (paygo) requirement of the Omnibus Budget Reconciliation Act of 1990. This proposal should be considered with other proposals in the President's Fiscal Year 1999 Budget that together meet the paygo requirement.

Enactment of this proposal, together with our other management and structural changes, dramatically will enhance our ability to improve organizational efficiency while making more effective use of the Department's financial and personnel resources. I urge the Congress to enact this legislation promptly so that we can pursue these crucial management reforms.

Sincerely,

BILL COHEN.

Mr. GRASSLEY. Making pay and chase official policy is just one small piece of Secretary Cohen's Defense Reform Initiative or DRI package. Secretary Cohen's pay and chase proposal is embodied in section 401 of the DRI.

Mr. President, I ask unanimous consent to have section 401 printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 401. AUTHORITY FOR STATISTICAL SAMPLING TO ENSURE RECEIPT OF GOODS AND SERVICES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2405 the following new section 2406:

§ 2406. Statistical sampling procedures in the payment for goods and services before verification

''(a) VERIFICATION AFTER PAYMENT.—Notwithstanding section 3324 of title 31, in making payments for goods or services, the Secretary may prescribe regulations that authorize verification, after payment, of receipt and acceptance of goods and services. Any such regulations shall prescribe the use of statistical sampling procedures for verification and acceptance purposes. Such procedures shall be commensurate with risk of loss to the Government.

''(b) PROTECTION OF PAYMENT OFFICIALS.—Provided that proper collection actions have been executed, a disbursing or certifying official, who relies on the procedures established pursuant to this section, is not liable for losses to the Government resulting from the payment or certification of a voucher not audited specifically because of the use of such procedures.''.

(b) CLERICAL AMENDMENT.—The table of sections for such Chapter 141 is amended by inserting after the item relating to section 2405 the following:

''2406 Statistical sampling procedures in the payment for goods and services before verification.''

Mr. GRASSLEY. The Section 401 pay and chase proposal has three parts.

First, Section 401 would authorize DOD to pay bills without receipts—with no dollar limit.

Second, Section 401 would require only random after-the-fact verification of some receipts.

Third, disbursing officials would be relieved of all responsibility for erroneous or fraudulent payments that could result from this policy.

Mr. President, this is a terrible idea. Section 401 says it's OK to pay bills without receipts. Just do it—$50,000; $500,000; $1 million; $10 million; or $100 million. The sky's the limit. It doesn't matter how big the bill is. Just pay it! And if you make a mistake, that's OK, too. Not to worry.

Nobody can be held accountable for erroneous or fraudulent payments. This proposal could not have come at a worse time. All reports from the General Accounting Office (GAO) and Inspector General (IG) clearly indicate that DOD's internal controls are weak or non-existent.

Not only do weak or non-existent internal controls make for easy embezzlement, they invite it. And it seems like embezzlers are on a rampage. That's the subject of a recent article entitled ''Embezzlement Growth is Dramatic.'' The article was written by Mr. Gary Strauss and appeared on page 1 of USA Today on January 13, 1998.

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Jan. 13, 1998]

EMBEZZLEMENT GROWTH IS ''DRAMATIC''

(By Gary Strauss)

Wendell Doman wasn't your typical embezzler. A Mormon and father of seven, Doman didn't steal from corporate coffers to fund a wild spending spree, trophy mistress, gambling or drug addition. Instead, the 37-year-old chief financial officer of New Age music company Narada Media was thinking long term.

Sure, he spent $37,000 on a BMW he judiciously kept away from the office. And there was the $243,500 Minneapolis home to which he moved after quitting Milwaukee-based Narada in February. But the bulk of the $1.13 million federal prosecutors say he stole was squirreled in Vanaguard's Growth and Income stock mutual fund.

It's unclear how many Wendell Domans lurk in the offices of Corporate America. Only a fraction of embezzlement cases are reported—the prime reason the Justice Department has difficulty gauging the white-collar crime that can be among the most troubling for businesses.

But judging from anecdotal accounts from prosecutors, insurers and fraud specialists, 1997 may go down as a record year for corporate embezzlement.

''There's been a dramatic increase in embezzlement across the board, everything from small mom-and-pop shops to major corporations,'' says Chris Franklin, who manages embezzlement claims for Chubb, a major provider of fidelity insurance, which covers businesses' embezzlement losses.

High six-figure and low million-dollar thefts such as Doman's are increasingly common, says Tom Harrington, head of the FBI's economic crimes squad in the agency's Philadelphia office. ''I talk to my counterparts all across the country. The amounts being embezzled are growing.''

The FBI estimates 15,700 workers were arrested for embezzlement in 1996, up almost 25% since 1993. But the FBI numbers probably account for just 10% of embezzlers, says Frank Hagan, a criminology professor at Pennsylvania's Mercyhurst College and coauthor of *White Collar Deviance*, to be released next year. ''These numbers aren't accepted by criminologists because embezzling is grossly under-reported,'' he says.

Most companies are too embarrassed to report such white-collar crimes for fear of appearing inept, spurring more employee theft or angering sharesholders, clients or customers, says Sharon Parker, who's prosecuted numerous white-collar crime cases as an assistant U.S. attorney in Indiana. Nor are companies legally bound to report embezzlement. Only banks are required to notify authorities.

Yet based on a recent, first-of-its kind survey of 2,600 fraud investigators. U.S. businesses lose more than $400 billion annually to fraud, nearly a third of that from embezzlement, says Joseph Wells, head of the 20,000-member Association of Certified Fraud Examiners.

''This reality is a problem, particularly among mid- and upper-level managers,'' says Wells, author of *Occupational Fraud and Abuse.* Wells cites decentralized operations, mid-level management layoffs, rising computer use and a booming economy.

The flourishing cottage industries of fraud investigation, forensic accounting and white-collar criminal defense law underscore embezzlement's growth.

''Business is booming,'' says Howard Silverstone, a forensic accountant with Lindquist Avey Macdonald Baskerville, a financial fraud investigator. ''It's up 300%-400% since the start of the decade. And the cases we hear about are just the tip of the iceberg. Most of the time, it's luck that this kind of crime is even discovered.''

Hard statistical evidence aside, embezzlers are getting more brazen.

At his recent sentencing on federal wire-fraud charges, Doman contended he was entitled to keep about $206,000, the earnings on the stolen money in his Vanguard account. U.S. District Judge Charles Clevert scoffed at Doman's request, sentenced him to 33 months in prison and ordered him to pay Narada $1.34 million. Doman, serving time in a federal prison in Oxford, Wis., could not be reached.

Wednesday, former Los Angeles *Times* editorial business manager Charles Boesch was sentenced to four years in prison federal charges of embezzling almost $780,000 over four years.

Prosecutors say Boesch, 53, took the money—intended as payments to freelance writers—over four years by submitting bogus invoices for payment to accomplices, including his former son-in-law.

UNDONE BY TIME

Doman and Boesch's thefts look like chump change compared to the $12.5 million Francis Vitale Jr. stole from specialty chemicals maker Engelhard over nine years.

Vitale, Engelhard's former vice president of strategic development and corporate affairs, used the money to accumulate one of the world's most extensive collections of rare and antique clocks. Most of the collection was housed at his Spring Lake, N.J., antique clock shop. It was auctioned for $8 million to repay Engelhard's insurer.

At Engelhard, where he earned a six-figure salary and was a member of the management committee. Vitale was ''extremely well-respected'' until a routine audit uncovered the thefts, says corporate spokesman Mark Dresner.

Vitale had sole discretion to approve international marketing expenses, so he was able to fabricate more than 150 invoices for his clock shop's purchases into bills Engelhard ''owed'' for expenses. Vitale, 53, is to be sentenced Thursday.

It's not uncommon for embezzlers to go undetected for years, largely because managers have few supervisors holding them accountable, says Silverstone, the forensic accountant.

That's precisely what happened at Day-Lee Foods, a Japanese-owned meat-exporter in Santa Fe Springs, Calif. In what may be the largest U.S. embezzlement case ever reported, Chief Financial Officer Yasuyoshi Kato stole $95 million.

Until the scheme was uncovered by federal tax investigators in March, Kato stole by issuing company checks to himself for seven years. He covered the missing funds by securing corporate loans to Day-Lee from California subsidiaries of Japanese banks, according to court filings.

Kato, who earned $150,000 a year, had sole control over Day-Lee's finances. That also enabled him to pay earlier loans by arranging even more loans.

DOING THE CHA-CHA

Prosecutors contend Kato went through money like water, buying beachfront condominiums, citrus ranches, even a nightclub named Club Cha-Cha. Money also went to his ex-wife, who bought a rare car dealership, jewelry and animal menagerie that included miniature horses and sharks.

In October, Kato was sentenced to 63 months in prison. Day-Lee's parent, Nippon Meat Packers, estimates losses, including interest on the loans at $100 million.

What motivate embezzlers? Usually any one of a number of vices, although experts paint a portrait of a compulsive, obsessive person in a position of power.

Insiders at Engelhard joke about Vitale's clock fetish.

Attorneys involved in the Doman case point to a conservative, tightly wound CPA who was paying nearly a third of his $75,000 salary to support his ex-wife and children. Doman also may have felt a sense of entitlement. According to court records, he felt his bosses had reneged on a purported offer of a 5% stake in the company before it was to be sold.

Kato's attorney, John Yzurdiaga, says Kato was merely trying to satisfy his ex-wife's insatiable spending appetite.

But, notes Chubb's Franklin, the pilferer could be anyone. ''We've seen cases where daughters have ripped off their father's firms,'' he says. ''You can't trust anybody.''

In virtually all cases, there are systemic problems, such as lax internal controls, that make it all too easy to steal, says Bart Schwartz, CEO of fraud investigator Decision Strategies/Fair-fax International. ''In a booming economy, everyone's looking at business opportunities. They aren't looking internally,'' he says. ''That can allow schemes to go on for years.''

Increasingly, companies are initiating countermeasures. Barnes & Thornburg, a 200-member South Bend, Ind., legal firm, formed a white-collar unit a year ago. They've advised clients to implement compliance programs and improve internal accounting procedures, such as requiring more than one employee to sign checks, says unit chief George Horn.

But even Barnes & Thornburg wasn't immune. Longtime partner Ernest Szarwark was indicted in July for mail fraud. He's charged with stealing $500,000 over eight years by taking fees clients paid him and not submitting them to the firm. He also wrote himself checks from the firm's trust account.

WHERE THERE'S A WILL . . .

Ronald TerMeer, on probation after spending 18 months in prison for embezzling $225,000 from Ohio-based Huntington National Bank, says even with beefed up controls, greedy employees will try to circumvent the system.

''You can probably always find a way to steal. But it usually takes someone with obsessive, compulsive behavior to embezzle,'' says TerMeer, the bank's former controller. ''In my case, it was compulsive gambling and alcohol addiction.'' TerMeer has written a self-published book: *From Doing Federal Time, A Handbook for Businessmen Who are Facing Federal White Collar Criminal Charges.*

Experts fear corporate embezzlement is likely to become more pervasive and the thefts even greater.

''Individuals believe they can perpetrate these crimes and get away with it,'' says Chuck Owens, chief of the FBI's financial crimes unit. ''Corporate insider fraud will remain a substantial problem. There's a fairly high greed level out there.''

Mr. GRASSLEY. Mr. President, this is what the article says.

''Lax internal controls'' are the cause for ''a dramatic increase in embezzlement across the board.''

''Lax internal controls'' will be laxer if Section 401 goes through.

Now, Mr. President, there is no magic in a receipt.

A receipt is not a leakproof defense against fraud—mainly because a receipt is so easy to forge.

A receipt by itself is not much of a weapon.

It is just one weapon in the controller's arsenal.

To be an effective weapon, a receipt must be coupled to other control devices—like separation of duties.

Unfortunately, at the Pentagon, receipts don't necessarily go hand-in-hand with the other control mechanisms.

I learned that lesson in my examination of several DOD fraud cases:

The Lugas case at Reese AFB, Texas; the McGill case in Norfolk, VA; and the Krenik case in the Pentagon.

In these cases, there was no separation of duties.

For example, I discoverd that Mr. Krenik's duties literally covered the waterfront. He was involved in every phase of the cycle of transactions from beginning to end. He: developed requirements for goods and services,

wrote purchase orders, steered contracts to favored vendors, received and accepted deliveries, certified contract performance by signing receiving reports like the DD–250, and submitted invoices to the finance office for payment.

In Mr. Krenik's organization—the 7th Communications Group—there was no separation of duties. In that environment, it was so easy for Mr. Krenik to fabricate phony invoices and receipts and get paid.

He said it was a piece of cake. It was just too easy.

This is what Mr. Krenik said after being apprehended:

I saw how others had manipulated the DD–250s [receipts], so I thought I could do that also. . . . It was so easy to generate fake billings and open the Post Office box.

I fear that Mr. Krenik was led into temptation by lax internal controls.

With separation of duties, it would have been very difficult—if not impossible—for him to do what he did. More scrutiny by others would have greatly increased the probability of detection. That fear alone is sometimes enough to deter fraud.

With duties properly separated, the goods are delivered to a central warehouse. After a receipt is certified by an independent warehouse-person, the goods are then turned over to the customer or user—someone like Mr. Krenik.

In the right circumstances, a certified receipt can be a powerful weapon, and I want the certified receipt to be a powerful weapon in the DOD Comptroller's arsenal.

I want receipt verification to be at the top of the checklist of things to do before making a payment.

Above all, I do not want to see this body gut DOD's internal financial controls—or what remains of them—in the name of ''defense reform.''

Section 401, as written, would gut DOD's remaining internal controls.

Knowing that DOD's internal controls are already weak or non-existent, the GAO and the IG oppose Section 401, as written.

Section 401 would eliminate what's leftover, and it ''ain't'' much.

And the crooks are hard at work. We know that for a fact because there is a new case at Dayton AFB, Ohio.

Though we don't yet have all the details on the case, it looks like a carbon copy of the Krenik case—fraudulent invoices and receiving reports valued at nearly $1 million.

Dayton happened, despite Air Force assurances to the contrary.

The Air Force assured me on July 18, 1997, in no uncertain terms, that a Krenik-style operation could never happen again.

The Air Force said it had ''more internal controls to prevent this type of action from happening again.''

I hate to say it but Dayton was happening as those words were being placed on paper.

Weak or non-existent controls combined with heightened embezzlement activity do not argue for Section 401.

So why push pay and chase now?

Pay and chase is a bad idea. It would make DOD's accounts more vulnerable to theft and abuse.

They are already far too vulnerable.

What we need to do now is strengthen internal controls not weaken them.

We need to make the certified receipt the potent anti-fraud weapon that it should be.

DOD should not be authorized to make payments without receipts.

And those responsible must be held accountable for erroneous and fraudulent payments—as they are today.

As I see it, there are two ways to handle Section 401:

(1) remove it entirely from the DRI package; or (2) modify it.

Mr. President, I am ready to work with the Armed Services Committee in developing a mutually acceptable modification to Section 401.

It can be done, and I could help the Committee do it.

There is a way to do it that will serve the best interests of the taxpayers and the Armed Forces.

I yield the floor.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 7 minutes.

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

MICROSOFT

Mr. GORTON. Mr. President, my esteemed colleague, the senior Senator from Utah, Senator HATCH, was on the floor this morning once again after his letter of last Friday denouncing Microsoft's use of its First Amendment rights to defend itself against an unwarranted attack by the Department of Justice and a handful of state Attorneys General.

At one level, at least, he went beyond the remarks in his letter with the totally unsubstantiated claim that the many C.E.O.'s who joined with Microsoft last week and again today to plead with the Department of Justice not to inhibit or to postpone the marketing of Windows' 98 were somehow or another coerced into taking this position. As a consequence the Senator from Utah not only questions the right of men and women leading major American corporations to speak out on behalf of their products, but also insults them by saying they acted outside of their own freewill. Mr. President as I have said, there isn't the slightest evidence for this proposition.

These C.E.O.'s were and are defending the right of a magnificent and innovative American corporation to keep on innovating, to keep on providing newer and better products for the people of the United States, and for that matter, for the people of the world.

The Senator from Utah buttressed his position by quoting from Judge Robert Bork, who has had a dramatic late-life conversion from free market principles to support willing government intervention in perhaps the most dynamic of all of our free markets. While the Senator from Utah defended Judge Bork's objectivity in this, he failed to note that the judge has recently been hired by Netscape and by others.

Now, Judge Bork's historic position is perhaps quoted best in just two lines from his book ''The Antitrust Paradox,'' in which he says ''the responsibility of the federal courts for the integrity of virtue of law requires that they take consumer welfare as the sole value that guides antitrust decisions.'' The sole value that guides antitrust decisions should be consumer welfare. Mr. President, in this entire debate, we haven't heard a breath, a whisper, or a sentence about consumer welfare.

This is a campaign by Microsoft's unsuccessful competitors to limit Microsoft's competitive ability to benefit consumers. Consumers aren't complaining, competitors are.

Judge Bork has dramatically changed positions from that of a consumer advocate to an advocate of government control. I must confess, Mr. President, that there is precedent for his position. There are antitrust cases that might justify some sort of move of this nature by the Department of Justice. In 1945 in a decision relating to ALCOA, the Supreme Court determined that ALCOA's ''superior skill, foresight and industry,'' were exclusionary of less efficient forms. In 1953, in a case involving the United Shoe Machinery Company, it was decided that United's long line of superior shoe machines and low leasing rates illegally excluded higher cost rivals. Now if that is the theory of antitrust under which Judge Bork is operating, Senator HATCH is operating and the Department of Justice is operating, let them say so. Let them say that they don't want innovation, that they don't like the new developments, and that they do not want advancing technology.

But, Mr. President, the whole fight in this case is over whether or not we are going to permit the next generation of operating systems to go to market. It is that that is at issue, and only that.

Finally, Mr. President, in this connection, Senator HATCH ended his remarks with a line from the Rolling Stones. In the interests of fairness and impartiality, I think that we ought to try another one. When I hear Senator HATCH defending Janet Reno and lawyers of the Justice Department I figure he has been listening to ''Sympathy for the Devil'' a little too much lately. There is another Rolling Stones song that describes what Microsoft does for it's customers: a little hit called ''Satisfaction.'' Microsoft has been satisfying their customers for 20 years and that's what they ought to continue to do. To the Senator from Utah and everyone at the Justice Department who wants to stand between Microsoft and its customers, all I can say is, fellas, ''you can't always get what you want.''

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with consideration of the bill.

Mr. ROTH. Mr. President, I ask unanimous consent that the debate on H.R. 2676 continue for debate purposes only until 4:30.

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

Mr. ROTH. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. MOSELEY-BRAUN. Mr. President, I am a member of the Senate Finance Committee, so it gives me special joy that we have at last turned the Senate's full attention to revamping the Internal Revenue Service.

Should we have acted earlier? Of course, we should have. The House overwhelmingly passed its version of this bill months ago by a vote of 426 to 4, and so the reason that we have delayed, frankly, is inexplicable given this bill enjoys such broad-based support in both Chambers of the Congress.

The Finance Committee unanimously reported this bill out for action in March, and so I am no less encouraged, however, that we are only this week acting on the bill. As you know, we had a subsequent set of hearings which spoke to and gave voice to additional problems with the Internal Revenue Service, and that had something to do with the delay. I think the American people would have liked to have seen us pass the legislation before the tax filing date in April. Nonetheless, we are here today in May to pass this bill, and I am hopeful that we will do so.

Also, I am very pleased by the way that we have in the interim, since the beginning of these hearings and investigations, put in place a Commissioner of the Internal Revenue Service who has demonstrated his willingness to act. I am thankful, also, that in the additional hearings that we had in the Finance Committee, any additional information that came out will provide that Commissioner with the information he will need to take immediate action to, one, uncover abuses, two, rectify them, and three, to protect those good employees in the IRS who have been trying to help with the reform of that agency.

Over the last 8 months, I, along with a number of my colleagues on the Finance Committee, have heard horror story after horror story about the abuses inflicted on taxpayers by unsupportable activity within the IRS. We were all outraged by the stories of armed raids on innocent taxpayers' property, unauthorized and unnecessary audits of working-class families, and excessive fees and penalties charged to taxpayers who are just trying to pay their tax bills on time and in a responsible manner. The tales told at those hearings were appalling, but, frankly, they were nothing new to the American taxpayers who know too well what can happen when an agency with the powers of the Internal Revenue Service goes out of control.

Unfortunately, these stories were not the first that we had heard about these abuses. In fact, if anything, the Congress was called upon to act precisely because of the taxpayers and citizens who were raising the point with all of us as elected officials and demanding action from us. So, finally, we now have an opportunity to respond to them. The calls that we had in my State of Illinois were from Illinoisans who had been verbally abused or harassed by auditors, people who had grown frustrated with not being able to get a simple answer to a simple question, or a nice answer to a simple question. All of those things, I think, reach critical mass. And finally the Congress is going to act on this matter. I think it is not a moment too soon. We all have a responsibility and a duty to correct the abuses and an obligation to put the ''service'' back into the Internal Revenue Service.

I would like to point out that it has been some 40 years in the making since Congress has considered significant reforms to the IRS. With this bill we therefore have a historic opportunity to overhaul this agency and to transform it into an efficient, modern, and responsive agency that is focused on doing its job and not abusing the American people. The IRS interacts with more citizens than any other Government agency, or, frankly, any other private sector business. It collects fully 95 percent of the revenue which is needed to fund the national Government. It is, therefore, unfortunate that it has become one of the most feared and most hated agencies in the country.

But the blame, frankly, does not lie solely with the IRS. My mother used to have an expression: ''When you point one finger, you have three fingers pointing back to yourself.'' I think, frankly, that Congress bears a significant amount of the blame for not exercising its appropriate and responsible role in oversight of the agency, but also for creating the chaotic tax collection system that we now have. I think, indeed, Congress bears the greatest blame for creating a Tax Code that is burdensome and is so complicated that the transaction costs to ordinary citizens are very often overwhelming. People who should otherwise be able to file a simple tax return find themselves frightened into going and paying tax preparers simply because the Code is so complex that they are afraid they can't make their way around it.

In addition to the awful state of affairs at the IRS, our tax system has also presented a series of tax loopholes for dishonest citizens. You have the worst of both possible worlds. You have on the one hand complications that honest citizens have a hard time finding their way around, and loopholes that dishonest citizens find too readily.

Last week, it was announced that a ''tax gap'' existed, which is the amount of nonpaid taxes that people avoid by taking advantage of the loopholes or the complications in the Code. That tax gap amounts to some $195 billion a year. In other words, honest citizens pay $1,600 a year per year forever in the taxes they pay because of tax avoidance. While our hearings did not go far enough in talking about this issue of tax compliance, it certainly, I think, heads in the right direction if we can restore some sense of fairness, and if we can restore some sense of confidence with the American people in the operation of this agency.

Mr. President, additionally I hope that after we have passed this bill we will also begin to address the issue of tax complication. Just last month, some 120 million Americans sent out some form of tax return to the IRS. Of these taxpayers more than 40 percent of them filed either the short tax form known as the 1040EZ or the 1040 long form. These two forms—one of which is only one page long—are designed to be simple and easy to complete. But each year, again, millions of Americans paid millions of dollars to tax preparers to fill out these forms because they are afraid of making a mistake and facing the wrath of an IRS, which, frankly, is not known to be very user friendly. I hope that we will address the issue of tax compliance or tax simplification as we address the issue of reform of the agency, because while these two things are related they are not the same thing, and I think it would be a huge mistake to think that with the passage of this legislation we would have cured the underlying problem with the complexity and with the confusion that the Tax Code itself causes.

Unfortunately, we frankly have been moving in the wrong direction in regard to tax simplification or getting rid of the complexities. For example, in last year's Balanced Budget Act, which was, of course, hailed as providing significant tax relief to the American people, the Balanced Budget Act added over 1 million new words and 315 new pages to the Internal Revenue Code. The capital gains computation form alone grew from 19 lines to 54 lines. So anybody who filled out their tax forms in April knows how much more difficult we have made the Code by trying to tinker and trying to give tax relief here and tax relief there.

The result is tax complexity that is, frankly, overwhelming. The average taxpayer will spend some 9 hours and 54 minutes preparing just the 1040 form for the tax year 1997. The total burden on all taxpayers for maintaining records, preparing and filing their tax returns, is estimated to be in excess of 1.6 million hours this year. That is kind of a funny number and incomprehensible. But when you consider how

many people have to put in that kind of time, it really is a staggering use of energy and time by the American people that, frankly, could be put to better use if we had a more simple and fair Tax Code.

I believe, frankly, the system we have now is outrageous. Having the additional headache of figuring out the complex forms dealing with rude and cranky workers at the IRS and possibly facing audit is really overwhelming. That is what has led to this day and brought us to the point of reforming and changing the system.

Mr. President, I think we took the first step toward positive change last October when the President nominated and we confirmed Mr. Rossotti to oversee the IRS. Commissioner Rossotti has already begun the process towards changing the way business is done over there. During his short tenure he has already been quick to respond to problems that are identified. He has proved that he is not afraid to make the hard calls at the IRS. Since his appointment in late October, Commissioner Rossotti has made several major administrative changes that will help taxpayers break through some of the red tape at the IRS.

In December, Commissioner Rossotti announced the establishment of interim procedures requiring higher level management approval of seizures of property for nonpayment of Federal taxes. The issue of seizures was really one of the high points of the abuses that we heard because they are so dramatic and so obvious. In January, Commissioner Rossotti announced broad-sweeping changes designed to modernize the Service. This ''modernization'' was tailored to emphasize customer service as well as production within the agency. Then, in February Commissioner Rossotti announced internal changes to address the innocent spouse problem, and just this past month he announced the appointment of William Webster to head the IRS' review of the Criminal Investigations Division. I think we should all applaud his willingness to implement some meaningful changes and his interest in moving forward quickly on an issue which, frankly, has been very long in the coming.

The solution does not lie solely in mending the day-to-day administrative operations of the IRS, however. Indeed, this body shares a great responsibility in ensuring that we are responsive to the needs of taxpayers by passing laws that will put the ''service'' back in International Revenue Service. I believe that this bill is a major step in that direction.

In addition to giving Commissioner Rossotti the additional statutory authority he needs to continue restructuring the management of the agency, this bill also contains several administrative changes. A new oversight board is established that will have the responsibility of reviewing and approving the operational functions of the IRS and reviewing the practices and procedures of the IRS. The IRS is given greater flexibility in hiring and firing IRS employees, and electronic filers are encouraged to continue filing electronically by removing barriers.

This legislation, however, also provides taxpayers with a plethora of expanded rights and protections, including provisions that will allow taxpayers to enjoy expanded ability to sue the IRS when the IRS blatantly and intentionally disregards the law; a provision that will give the Secretary of the Treasury the authority to provide up to $3 million annually in matching grants to low-income taxpayer clinics; and a provision that will eliminate the penalty for failure to pay taxes when a taxpayer is paying those taxes under an installment agreement. The rules for computation of interest have been simplifies. For those taxpayers who are audited, the bill will include procedures to insure that due process is afforded prior to the seizure of any property and it will require that the IRS set up a process so that any lien, levy, or seizure will have to be approved by a supervisor. Taxpayers would also be given greater access to installment payment agreements with the IRS, greater access to information about the appeals and collections process, and greater access to statements regarding the payments and balance owed in installment agreements.

In addition, several of provisions that I helped craft, and that I believe will give taxpayers further protection, have also been included in this partisan legislation. For example, taxpayers who successfully defend themselves in disputes with the IRS will receive increased reimbursements for legal fees and other expenses incurred. In our hearings we heard from several attorneys who believes that the IRS should pay more reasonable damages when the IRS erroneously pursues an innocent taxpayer. I believe it is only fair that we not leave the taxpayer holding the bill when the IRS audits them unfairly.

Finally, this legislation will also give greater protection to other individuals who are often overlooked by the tax law. For example, new protections for innocent spouses are included in the bill. The change would make couples who file joint returns liable only for taxes based on the income of the husband or wife instead of the total liability for all of the couple's taxes.

There are several other provisions that I believe will also serve useful to many taxpayers. Among them is a so called technical correction that will ensure that more farmers are eligible for the inheritance tax relief that was approved last year by Congress and a provision that would protect computer software writers from having their ''source code'' information arbitrarily accessed by the IRS. I support the amendment, it is unfortunate that the unintended consequences of complexities we've recently added to the Tax Code come to be remedied by such technical corrections.

All of these changes are needed to amend the current operation of the IRS, but there is still much more to do to address the desperate condition of our tax system as a whole. This bill presents a vital first step in that process.

In closing, I would like to by commending Senators ROTH and MOYNIHAN on their leadership in the Senate Finance Committee on this bill. I would also like to the Kerry Commission for finally getting us to this point.

I would have preferred to have completed fundamental reform of the IRS prior to the April 15th deadline that 140,000,000 taxpayers have to meet, but as the saying goes, ''better late than never.'' I remain encouraged that fundamental reform of our tax system as a whole is around the corner, and I look forward to completing action on this bill. I urge my colleagues to join me in supporting this legislation, and in doing so beginning the process of reforming our tax system in a manner that is fair and efficient for all Americans.

I commend the commission, the KERREY commission. Senator Kerrey is on the floor. I want to commend him for his work in this regard. He has done a great deal to bring us this far. I want to commend the chairman of the Finance Committee, Senator ROTH, for his work in giving us a bipartisan bill. I want to register my strong support for this initiative. I think this bill shows Congress at its best, when we are functioning in the oversight capacity over these agencies that I think the Founding Fathers intended us to do. This oversight is so vitally important to restore confidence not just in the Internal Revenue Service but in our Government as a whole.

I thank the Chair, and I yield the floor.

WORKFORCE INVESTMENT PARTNERSHIP ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 1385, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1385) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, there will now be 60 minutes of debate equally divided in the usual form for closing remarks prior to final passage.

Mr. JEFFORDS. Mr. President, first I yield to the Senator from Minnesota for a unanimous consent request.

The PRESIDING OFFICER. The Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Jana O'Leary, who is an intern in my office,

be allowed to be in the Chamber for the duration of this debate.

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

Mr. WELLSTONE. I thank the Chair.

Mr. JEFFORDS. Mr. President, the Senate is resuming consideration of the Workforce Investment Partnership Act, S. 1186. This legislation incorporates job training, vocational education, and adult education.

Last Friday, the Senate began debate on S. 1186. Amendments by Senators DEWINE, DOMENICI, LAUTENBERG, and ASHCROFT were adopted and made a part of this substitute. We have only today to have the final vote on the legislation, and we have 1 hour equally divided for that purpose.

The legislation before this body today is one of the most important proposals we will consider this year. S. 1186 proposes a streamlined, practical, business-oriented approach to job training which empowers States with the ability to transform the current patchwork of programs into a comprehensive system. The purpose of this bill is to better coordinate and to consolidate in certain circumstances 90 federally funded programs and promote joint partnerships between education leaders in the business community in developing a workforce development system that is first rate.

Perhaps the best illustration of why we need to revamp our workforce system can be clearly seen on a weekly basis in the want-ad sections of the newspapers throughout the Nation. There are presently 190,000 unfilled positions in the technology field. The reason for the difficulty in filling these positions is not because of low unemployment numbers but because of the lack of skilled workers. Many of these jobs do not require 4 years plus postsecondary education. In fact, if we had the proper high school vocational education system, these could be filled by students graduating from high school. They require an excellent vocational education system and the ability to pursue technical education following high school graduation or receive this education as high school students.

One of the most fascinating facts to come out of the Senate Labor Committee's hearings on the workforce is that Malaysia has replicated our tech-prep model. In other words, we have presently a model system with a few schools using it which, if duplicated throughout this country, could provide us with what we need today. The unusual thing is that in this country it takes us a long time to replicate anything through our school systems. Malaysia came over here, studied our Tech-Prep Program, and went back to Malaysia and implemented it overnight—again, moving them into a position to improve their competitiveness and perhaps exceed our own competitiveness.

That is the kind of challenge we have now had delivered to us by our competitors in the international markets. It is up to us to take the steps necessary to ensure that we can meet the international competition which we are facing and not have 190,000 jobs out there begging because we cannot provide the skilled workforce.

Fifteen years ago, ''A Nation At Risk'' was published and warned us about this problem. This report posed the question as to whether the United States would have an adequately trained workforce to meet the global challenges of the 21st century. Fifteen years later, here is what we have. According to the latest census information, 22 percent of the population in the United States aged 25 and over have completed less than 12 years of schooling. These are the kinds of problems with which we are faced. A most recent national adult literacy survey indicated that 44 million adults have literacy difficulty. This means that over 20 percent of adults in this country have trouble using reading, writing, and computation skills to say nothing of qualifying for jobs that are available, for which we should have the workforce. The same is true in my State of Vermont. All States have this very serious problem.

With the statistics I just mentioned, the United States is still the most productive country in the world, but we are losing our edge to other industrialized nations such as Japan and Germany as well as other rapidly developing countries such as Taiwan, Korea, and China. Recent international exams have demonstrated that notwithstanding this warning we had 15 years ago, we have not made significant headway in being able to meet the challenge of that competition and to provide the workforce for those 190,000 jobs that are going begging right now.

Over the past 25 years, the standard of living for those Americans without a 4-year postsecondary degree has plunged. In the next decade, we are in danger of being surpassed as the world's foremost economic power if we do not begin to redefine our priorities at the national, State, and local levels.

This is an excellent bill, Mr. President. Senator DEWINE, my good friend from Ohio, who was in charge of the subcommittee that developed this bill, along with Senator WELLSTONE, has produced a wonderful bill. It is going to do a great deal to bring us forward as we face the problems of the Nation and the problems of our national competitiveness.

Mr. President, at this point I will be happy to yield the floor. Senator WELLSTONE, I believe, desires to be heard.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I yield 5 minutes to my colleague, Senator KERREY, from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I thank the Senator from Minnesota.

Mr. President, I rise in support of S. 1186, the Workforce Investment Partnership Act. This is an initiative that I have been involved with since my days as Governor of Nebraska from 1983 to 1987, and it is something I am proud to see come to fruition in the Senate.

All of us understand that in today's global economy, this kind of legislation represents an important step in helping individual Americans achieve their shot at the American dream.

One of the most satisfying efforts for me is to help, as a public official, some individual acquire the skills they need to earn a good wage so that they can support themselves and their families. Investments such as vocational education, job training, and adult education play a major role in this effort. But in order to be more effective, these programs need to be streamlined and coordinated in such a way that they work together to provide individuals the information and resources they need to be successful in a job market that demands an increasingly higher skill level.

In 1994, along with Senator Nancy Kassebaum of Kansas, I introduced legislation to consolidate 91 job training programs into a single authorization called the Workforce Development Act. The bill also sought to reconnect job training, training-related education, and actual jobs. It also provided States greater flexibility in designing job training systems.

Mr. President, I take great pleasure and am pleased that these concepts represented in this legislation are also incorporated into S. 1186. S. 1186 also encourages statewide partnerships consisting of the business community, the education community, the Governor, and local and State elected officials. A key responsibility in this partnership is the development of a State plan. The legislation also encourages one-stop customer service centers which will provide a central point of entry to job training programs.

In the last few years in my State of Nebraska, Congress has increased its commitment to preparing individuals for the workforce. We have seen in our State an increase in Federal funding for job training of approximately $1.5 million since 1996; for vocational education, we have seen an increase of about $700,000; and for adult education, about $460,000.

Mr. President, I would like to call this to the attention of my colleagues. I suspect, if they are like me, sometimes these program names get confusing, and I wonder whether or not they have any impact.

In Nebraska, the $6.276 million allocation of Federal job training funds in 1997 provided 4,000 of my citizens with the skills they need to become more productive and to earn a higher living and satisfy the market demand, as the Senator from Vermont identified. There are many jobs out there that are unfilled simply because we cannot find people with skills. Mr. President, 4,000 of those jobs were filled; 4,000 of those people are happier.

In addition, vocational and applied technology education grants assisted 70,000 secondary students and 47,800 post-secondary students who now have higher skills, a technical education they otherwise would not have had. They are going to get a shot at the American dream. They are going to be happier. They are going to be healthier. As I said, there are very few things that are more gratifying than having an individual say to you, ''Thank you for helping me get a shot at the American dream,'' and 17,340 adults in a single year were assisted in my State as a consequence of the $1.7 million in addition education.

This is an investment with an excellent return. The legislation will not only help more individuals achieve the American dream but will also help our Nation become the best educated, most productive country in the world as we enter the 21st century. The Workforce Investment Partnership Act represents a good bipartisan effort to increase opportunities for American citizens. I look forward to seeing it move through Congress, and I congratulate and thank sincerely the distinguished chairman of the committee, Senator JEFFORDS of Vermont, and the ranking Democrat on the subcommittee, Senator WELLSTONE, as well as the chairman of the subcommittee, Senator DEWINE. On behalf of the tens of thousands of Nebraskans who will receive the benefits of this program, I thank you.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask if, after 10 minutes, I might be so notified?

The PRESIDING OFFICER. The Senator will be notified.

Mr. WELLSTONE. Mr. President, first of all, let me thank Chairman JEFFORDS for his leadership. He had a lot to do with this piece of legislation. We did a lot of work on the Subcommittee on Employment and Training, but Senator JEFFORDS and Senator KENNEDY were absolutely critical to bringing this piece of legislation finally to the floor and keeping all of us together. Senator DEWINE—it was really a labor of love working with him. He has just put all of himself into this piece of legislation. He has done a great job.

I would also like to thank a couple of other people: On Senator KENNEDY's staff, Jeff Teitz, who is out on the floor with me today, for his work, and Brian Ahlberg who works with me and has put hundreds of hours into this, as have a number of other very talented people.

I am not going to go into all of the specific provisions. I really want to take some time to thank some people who helped out. But let me just say, S. 1186, the Workforce Investment Partnership Act, is an important piece of legislation. The President correctly observed that the bill is ''essential to widening the circle of opportunity for more Americans and keeping our economy growing steady and strong.''

My concern all along has been that over the past couple of years there has been some discussion about cutting funding for job training programs. That would be the worst thing in the world for us to do. I think what we have now done, in a bipartisan way, is we brought people together around to job training that really takes root at the community level. We are talking about a program that is more streamlined. We decentralize it. There are accountable job performance measures, as there should be. The Governors have a key role to play, but they are in partnership with local communities. And at local levels of government, whether they be county or city, you have key decisionmakers as well.

The private sector is an essential part of this, as should be the case, because a lot of these jobs that will be created will be in the private sector. We are talking about, you know, that goal that I think is the most important goal for most families in our country, which is to earn a decent living and to be able to raise your children successfully. This is all about doing that.

In addition, we have kept separate funding for adults and youth and dislocated workers. We don't have a straight block grant program; we keep our priorities at the national level. I think we should do that.

The out-of-school youth initiative is extremely important, targeting funds to youth in high-poverty areas, both urban and rural. Please colleagues—and I don't think too many colleagues make this mistake, but quite often when we talk about ''youth'' or ''lack of jobs'' or ''young people dropping out of schools'' or ''inadequate housing'' or ''inadequate education'' or ''affordable child care'' or ''affordable health care,'' we think about these issues as urban issues. These issues are every bit as important to rural America. The problems are more hidden but they are no less real. The nice thing about the out-of-school initiative is that it is already paid for. Congress has already provided $250 million in an advance appropriation.

I want to take special note of the contribution of Hennepin County Commissioner Peter McLaughlin, who testified at one of our subcommittee hearings.

I want to also take note of our important national job training programs that we have renewed. The Job Corps Program, we have the Hubert H. Humphrey Job Corps Center in Saint Paul, which is one of the best performing centers in the country. Last year, we had Ralph DiBattista and Dave McKenzie, the current director—Ralph was a former director—at a hearing on youth training. They were joined by Susan Lees, who is an impressive young trainee at the center, on her way to becoming an auto technician at the Ford dealership.

The bill also renews current Native American programs and migrant and seasonal farm worker programs.

And finally the veterans program—I want to say to the veterans community, we heard from you loud and clear. You wanted to have a separate focus on veterans programs, a separate funding stream. We have some additional provisions by way of eligibility to make sure that gulf war veterans, some of whom are really struggling, will be well served; as well as homeless veterans.

We have also built into this bill the continuation of Concentrated Employment Programs, rural CEPs. That is to say, in rural areas where there is high concentration of unemployment and poverty, we have a special focus to make sure the job training is out there.

I think—and many colleagues have worked on this but I get to say it on the floor of the Senate, with some pride—this is a very Minnesota-like program. The one-stop centers, we have been doing that in our State. The idea of decentralization, of trying to build good partnerships between the Governor and the local community, trying to build good partnerships between the public and private sector with a focus on good job training, good skills development, and job opportunities for people. Job opportunities for people—I can't really think of anything more important for us to be focusing our attention on.

So, I want to make it very clear that I am very, very proud of this piece of legislation. I thank my colleagues again—Senator DEWINE, Senator JEFFORDS, and Senator KENNEDY as well.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. There are 18 minutes remaining to the Senator from Minnesota, 23 minutes to the Senator from Vermont.

Mr. WELLSTONE. Mr. President, I don't see other Senators on the floor right now. I might just highlight some amendments to this piece of legislation, to make maximum use of time.

There are five amendments to the bill which we have agreed to accept. The first is one by Mr. DEWINE. It is the vocational rehabilitation bill. It is extremely important. I think what Senator DEWINE has done is basically provided a set of improvements to this piece of legislation. It is an amendment that I strongly support.

There is an amendment by Senator LAUTENBERG which gives units of local government which are currently service delivery areas under the Job Training Partnership Act, and which have a population of 200,000 or more, an automatic right to appeal to the Secretary of Labor a decision by a Governor not to continue that area as an SDA. That also is an amendment which I support.

There are two other amendments by Senator ASHCROFT which I will my colleague, the chairman, Senator JEFFORDS, to speak to if he chooses.

Mr. JEFFORDS. On my time, I will.

Mr. WELLSTONE. I won't use anymore time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I yield myself such time as I may consume.

Mr. President, let me just make a few more comments. I believe Senator DEWINE will be here shortly. As was pointed out, there are three bills which are combined in this bill, and I want to talk a little bit about vocational rehabilitation.

It is extremely important that as we move forward, we do more and more for our disabled community to give them every possible opportunity to compete for jobs and to demonstrate their capacity to help our Nation's workforce. We place these programs together, although we maintain separate streams of funding to ensure that each of these programs in adult education, vocational education, job training, and vocational rehabilitation will not feel at all threatened that money will be taken from them.

It is important at the same time that we recognize the great capacity of people with disabilities to come into the workforce if they are given the opportunity. By placing them in the same bill, it is important to demonstrate that they are ready and willing to take advantage of the opportunities in the workforce in many places which they have been denied.

Also, as I mentioned earlier in my statement, the problems we have with the adult workforce is literacy, to a large extent. As the demands become higher and greater on our workforce, we are recognizing that we need more people to move into the workforce to take the jobs that are available. Thus, it is incredibly important that we coordinate adult education along with vocational education.

That is the purpose of this bill, to get everybody to work together to improve the workforce of this Nation to meet the competition of nations overseas. While I am pleased with the progress we have made, I believe that we have moved forward on this bill to do everything possible we can to make ourselves more competitive.

I will now talk a little bit about a report released by the National Center for Research and Vocational Education which gave a good overview of training in European nations. I think it is important that my colleagues understand the kind of competition we are getting in Europe, and I will say the same is true and maybe even more so in Asia.

This report highlights the importance of a cohesive partnership between educators and employers. Employers in Europe are active participants in the governance of work-related education and training in Australia, Great Britain, France and Germany.

Another significant finding of the report is that European nations, such as the Netherlands and Denmark, are attempting to develop a technical education system which can survive as either a bridge to additional vocational training or pursuing college-level courses.

Although we are not Europe, we are beginning to make some progress. With the passage of S. 1186, that progress will only continue to grow.

I am also hopeful that passage of the Workforce Investment Partnership Act will eliminate many of the misconceptions that exist regarding vocational education, adult education and training. Some perceive vocational education as a second-rate education for students who cannot otherwise succeed in the so-called traditional academic path. Nothing—and I say nothing—could be further from the truth. In fact, the opposite in many cases is the situation now.

Vocational education courses hold appeal for all students. In my home State of Vermont, over 4,500 students participate in vocational education courses of which 12 percent are adults. A strong technical education system is the best kind of training. As has been pointed out, as we move forward in our lives, the need for vocational education or skills training is going to increase. We are going to change jobs five, six, seven times during our lives as we move into the next century, and we are going to need training continuously.

The same is true now with our society. However, we just do not have the appropriate training available. We need to coordinate, we need to get together and figure out how we can provide the skills that are necessary.

If employment and training programs are to succeed, a simple, integrated workforce development system must be established that gives States, local communities, employers and students both the assistance and the incentives to participate in our global economy. S. 1186 is a good step in responding to this need. I urge my colleagues to support the passage of the Workforce Investment Partnership Act.

Before turning to others who may want to speak on this legislation, I again thank my colleagues and coauthors of the bill, in particular Senators KENNEDY, DEWINE and WELLSTONE. In particular, I thank the Employment and Training Subcommittee chaired by Senator DEWINE, who has done an outstanding job in putting together this bill. Senator WELLSTONE, the Employment and Training Subcommittee ranking member, has also done a tremendous job in drafting key provisions of this bill. Senator KENNEDY and I have been working for many years on this effort, and we are pleased to have Senators DEWINE and WELLSTONE as our partners.

I also thank the staff of Senators WELLSTONE, KENNEDY and DEWINE, and the staff of the Congressional Research Service and legislative counsel have worked tirelessly on this bill.

In addition, I also thank the administration for their hard work. The business community led by the National Alliance for Business, the Chamber of Commerce, the National Association of Manufacturers are also to be commended for their efforts and for their support.

I express my appreciation to the Chief State School Officers and other educational organizations who offered constructive comments during the drafting of S. 1186.

Most of all, I thank my home State of Vermont for serving as an inspiration for this legislation. Almost 1 year ago, I held a hearing in Vermont on workforce development. Over 100 Vermonters attended and offered various perspectives which have been incorporated in this bill.

Also, I thank the State of Mississippi. I went down to the State of Mississippi and found that they had one of the most innovative vocational education systems that I have had the chance to observe. They are dedicated there and doing a fine job.

In fact, I noted that their unemployment rate was going down, even though they were losing hundreds of jobs to Mexico. Why? Because of the business community seeing the state of their vocational training and their ability to train for the skills necessary for the jobs that are locating in Mississippi. Thus, they are losing low-wage jobs and replacing them with high-wage jobs. We have, therefore, taken a close look at the Mississippi system and have made sure our bill models their initiative. So I commend those in other States and certainly my own State of Vermont which I mentioned, who have tried to make efforts but they have been hindered to a certain extent by the problems with our present system, the inability to coordinate.

This bill is designed to try and provide that coordination, to ensure that all of this country can move now to make sure that we are ready for the future. We established the goals to make sure by the next century we would have moved past our educational difficulties to the greatest extent possible, to make sure that our young people would be ready to enter the workforce, to make sure we provided them the skills not after high school but in high school, as well as to make sure this Nation would be competitive in the year ahead.

I yield to my good friend, Senator DEWINE, who deserves maximum credit from our side for his productive work in giving us a bill today which we can be proud of, which we can vote for with great confidence. We will improve this Nation's workforce.

I yield to Senator DEWINE.

Mr. DEWINE. Mr. President, I thank Chairman JEFFORDS for the work he has done on this bill. It is a real bipartisan bill, as we have pointed out many times on this floor; Senator WELLSTONE, Senator KENNEDY, Senator JEFFORDS, myself. It is a bill that will truly change the status quo, a bill that will really make a difference.

We will be voting on this bill in about half an hour. This legislation, S. 1186, will fundamentally reform our Nation's currently fragmented, duplicative and many times ineffective job training programs. I believe this bill will transform them into a coordinated, accountable, and flexible workforce investment system.

Before the Senate votes, I want to spend a few minutes discussing the reasons why the Workforce Investment Partnership Act does enjoy such bipartisan support. One of the most historic, if not the most historic accomplishments of the 105th Congress was the legislation that revolutionized the American welfare system. In passing a bill to end welfare as we knew it, we were empowering the States and local communities to seek a better way to make work, not welfare, the way of life for millions of disadvantaged Americans.

The bill we are considering this evening, S. 1186, is a very important extension of that basic welfare reform, continuing the devolution of Federal power to where it rightfully belongs—States, localities—and most importantly, the individuals who are voluntarily seeking training assistance.

This bill, S. 1186, recognizes the leadership of States and localities which have show innovation and initiative over the last few years, even in the midst of many times onerous Federal barriers and obstacles. By eradicating outdated rules and regulations, we can remove the barriers that have stymied people in the past. We can empower States and local communities by giving them the tools, the tools and the flexibility that they need to implement real reform, reform that will allow them to provide truly comprehensive training services.

This bill, S. 1186, also promotes free market competition. The Workforce Investment Partnership Act establishes an effective and accountable workforce development system, ensuring that training leads to meaningful, long-term employment.

Under this bill, training services will be held accountable to high standards. This means they will have to prove training leads ultimately to meaningful, unsubsidized employment, showing how many people were placed, at what cost, and how many people remained employed 6 months, a year or 18 months later. That is true accountability. That is the true measure of whether job training works or does not work. Does the person have a job 6 months or 12 months later, and what kind of a job is it.

S. 1186 also has bipartisan support because it eliminates government bureaucracy and promotes personal responsibility. The Workforce Investment Partnership Act would provide training assistance through individual training accounts or vouchers in order to allow the individual seeking assistance to have a say themselves about where, how and what training they will receive. These programs should be tailored to individual needs, not to Washington bureaucrats and what Washington bureaucrats think is best.

This bill provides program coordination and simplification. The Workforce Investment Partnership Act incorporates nearly 70 categorical programs, eliminating numerous Federal requirements and mandatory set-asides. This bill authorizes and expands a modified work-flex program which allows States to approve requests for waivers of Federal statutory and regulatory requirements submitted by their local communities. The bill provides States with the option to submit a unified plan or a single-State plan for the numerous programs incorporated into the legislation.

Further, this bill removes income eligibility requirements. States will be allowed to provide all adults who voluntarily seek assistance the comprehensive services available through the one-stop customer service system—services such as job search, placement assistance, skill assessment, and case management.

Just like welfare reform, job training reform depends on participation of the business community, the local business community. This bill not only allows for business community involvement, but business community leadership, as well. The private sector must outline its employment needs and assist in the design of training programs so that individuals that receive training assistance obtain long-term, meaningful employment.

To summarize, job training reform is needed. It is needed because we can no longer afford the Washington-knows-best attitude that created the current maze of training and related programs. With a few notable exceptions, the evidence on the one-size-fits-all approach reveals far more failures than successes. However, because of Congress' inability to enact reform in the past, States and localities have begun the task of creating their own comprehensive systems which meet the unique needs of their States and local communities.

Frankly, they have been frustrated. They have been frustrated by the Federal laws and regulations which prevent them from developing more responsive and more effective workforce investment systems. This bill, the Workforce Investment Partnership act, is designed to reform the Federal Government's role in providing job training assistance to Americans. For too long, that role has been to foster confusion, frustration, and complication. With this bipartisan bill, we offer a new foundation and a positive framework for success. Instead of rules that tie the hands of States and localities, this bill provides the tools, the tools to empower them to develop comprehensive work force investment systems that address the needs of job seekers and employers alike.

This morning's Cleveland Plain Dealer, in an editorial, I think, gets it exactly right. ''A Bill That Works. Consolidation could produce job-training programs that do their own jobs better.'' ''A Bill That Works.''

This bill is a road map, a road map to a better system. If we are to achieve the goals we have set—stronger economy, a better trained workforce, true and meaningful welfare reform—we need to begin that journey today.

I want to thank all my colleagues who have worked so hard to pass this important bill. I also want to thank all the concerned individuals and groups who have offered their support, including the National Alliance of Business, City of New York, U.S. Chamber of Commerce, the Council of Chief State School Officers, Society for Human Resource Management, the National Conference of State Legislatures, the Cleveland Growth Association, the National Association of Manufacturers, the National Association of Private Industry Councils, the National Association of Counties, the American Vocational Association and the National Association of State Directors of Vocational Education Consortium. All of these groups have worked to put this bill together. We have a comprehensive bill that brings about the reform that we all need.

In summary, we will be voting in a little over 20 minutes on a bill that will fundamentally reform job training in this country. This reform is long overdue. It is a reform that will bring about more accountability. We will be able to measure success and failure better. It is a bill that will give more authority to the local communities. It will be a bill that will empower the recipients to have more choices in regard to the job training that fits their needs. And it will work. It will work because we are incorporating, as never before, the local business community—not just in the implementation of the plan, but rather in the design of the plan. The one thing that we have seen as we have held hearings across this country, time and time and time again, is how important it is to include the local business community because, ultimately, they are the consumers, along with the people who need the jobs and the people who need the job training. They are all the consumers. It doesn't do any good to design a job training program and train someone for a job and that job does not exist in the local community. That is why the enclosure and inclusion of the business community, making them a part of this process from the very beginning, is such an essential part of this bill.

Let me again thank Chairman JEFFORDS for his work on the bill, along with Senator KENNEDY, Senator WELLSTONE, and the other members of the committee. This bill was passed out of our committee by a unanimous vote. Several of my colleagues have already noted on the floor that this is a committee that has a very wide divergence of points of view. This committee has many members that have opinions that many times do not always

agree. But the fact that we were able to pass this bill unanimously out of the committee, I think, shows its bipartisan support and also shows that the status quo was not acceptable, and this bill makes a significant change and improvement in that status quo.

I yield the floor.

PRE-VOCATIONAL TRAINING

Mr. SPECTER. Mr. President, I have sought recognition to discuss the issue of pre-vocational training in the context of this legislation. In March, I introduced S. 1709, the Job Preparation and Retention Training Act of 1998, which would have authorized a new Labor Department program providing grants to community-based organizations which would provide essential pre-vocational training to individuals who have not successfully entered the workforce.

In my floor remarks on March 4 upon introduction of S. 1709, I noted that one such community-based organization, Opportunities Industrialization Centers of America, Inc., has found that the average hourly wage of trainees prior to pre-vocational training was $3.70, but after such training, these same participants started earning an average of $8.00 an hour, with a placement rate of 85 percent into gainful employment.

After consultation with Chairman JEFFORDS, I have decided not to offer my bill as an amendment to the comprehensive job training bill before us, based on assurances that in Conference, he and Chairman DEWINE will work with me to ensure that pre-vocational training is more accessible to individuals who are not prepared to fully benefit from the training and skills development provided in S. 1186.

Mr. JEFFORDS. I thank my colleague from Pennsylvania for his work on job training and educational issues, both in this context, and as Chairman of the appropriations subcommittee with jurisdiction over such programs. I will endeavor to work with him on enhancing the issue of pre-vocational training in conference with the House and welcome his input on this critical issue.

Mrs. MURRAY. Mr. President, I rise today to speak about S. 1186—the Workforce Investment Partnership Act and to applaud the Labor and Human Resources Committee for the bipartisan manner in which the legislation was developed.

In the last Congress the opportunity for reform of employment and training programs was lost due to partisan bickering and the insistence on a reform structure which I believe jeopardized the investment in skills training—and in particular the investment in the retraining of dislocated workers.

This bill builds on the success of the dislocated worker program and adds other elements which will improve the program. These include establishing One-Stop centers as the framework of the new workforce development system which will improve dislocated worker access to quality information and services, and the proposed skill grants—or Individual Training Account system—which will enable them to make informed choices about training opportunities with qualified vendors.

Despite our improving economy, there are always workers who will lose jobs because of economic change. We owe these workers the tools to get back on their feet, through rapid response to plant closings and mass layoffs, job search assistance and retraining for new jobs. I am particularly pleased that this bill includes rapid response and labor-management committees which have been important tools under the current dislocated worker program. This program, where formula grants to states and localities are supplemented by National Reserve Account to allow the Secretary of Labor to respond to emergencies, has been successful in helping hundreds of thousands of workers each year to make mid-career changes.

The current dislocated worker program served approximately 540,000 dislocated workers nationwide in the most recent year. Of those who completed the program during that year, 71 percent were employed when they left the program, earning on average 93 percent of their previous wages, and for workers who had received retraining, the wage replacement was 95 percent.

The Office of the Inspector General of the U.S. Department of Labor conducted an audit of JTPA Title III retraining services to determine how successful retraining was in helping dislocated workers to return to work. The conclusion of the April 1995 report was: ''The purpose of Title III is to return dislocated workers to productive employment. In this context, the program was successful. Program participants were reemployed, remained in the workforce, and regained their prior earning power.''

In my own state of Washington, we have experienced layoffs in the timber and aerospace industries and the assistance provided by Title III of JTPA has been essential to meeting the needs of affected workers.

The success of the program is illustrated by the experience of one dislocated worker, Mr. David Hamilton of Valley, Washington. He had a steady income working in the logging industry, but only for six to eight months each year. This created a difficult financial situation when employment was not available. In July 1995, he was laid off from Accord Logging.

He decided to investigate career options in the cross-country truck driving field. He learned of the opportunities available through JTPA and began actively seeking financial assistance for training. With only a tenth grade education, his employment opportunities were limited. He knew that he needed a GED, but his assessment test also indicated a deficiency in basic math skills. With his unemployment benefits nearly exhausted, he held steadfastly to his hope of entering the truck driving industry. He pursued his education and training through the Colville Job Service JTPA Title III program. His determination to obtain a Commercial Drivers License increased as he passed his physical and Wonderlic tests (in lieu of a GED). He met the program qualifications for Title III funding and completed his training on February 23, 1997, with excellent grades. He was immediately placed with G & G Trucking and was driving cross-country the following Monday. G & G agreed to assist him with the financing needed to purchase a tractor. Within six months he became an owner-operator. As an owner-operator, he will earn between $12 and $18 per hour. He now has a reliable source of income and greater financial security.

The success of Mr. Hamilton and other dislocated worker program participants is why I am so pleased that S. 1186 is designed to assure that funding for dislocated workers will be maintained. This is an important improvement over last year's bill and I thank the authors of S. 1186 for their attention to this critical item.

Mr. President, I also ask unanimous consent to have printed in the RECORD a letter from Mr. Rick Bender, President of Washington State's Labor Council. I have been working with Chairman JEFFORDS to address Title III in the bill which provided training funds only after labor consultations have been performed. I am hopeful that the Department will work with respective labor organizations to continue this successful communication. Washington State has developed a Community Based Rapid Response policy that quickly meets the various needs and concerns of dislocated workers. Mr. Bender has been at the forefront of this effort and provides a compelling argument to continue this consultation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON STATE
LABOR COUNCIL, AFL–CIO,
Seattle, WA, March 25, 1998.

Hon. PATTY MURRAY,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURRAY: The Workforce Investment Partnership Act (S. 1186) is ready to come to the floor of the US Senate for action. The Act, as written, is missing a crucial provision of benefit to Union members.

The current JTPA Act provides that, ''. . . any program conducted with funds made available under Title III which will provide services to a substantial number of members of a labor organization will be established only after full consultation with such labor organization.'' (Sec. 311(b)(7)). This provision is ominously absent from the new bill.

The new legislation will cause irreparable harm to our Union members who suffer layoff through plant closure due to the failure to require labor consultation when planning services for them.

The language quoted above has enabled the Washington State Labor Council, AFL–CIO, to assist its affiliates in demanding appropriate levels of service for their members who are facing long term layoff. The ability to demand that funding be pulled from bad

retraining programs has been key to the success of Labor's active participation in workforce employment and training programs in Washington State.

The Washington State Labor Council presently operates a contract with Washington State Employment Security to provide Rapid Response services to our union members whose plant(s) may be closing or downsizing. By actively invoking this language, we make the workforce development system move towards a customized approach toward service and training design, which takes the needs of working men and women and their families into account. Without this language in the bill service and training design will take the convenience of service agencies into account, not our members' needs.

Any assistance you can provide to insert this crucial provision into S. 1186, the Workforce Investment Partnership Act, will be greatly appreciated.

Sincerely,

RICK S. BENDER,
President.

Mr. KOHL. Mr. President, I rise today to add my voice to the bipartisan chorus in support of the Workforce Investment Partnership Act. I commend the sponsors for their excellent work. Senators JEFFORDS, DEWINE, KENNEDY, and WELLSTONE have done an outstanding job of crafting legislation that is long overdue. For too long American workers have had to struggle through a complex system of dozens of different job training and educational programs to get the skills they needed to enter, or reenter the job market. Today, the Senate takes concrete steps to streamline the current system so that getting the help they need will be easier for the workers of America.

The Workforce Investment Partnership Act simplifies the search for a job by encouraging communities to establish a ''one stop shopping'' location. Localities will have one location where an individual can go to get help finding a job or search out skill training opportunities. At this location all of the options will be laid out, and the choice will be up to the worker.

Inherent in this idea is that there will be no wrong door. No longer will a person be told, ''We can't help you here because you don't qualify for these programs. Maybe they can help you down the hall.'' That sort of bureaucratic run around results in inefficiency and frustrates the very people we are trying to help.

This job training reform bill focuses on shifting power back to the states and local communities. Government, business, labor, and community groups will collaborate on strategies that fit the economic situation of the individual state and locality. The Senate version of this bill also takes the important step of allowing states to keep reforms they have made that are working. Wisconsin has made many changes to its job training system on its own initiative that have been groundbreaking and very successful. I am pleased the Committee recognizes that there is no need to replace programs that are already doing the job and meeting the goals set forth in this legislation.

I am also pleased we maintain our commitment to helping at risk youth. This bill ensures that providing opportunities for kids on the edge will continue, and that the funds will move quickly to those who need it most. I hope that the Conference Committee can quickly complete its work so that the $250 million set aside in last year's budget for Out-of-School Youth will become available before the July 1 deadline. These kids need our help to become productive citizens and contribute to society. If Congress fails to complete action before July 1, these young people will be forced to wait even longer for our support.

In today's global economy, our people are our greatest resource. With the rise in information and technology, the nations that are the most creative, most innovative, and most inventive will have the edge. The United States currently has the lead in these sectors and this bill will help our people maintain their advantage through continuing their education and updating their skills. Our nation's continued prosperity, and the prosperity of our workers, hinges on a well-trained workforce. This bill helps ensure that our current economic growth will continue into the future and be shared by all Americans.

Mr. HARKIN. Mr. President, I rise in support of S. 1579, the Rehabilitation Act Amendments of 1998, of which I am proud to be an original co-sponsor. I would like to commend Senators JEFFORDS, DEWINE, KENNEDY, and WELLSTONE, for making reauthorization of the Rehabilitation Act a priority, and for including this legislation as an amendment to the Workforce legislation.

The State Vocational Rehabilitation Services Program provides $2.2 billion in formula grant assistance to States to help individuals with disabilities prepare for and engage in gainful employment. Since established by the Smith-Fess act 75 years ago, state vocational rehabilitation programs have served some nine million people. This program promotes economic independence for people with disabilities, and the numbers reflect that.

In 1992, Congress made major changes to the Act, namely, increasing consumer participation, streamlining processes, and reducing unnecessary paperwork. In the bill before us today, we have built on the '92 amendments. The bill preserves and strengthens the themes of the '92 amendments, while fine-tuning and aligning the Act with other workforce reforms.

The Rehabilitation Act Amendments of 1998 strengthen the role of the consumer throughout the vocational rehabilitation process, particularly in the development of the individual's employment plan. This reauthorization reduces unnecessary burdens on State VR agencies by streamlining the State plan; indeed, the bill reduces the 36 State plan requirements in current law to 24. The bill also refocuses the State plan on improving outcomes for individuals with disabilities by requiring States to develop, jointly with the State Rehabilitation Council, annual goals and strategies for improving results.

Access of Social Security beneficiaries to VR services is facilitated, and unnecessary gatekeeping is eliminated, by making SSI and SSDI beneficiaries presumptively eligible for services under the VR States Grants program. This change will eliminate the need for the VR agency to determine on a case-by-case basis whether individuals ''require'' VR services in order to gain employment. Under this bill, if a person receiving SSI or SSDI walks through the door of a VR agency, that person will be presumed eligible for VR services. As the Administrator of the Iowa VR agency explained to me, ''now we don't have to spend time and money determining whether an individual on SSI or SSDI is eligible for services. Instead, we can focus our resources where they should be focused—on assisting our consumers in obtaining employment.''

Of particular interest to me and to Senator DODD are the changes to Section 508 of the Act, which pertain to electronic and information technology accessibility. This section will make it easier for individuals with disabilities who are federal employees to obtain the assistive technology they need in order to do their jobs.

Finally, this bill widens employment opportunities for people with disabilities by establishing linkages with larger statewide workforce systems. I would like to point out, however, as Senators JEFFORDS, DEWINE, and KENNEDY already have, that vocational rehabilitation agencies will not be required to spend any of their federal allotment on activities other than those that help provide jobs for people with disabilities.

In sum, the Rehabilitation Act Amendments of 1998 bring us closer to the goal of fostering independence for people with disabilities by providing them with the services they need in order to enter the workforce. I would like to thank Senators DEWINE, JEFFORDS, KENNEDY, WELLSTONE, and DODD, and the Clinton Administration, for their leadership in developing this bill in a bipartisan manner. I also would like to commend all the staff members who worked on this bill. Without their tireless efforts, we would never have been able to bring this important reauthorization to the floor.

Mr. JOHNSON. Mr. President, I share the widespread support for this important legislation. This bill would consolidate and reauthorize job training and vocational education programs. This bill enables states to create a unified plan for all social services related to job training and vocational and adult education.

Job training and vocational education are vital programs which prepare individuals to compete in today's changing global economy. An estimated 346,000 high-tech jobs are going

unfilled nationwide. The increasing shortage of highly trained workers threatens our nation's economic growth and our productivity. This measure will help address these shortcomings and prepare more of America's workers, and thus America's businesses, for the Twenty-first century.

We live in a capitalist society with a free market economy. Employers seek to hire the best qualified job candidates. S. 1186 simply provides a means to help individuals acquire the skills necessary to compete. The acquisition of these skills will best help individuals thrive as our economy continues to grow. Too many of our citizens have been left behind the growing economy of the past years, and this measure will help them keep up with the new economy.

I believe that S. 1186 also supports our commitment to move individuals from welfare to work. Job training prepares individuals to compete in the marketplace, and remain free from government assistance. For all of the foregoing reasons, I support this bill.

One important part of this legislation is the reauthorization of the programs under the Carl D. Perkins Vocation and Applied Technology Education Act. I have heard from constituents across my state that these programs are a very critical component of our vocational and technical education system.

As we in the Congress work to help our nation prepare for the Twenty-first century, there are few challenges more fundamental to our success than ensuring that our work force has the education and training necessary to compete in the global economy. More and more jobs require technical skills, training that is not offered in our traditional four-year colleges. Our vocational and technical schools, accordingly, are absolutely essential for the students and workers of today. Technical skills lead to higher wages for workers and more competitive businesses. That is why the federal-state-local partnership for vocational and technical education, which has been very successful to date, must be continued.

The highest priority for the moment is to get the reauthorization of the Perkins Act programs through the Senate and into conference. The legislative session this year is very short, and we cannot afford to delay passage of this bill any further. That said, however, there are a number of provisions of this bill which need improvement.

Foremost among the needed changes, in my view, is that the Senate should accept what the House has proposed in terms of a separate bill for vocational-technical education. This difference is very crucial, for it is essential to preserve the independent mission and funding stream for vocational education.

For some time, it appeared that the Senate bill was headed in the wrong direction, removing the separate designation for vocational and technical education and placing these programs into the mix of the overhaul of our job training and retraining programs. That would have been a serious mistake, and I am pleased with the improvements that the managers of this bill have agreed to offer to this legislation.

Among the expected changes is an assurance that funding appropriated for vocational-technical education programs will be directed to school-based programs and not diverted to other areas. Additionally, the amendment is expected to ensure that governance for vocational education will remain at the state and local level, and that a strong focus will remain on professional development for teachers and administrators.

The House, on the other hand, has proposed a separate legislative authorization for the Perkins Act programs. Despite the forthcoming changes to the Senate bill, I urge the Senate conferees to accept the position of the House with respect to reauthorization.

Today, however, I believe that we should send this bill to the conference committee, where I hope that the remaining issues can be resolved, and I urge my colleagues to join me in passing this bill as expeditiously as possible.

WORKFORCE INVESTMENT PARTNERSHIP ACT

Mr. DASCHLE. Mr. President, the time has come for the Senate to take appropriate steps to ensure that our work force is equipped to meet the challenges we will face in the next century. Today, high-skill, high-wage jobs are being created faster than they can be filled. This is not because of a labor shortage. Instead we are suffering from a ''skill shortage.'' Not enough workers in this country possess the skills necessary to fill these jobs. In order to keep our economy strong and growing, our people must receive the education and training they need to become productive employees in the 21st century.

The Workforce Investment Partnership Act of 1997 (WIPA) is the first step in providing the education and training job seekers need to compete for high-wage jobs. This bill would consolidate many narrowly-focused federal vocational education, adult education and job training programs that currently provide a disjointed approach to job training and job placement. Through the establishment of ''one-stop'' customer service centers, job seekers will have a central point of entry to job training programs. These one-stop centers will also offer ''individual training accounts'' allowing job seekers to choose their preferred type of education and job training programs to better accommodate their individual skills or interests. Finally, one-stop centers will provide applicants and employers alike with a centralized source of information about training and employment opportunities available in the area.

WIPA's goal of streamlining our many training programs bears great similarity to legislation I introduced in January, 1997, called the Working Americans Opportunity Act. Reforming and improving our nation's job training system has long been a Democratic priority. I am glad to see strong, bipartisan support for WIPA and look forward to working with my colleagues on the other side of the aisle to enact this important legislation.

The passage of this legislation is of particular importance to the people of South Dakota, where we have recently experienced large scale layoffs in Huron with the closing of the Dakota Pork processing plant, and in Lead with cutbacks at the Homestake Gold mine. People in my home state have been drastically affected by these layoffs. It is my hope that these programs will enable them to receive the training they need to compete for the high-wage jobs of tomorrow.

I believe it is very important that any investment we make in education and training produces positive, measurable results. That's why I am pleased this bill ensures that each training provider and agency administering state and local programs is held to a higher level of accountability than in the past. These agencies will be responsible for monitoring and reporting job placement, job retention and average earnings for program graduates. If a program is not performing up to acceptable standards, it will no longer be eligible to receive public funding.

It is of particular importance that we act quickly on this bill. Unless it is signed into law by June 1, the Department of Labor will not be able to implement Youth Opportunity Grants. This grant program invests money in poverty-stricken areas to help youth who have left school to get year-round jobs. Appropriations for these grants are contingent on the authorization of the Workforce Investment Partnership Act. This worthwhile program deserves a chance to be implemented as it was intended.

By working in a bipartisan way to reform vocational education and job training programs, I believe that we can, during this Congress, create opportunities for American workers that will help to keep our economy strong for the next century.

Mr. MCCAIN. Mr. President, I rise to offer my support for HR 1385, the Workforce Investment Partnership Act. This bill is the result of several years of hard work and bipartisan cooperation by Congress on behalf of our nation's workforce and employers.

Our present job training system has become overly bureaucratic, fragmented and duplicative without adequate accountability or assessment measures. Currently, the federal government administers 163 separate programs, scattered across 15 agencies, at a cost of more than $20 billion a year. The Workforce Investment Partnership Act addresses these problems by consolidating and reforming the nation's federal vocational education, job training, and adult literacy programs.

Bluntly, this bill reduces Federal bureaucracy and unnecessary requirements.

This legislation builds upon the monumental welfare reform bill of 1996 by giving our states and communities the appropriate tools for providing individuals with the education, skills and training necessary to obtain meaningful, long term employment. This is something which our current system has been unable to consistently and effectively provide for our workforce. The Workforce Investment Partnership Act will provide individuals with an opportunity to increase their skills while obtaining a job. This will help millions of Americans attempting to move themselves out of the welfare system. If the historic welfare reforms made in 1996 are to work we must have an effective system of job training and vocational and adult education.

Over and over again, I hear from employers in my home state of Arizona who are concerned about the lack of individuals qualified to fill their rapidly growing high-tech and high-paying positions. And I know this isn't just a problem in Arizona. This is a problem throughout our entire country. Nationally, the number of unfilled high-tech jobs is about 350,000. We cannot allow this trend to continue. If we do allow this trend to continue, we will be killing our ability to compete in the global market and remain ahead of our international competitors.

An important aspect of this legislation is the flexibility and freedom it provides to the individual states for developing and designing their own tailored-made workforce development systems. Under this bill, states and local communities, can tailor their programs to best suit their unique populations and employment needs.

Another important aspect of this legislation is that it contains reauthorization of the Rehabilitation Act for seven years. The Rehabilitation Act is the country's only Federally supported program which provides job training and placement services for people with disabilities. Too many disabled individuals are falling between the gaps in the existing vocational systems which is why the Workforce Investment Partnership Act links the vocational rehabilitation system to the new workforce systems of each state. This will result in providing better jobs for more of our nation's disabled individuals.

The success of our nation in this increasingly globalized, competitive economy depends upon a highly skilled workforce, and a comprehensive, sophisticated system of work preparation, training, and retraining. The Workforce Investment Partnership Act is a positive step toward accommodating these needs. Again, I am pleased to support this bill which will create a more efficient and effective job training system for our country.

Mr. LIEBERMAN. Mr. President, I would like to say a few words about the Workforce Investment Partnership Act of 1997 that we are voting on today in the Senate. The Workforce Investment Partnership Act will reform vocational education, adult education and job training programs, provide more accountability within these programs, and improve delivery to our citizens. Education and training are two of the most important investments a government can make in its citizens. It is as important as ensuring the physical health of its citizens because education and training, and the robustness of a nation's industry, are primary determinants of the economic health of the country. Education and training also determine individuals' ability to reach personal goals. Providing people with quality education and training moves people off the welfare rolls, increases upward mobility, increases incomes, and provides our industry with a more skilled workforce.

We are in the enviable situation now of having only 4.7 percent unemployment in the United States. The high-tech industry tells us it has as many as 190,000 unfilled jobs. There are jobs available. The challenge is to match the worker's skill with industry needs. There are two challenges to providing workers with the necessary skills. The first is to make sure our children coming out of school have the basic skills they need for today's workforce, and then, to realize that learning, education and training are lifelong pursuits and do not stop once you join the workforce.

It is clear we need to do more in both these areas. A good education should be our long term goal. But, as my esteemed colleague Mr. KENNEDY mentioned last week, right now we have over three million young men and women between the ages of 16 and 24 in this country who did not complete high school and are not enrolled in school.

After interviewing a diverse group of employers and college professors, Public Agenda found profound dissatisfaction with the way public schools are preparing students. More than 60% of employers and three quarters of professors said they believe that a high school diploma is no guarantee a student has learned the basics, and nearly 7 out of 10 employers said the high school graduates they see are not ready to succeed in the workplace. These young people will need remedial education and training in order to join the workforce.

But young people are not the only ones who need help. The program in S. 1186 focus on the unemployed, dislocated, disadvantaged and seriously underemployed whose industry may be downsizing, whose employer may be moving offshore, who lack a sufficient education, who are coming off of welfare, or who haven't kept pace with technological skills needed for today's rapidly changing workplace. To remain competitive in today's workforce, workers must be more flexible in terms of changing careers and upgrading their skills. S. 1186 recognizes the importance of lifelong learning and enables people to receive the education and training they need at any point in their life.

This bill provides the ties between education and job readiness. It does this by consolidating dozens of narrowly focused programs and replacing the present fragmented system with an integrated workforce system. It integrates adult education and literacy instruction with occupational skill training and professional development. It integrates vocational and academic studies. Importantly, this legislation brings the business community into the process by creating industry-led policy making boards that develop strategies for a comprehensive workforce investment system in each State. Involving business is essential to ensuring that training programs are based on local employment needs and conditions.

Another innovation of The Workforce Investment Partnership Act is that it establishes ''individual training accounts'' to give job-seekers more choice in selecting the type of education and training programs they want. The bill also encourages the creation of ''One-Stop Customer Service'' centers which provide a central resource for all job seekers, not just those that qualify for Labor Department programs, to get information on training and employment opportunities available in the local area.

In Connecticut, we have already seen the benefits of implementing some of these changes. We are starting to implement the One-Stop Customer Service centers. We have streamlined JTPA and TANF, the welfare-to-work program. We have moved the job component of TANF from the Department of Social Services to the Labor Department where the jobs are—where it belongs.

The Workforce Investment Partnership Act is one piece of the solution to improving our nation's workforce. We still need to improve our educational system, attract more students into the maths and sciences, and make lifelong learning and skill upgrades a part of everyone's life. America is beginning to move in this direction. President Clinton introduced the Hope Scholarship that will encourage lifelong learning. Some states and industries are beginning to cooperate to create worker training programs that serve regional industry clusters; Senator SARBANES introduced, and I am proud to be cosponsoring, S. 2021 to stimulate this cooperation among companies to develop regional skills alliances that provide training for jobs that are waiting in the participating companies. More companies are working closely with local community colleges and universities to match academic programs with workforce needs. We need to support all these different pieces because they fit together to provide our citizens with the tools they need to not just keep up but to move ahead and realize their goals.

I applaud the work of Senator DEWINE, Senator JEFFORDS, Senator KENNEDY, Senator WELLSTONE, and their staffs in drafting the Workforce Investment Partnership Act and I appreciate all the hard work that went into it. I support this worthy legislation.

Mr. ENZI. Mr. President, I rise in support of the Workforce Investment Partnership Act, offered by Senator DEWINE, Senator JEFFORDS and other members of the Subcommittee on Employment and Training on which I serve. I would like to take a minute here to express my reasons for supporting the bill and explain why this is a good piece of legislation.

Our mission in this area was most clearly put before us by the General Accounting Office. In their testimony to the Senate Labor Committee they showed that our current system for delivery of job training and vocational education is broken. The 163 programs across 15 agencies result in a disjointed and uncoordinated system that is a very inefficient use of the taxpayers' money. I have said that we probably need an education program just to teach people how to figure out how to find federal job training assistance. We need to simplify the process and this bill fixes many of the problems that the GAO outlined.

This legislation is built around the idea that we need more flexibility for state education and labor programs to work. It builds on local needs and interests, ensuring a fair partnership between business and educators. Importantly, it maintains strong program objectives while at the same time, allowing individuals to make decisions about their own training programs through a voucher system.

The goals of the vocational education program are clear—to prepare kids for what happens after high school. Not all kids are college-bound. Not all kids should be college-bound. Those who are not, should have an opportunity to follow educational programs that are relevant to their interests. This bill gives States greater flexibility to design programs that will target the unique needs of their students.

The goals of the job training programs are also clear—to prepare people for their jobs in a rapidly changing workplace. Business cooperation and input is critical for that. Flexibility for state and local partnerships is also important so they can tailor programs to meet local needs. This bill accomplishes that flexibility and increases local empowerment.

My home State of Wyoming has made a lot of progress in this area. Our Governor, Jim Geringer, has taken a strong interest in developing a coordinated system of education and employment, with an emphasis on individual responsibility. Two years ago, he called for a state-wide conference on the issue. The focus was how to help Wyoming's people meet ever-changing workplace needs and how we could help not only our kids, but our adults, find and keep valuable jobs without having to leave the State.

One of the biggest problems we identified in Wyoming was that the federal system was fragmented, had too many narrow categories of eligibility, duplicated effort and had confusing accountability requirements. The bill before us today will resolve these problems. It will improve delivery by enabling states to develop coordinated education and training programs. It gives States the program objectives, but allows them to design their own measurement systems. Most importantly, this bill lets the people in my State focus federal dollars where Wyomingites think they should go.

One part of the bill that I strongly support are changes that have been made to the Labor Market Information system. Here we have been able to move towards a state-based data system and ensure that state needs get a priority with the Department of Labor's Bureau of Labor Statistics. In the past, the Bureau has paid little attention to state statistics agencies. This is another issue of local control where people in our states know more about what labor information is important to local needs.

I want to take a minute to address a few of the specific concerns that have been raised about this bill. First is the difficulty raised by the National Governors Association about coordination with local workforce boards. This does not pose a problem in my state because we do not have any population centers that would qualify for separate local grants. Our State Workforce Board will serve the entire state. On this issue, however, I would say that it is important for State Government to be able to coordinate these activities. I also believe that local government knows best when it comes to the needs of local communities. This bill strikes a sound balance between these two efforts.

The second concern I have heard is that ''unified plans'' will allow governors to transfer education money into training. Again, it is my position that local and state government is most responsive to and knowledgeable about local needs. If educators are unable to justify certain spending in the face of greater needs in training areas, then local government should be able to make that decision. That works both ways. Training advocates will have to show the importance and relative value of their programs. This bill provides a great opportunity for state and local governments in Title 5, which provides an option for unified plans. Not surprisingly, this part has caused the most difficulty for ''big government'' types at the Departments of Labor and Education.

A third concern I have heard is that this bill will give the Secretary of Education increased powers over the content of state education plans. I want to point out that I am very sensitive to that question. It is one of the first tests I apply in my review of any proposal that affects K–12 education. Local and state control must be preserved. With that in mind, it is important to note that the concerns are not unfounded.

This legislation directs the Department of Education to consult with states in developing performance measures to evaluate state programs. The measures relate to student mastery of academic and vocational skills, as well as placement and retention in education and later in job situations. States will then negotiate with the Department to determine expected levels of performance—tailored to meet State differences—but according to the index developed by the Department. The question is—Is it more intrusive than current performance requirements under the Carl Perkins Act?

Under the Perkins law, States must submit plans that include descriptions of how they will meet certain federal objectives. But there is one big difference. Carl Perkins empowered state boards to develop the performance measures. States only had to show they were making progress according to their own defined measurements. I am very concerned about allowing the Department of Education into the development of these measurements. I do not believe the federal government is genuinely capable of setting standards for mastery of academic and vocational skills for our kids. That role belongs to elected school boards and state government—not to appointed federal officials.

The good Senator from Missouri, Senator JOHN ASHCROFT, has expressed real concerns about this part of Title 1 of the bill. While I strongly support the majority of this legislation, I would prefer to see the performance provisions that were included in the House bill, end up in the final version. I do intend to push for the House version in conference.

In closing, Mr. President, I want to say that this is a good bill. As with any legislation, though, it is not perfect. There are some parts I would prefer to see removed or changed. But on the whole, this bill is a remarkable improvement over the chaotic maze of existing job training, vocational education and adult education programs. It is a step forward for local and state control of these efforts. It is a step forward in simplifying delivery of these services and making them more responsive to changing needs. And it is a step forward for personal choice and for accountability.

Ms. MIKULSKI. Mr. President, I rise today in support of the Workforce Investment Partnership Act of 1997. As a member of the Committee on Labor and Human Resources, I am very proud that we have produced this bipartisan legislation. As a United States Senator, one of my priorities for Maryland is to work hard to keep our economy strong. This bill represents a real step

forward in maintaining a robust economy for America.

I support this bill for three reasons. First, it represents a comprehensive reform of vocational, adult education and job training programs. Second, it provides for the essential element of accountability. Finally, it streamlines the delivery service system into ''One Stop Customer Service.''

This legislation consolidates many of the narrowly focused programs which exist for job training and adult education. In the past, these programs have really represented no system at all. The patchwork of rules, requirements and bureaucracy did nothing but confuse the people these programs were designed to help. The Workforce Investment Partnership Act incorporates nearly 70 of these programs into a simplified plan. Allowing states the option to submit a ''Unified Plan'' makes the most sense for streamlining and simplifying the system.

I believe, Mr. President, that accountability in training is essential. Programs must deliver what they promise. In exchange for giving States the flexibility they need to design and achieve strategies for reform, it is reasonable to retain some Federal control. Taxpayers deserve a dollar's worth of service for a dollar's worth of taxes. The standards for measuring state performance provide that accountability.

In my state of Maryland, we currently have forty-one One-Stop career centers with more on the way. These ''user-friendly'' services are critical to helping people entering into employment training and placement. Providing core functions in one, easy customer service system is truly the focal point of the legislation we are voting on here today. One Stop centers have been proven effective both in Maryland and nationwide. I am very pleased to see the progress these centers have made and that they are the cornerstone of the Workforce Act.

This legislation, Mr. President helps our citizens who are ready, willing and able to work. By giving the States and business communities more flexibility in designing their training programs, we are giving our citizens an opportunity for a new beginning. It gives them a new beginning to become more productive members of our workforce. It gives them a new beginning to get off the welfare rolls and earn the self-respect they deserve by earning their own money and taking care of themselves.

The future of our country means making sure that our workforce is trained and ready to face the challenges of the 21st century. This means the federal government taking responsibility for getting our people off welfare and providing real solutions for getting them trained and helping them find work. By empowering our citizens with real life tools for success in the workforce we can achieve real reform of the current system. I am proud to serve on the committee that stepped up to the plate and showed the American public that we are ready to fight for our workforce.

HIGH SCHOOLS AT COMMUNITY COLLEGES

Mr. DOMENICI. Mr. President, I rise today to say a few words about my amendment to the Workforce Investment Partnership Act of 1998 and to make a few comments about the overall bill.

Simply put, my amendment allows consortia applying for a Tech-Prep the additional option of using the money to locate high schools at Community Colleges. The Tech-Prep section already seeks to create consortia of local schools, post-secondary schools, and employers to form a cohesive link between the entities.

My amendment merely goes one step further and simplifies the process by allowing grants to be used for the placement of high schools at community colleges. The idea is not without precedence, in fact the Middle College Consortium is a national network of twenty two high schools located on college campuses.

Mr. President, I think the fundamental question becomes what is education? I believe education is far more than books, classrooms, and teachers, it is about learning and preparing for life. I want to mention several points I have heard from students and employers that reinforce my belief.

A high school student stated to me that often he and his classmates are simply bored in class and that creative learning concepts must be put forth. Amazingly, an employer stated that only one in forty applicants were qualified for even an entry level position. All of us, businesses and individuals are paying taxes and I think it is only fair that we expect some kind of return in terms of our schools producing qualified graduates.

Is there a one size fits all solution? Of course not, because not everyone wants to pursue the same career path. However, my amendment enables those desiring to pursue a vocationally based career yet another option and tool to help ensure their success.

I am very pleased that an integral part of a Tech-Prep Program is a focus on math, science, reading, writing, communications, economics, and workplace skills. Also Tech-Prep Programs integrate the academic and vocational instruction with work-based learning.

My amendment ensures this by requiring a consortium to contain a business partner. Industry will have the opportunity to take an active role in ensuring graduating students possess the tools and knowledge that they will need to succeed in the local workforce. The business partner will also act as a gateway for student and teacher internships and also provide students a head start in obtaining a job.

Mr. President, there is one point I want to make absolutely clear: student attendance at a high school at a Community College will be voluntary. However, many high school students have already decided to pursue a vocationally based career and are even now taking those kind of classes. My amendment is aimed at those students in an effort to ensure they will succeed.

Community Colleges often have more resources, like vocational facilities and business partnerships, than a traditional high school. Students choosing to participate will become acquainted with the instructors, facilities, and application process for admission, and a natural path to at least a two year degree will be created.

Mr. President, my amendment is about creating yet another option so our children will be empowered with every available resource to succeed.

Now I would like to make a few remarks about the Workforce Investment Partnership Act of 1998. First, I would like to compliment Senators JEFFORDS, DEWINE, KENNEDY, and WELLSTONE for all of their work on this bill. Second, I am very pleased the Senate will shortly vote on this very important piece of legislation to reform the Federal job training and education related programs.

Like many Federal programs, current job training and education related programs are a maze of overlapping and duplicative programs. The bill incorporates close to 70 programs under three titles: Adult Education, Vocational Education, and Job Training.

The streamlining of the current voced programs into a manageable system will allow for the delivery services in the most effective manner possible. By delivering services in the most effective manner we can accomplish two important things: a prepared workforce and a business community that is confident in the workforce.

I believe one of the keys to the bill is the transfer of power from Washington to the individual states. States will have the flexibility, authority, and means to design a vocational educational system that best meets the needs of the state because decisions will be made by state officials and not Washington. By eliminating multiple Federal requirements and mandatory set-asides, states obtain that flexibility.

States will also have the option to submit a unified plan or a single State plan for all of the education and training programs incorporated in the bill. Again, this is another example of providing states with the ability to design programs that best meet their needs.

The Bill also greatly simplifies the process for individuals seeking to obtain voc-ed services through a ''no wrong door'' approach. This ''one-stop customer service system'' will allow individuals to receive comprehensive information about the availability, eligibility, and quality of the programs at one location or via a computer network.

Mr. President, I also want to say how pleased I am that Senator DEWINE's amendment will reauthorize the Rehabilitation Act of 1973. As my colleagues

are aware, the Rehabilitation Act is our country's primary Federally funded job training program for disabled individuals. I believe the reauthorization takes on even greater importance since the authorization for the act expired in September of 1997.

Among other things the reauthorization will: link the Rehabilitation Act and the Workforce Investment Partnership Act of 1998; streamline current vocational rehabilitation systems to increase efficiency and access; and improve the delivery of services to individuals with disabilities by providing more choice and a greater number of quality jobs.

Again Mr. President, the changes I have just mentioned create more options and allow for the best possible delivery of services.

And that is exactly what my amendment and the overall bill are all about: creating more options and providing for the best possible delivery of services.

Mr. JEFFORDS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes 38 seconds.

Mr. JEFFORDS. I yield to the Senator from South Carolina 2 minutes.

Mr. KENNEDY. Mr. President, I would be glad to yield 3 minutes of our time to the Senator.

Mr. THURMOND. I thank the Senator. I just need about 7 minutes.

Mr. President, I rise today to express my views on S. 1186, the Workforce Investment Partnership Act of 1998. This bill will consolidate vocational education, adult education and Federal employment training programs. I generally support this effort. However, I do have some concerns regarding the treatment of current veterans' employment and training programs.

This Nation has a long history of providing assistance to our veterans, dating from colonial days. Since World War I, several laws have been enacted to address veterans' employment problems. Such legislation has reaffirmed and strengthened the federal government's role in promoting wider employment and training opportunities for veterans. The Federal government has a legitimate role in veterans' employment issues since it is the action of the Federal government that gives an individual the status of ''veteran.''

Currently, the primary programs to assist veterans are those administered by the Department of Labor, through the Veterans' Employment and Training Service (VETS). These include the Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER), which are grant programs to the States, and will continue in their present form.

The current provisions of Title 38 of the United States Code were designed to address services provided to veterans in a traditional Job Service delivery system. However, this system is changing. We now see a wide variance in delivery system design, configuration, and service delivery providers. Some states are contracting with private business, community agencies, or other units of government. Other states are focusing on electronic services.

This changing environment makes it difficult to guarantee that government is providing maximum employment and training opportunities, with priority of service for veterans.

To maximize these opportunities and to protect that priority, the Veterans Employment and Training Service is required by Federal law to promote and monitor participation of veterans in federally funded employment and training programs.

Because of the national interest in veterans' programs, I supported language in this bill that (1) authorized a veteran representative to the Statewide Partnership; (2) required the State plan to assure coordination with veterans programs; (3) provided assurances in the State plan that veterans will be afforded services under the employment and training subtitle ''to the maximum extent practicable''; (4) required performance reporting on workforce investment activities provided for veterans; and (5) included dislocated Department of Defense civilians, contractor personnel, and members of the Armed Forces as eligible participants in National emergency grants.

While these provisions help provide visibility of veterans programs at the national and state level, I am concerned that veterans employment and training programs are not represented at the local level. The bill does not provide for a veterans representative on the local workforce investment partnership. This partnership has the responsibility of setting policy for the local area and ensuring that local performance measures are met, that needs of employers and job seekers are met, and is responsible for continuous improvement of the system. Furthermore, the local partnership develops and implements the operating agreements for the one-stop customer service centers.

I can support this arrangement in principle, where local business, labor and government leaders develop and oversee a plan to meet local community needs. However, where veterans programs are included in the one-stop center, veterans should have representation. This will ensure, if it becomes apparent that veterans are being underserved in any given local workforce investment area, that steps will be taken to address and correct the disparity.

I encourage those Senators who are conferees to consider carefully the commitment our veterans made to the Nation, and the commitment this Nation has made to its veterans. I urge the conference to adopt language that will (1) ensure that maximum employment and training services are made available and provided to veterans; (2) require State and local plans to include information to track services to veterans; (3) include veteran representatives on local partnerships; and (4) provide that nothing in this Act shall be construed to repeal or modify any special rights or privileges for veterans including priority of service.

Mr. President, I believe these modifications to the bill will strengthen this measure and protect the interests of our veterans. I look forward to working with the bill managers and with other conferees.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that a letter of support from the Business Roundtable be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE BUSINESS ROUNDTABLE,
Washington, DC, March 18, 1998.

Hon. JAMES M. JEFFORDS,
Chairman, Labor & Human Resources Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Business Roundtable commends you and Senators DeWine, Kennedy and Wellstone for your leadership in developing S. 1186, the Workforce Investment Partnership Act. We hope the Senate will act promptly to approve this important bipartisan legislation to reform America's workforce programs.

S. 1186 is, in most respects, in accord with the principles for reform of job training programs we submitted to the Labor and Human Resources Committee late last year. The bill promises to transform the present fragmented approach into a comprehensive workforce development system to meet the needs of employers and job seekers.

Specifically, the bill would create a basis for program consolidation through joint planning; establish business-led partnerships at the state and local levels; and, most importantly, strengthen accountability by using performance standards to measure the effectiveness of programs in achieving continuous improvement. It would commit states and local areas to maximize the return on investment of federal funds in workforce activities.

Employers have an important stake in the reengineering of federal workforce programs. US competitiveness rests on the skills of American workers. We look forward to working with you and other members of the Committee to ensure that the final compromise reached with the House of Representatives continues to reflect business community principles for reform.

Sincerely,

GEORGE M.C. FISHER,
Chairman & CEO, Eastman Kodak Co.; Chairman, Human Resources Task Force, The Business Roundtable.

LAWRENCE PERLMAN,
Chairman & CEO, Ceridian Corp.; Chairman, The Working Group on Workforce Development, The Business Roundtable.

Ms. SNOWE. Mr. President, as we approach a new century with a globally competitive economy that increasingly puts pressure on many domestic industries, I believe it is critical that Congress recognize and address a serious

need in our nation's workforce: the need to provide increased access to training for incumbent workers at small businesses.

As the distinguished Chairman and Ranking Member of the Senate Committee on Labor and Human Resources are aware, many states have seen workers displaced as long-standing local businesses have been downsized or closed. In Maine, we have endured dramatic shifts in our labor force as footwear manufacturers, textile manufacturers, and paper mills have been closed, and workers have been forced out of long-standing jobs that had been the cornerstone of their communities. This shift in long-standing industries is occurring not only in Maine, but across the nation as cities, towns, and communities attempt to stay one step ahead of the changing demands of the global job market.

These displacements have demonstrated time and time again that the only certainty in the workforce is uncertainty—and the most important attribute that any worker can have when a job is in jeopardy is to have a broad base of training and skills. For only with a wide array of skills can any worker be truly confident that they have the knowledge and abilities necessary to rapidly adapt to today's changing work environment on-the-job—and the changing business environment that is driven by global competition. Therefore, I believe it is critical that we increase access to training for American workers and bring them some peace of mind that they will be ready for the changing skills demand—and the changing job market—that tomorrow will bring.

In light of this need for increased training and skill development, I am particularly concerned about the plight of individuals who work at small businesses because—among all workers—these individuals are the least likely to receive training. I have had the opportunity to view this problem firsthand, and discuss it with individuals who have studied the problem extensively, as co-chair of the bipartisan Senate Manufacturing Task Force and as a member of the Senate Small Business Committee.

Over and over again I have heard of the inability of workers at small businesses to have access to training—and the reason for this lack of access is clear: many small businesses simply do not have the financial resources necessary to provide training to their workers.

Therefore, in response to the gaping training needs of workers at small businesses, I have offered legislation that is designed to directly address the inability of small businesses to afford training. Specifically, my legislation—S. 1170, the Working American Training Voucher Act—would provide $1,000 training vouchers to one million working men and women at small businesses across the United States.

The legislation was crafted from the premise that we should not wait until a worker has been laid-off from their job, or a company shuts its doors and shutters its windows, to take steps to help the American worker receive adequate training. Rather, we should take steps to ensure that our nation's workforce is confident of their future and feels prepared to address the rapid changes that are occurring both in the global economy and on-the-job—especially as new technologies are introduced in the workplace that require an ever-expanding base of skills.

Increasing access to training for incumbent workers at small business will not only address this need, but I think we would all agree that the best way to reduce the impact and cost of unemployment is to take steps to keep those who are already employed on-the-job.

Mr. JEFFORDS. Mr. President, the Senator from Maine has properly recognized a serious need in the American workforce, and one that I hope will be strongly addressed by the Congress. Incumbent workers nationwide—and particularly those at small businesses—must be provided with increased access to training, and I commend her for raising this issue at this time, and for offering legislation that is intended to address this tangible need.

Mr. KENNEDY. Mr. President, I join my colleagues in recognizing the need for increased access to training for incumbent workers, and appreciate the efforts of my colleague, Senator SNOWE, for heightening awareness on this issue.

Ms. SNOWE. Thank you, Mr. Chairman and Ranking Member KENNEDY. Mr. President, while my legislation has not yet been acted on, I believe the legislation now before the Senate—S. 1186, the Workforce Investment Partnership Act (WIPA) provides us with an excellent opportunity to address the training needs of incumbent workers at small businesses.

Mr. President, as has been outlined on the floor of the Senate today, the WIPA restructures and streamlines federal job training programs to improve the delivery of these services to millions of Americans in need, including disadvantaged adults and dislocated workers. For crafting a bill that improves the delivery of job training services nationwide, I would like to commend the authors of this legislation: the Chairman of the Labor and Employment Subcommittee, Senator DEWINE; the distinguished Chairman of the Labor Committee, Senator JEFFORDS; the Ranking Member of the Labor Committee, Senator KENNEDY; and the Ranking Member of the Employment and Training Subcommittee, Senator WELLSTONE.

While I am very supportive of this legislation, I urge that provisions be added and modifications made during the upcoming House-Senate conference on the bill to improve access to training for incumbent workers at small businesses. Specifically, I urge that the Senate conferees look for opportunities to improve such access during the consideration of the newly-created training vouchers in Section 315; the transfer authority of job training monies by local partnerships in Section 306; the demonstration and pilot projects in Section 367; and any other section in which increased flexibility of job training monies would lead to improved access to training for incumbent workers at small businesses.

Mr. JEFFORDS. Mr. President, because of my shared interest in providing increased access to training for incumbent workers, I look forward to working with my colleague, Senator SNOWE, to address the training needs of incumbent workers, particularly those in industries that are vulnerable to the ups-and-downs of our economy.

Mr. KENNEDY. Mr. President, I strongly support efforts to improve training opportunities for incumbent workers, but would emphasize that it must not be done at the expense of individuals who have already been displaced from their jobs. Therefore, I look forward to working with the Senator from Maine on this issue.

Ms. SNOWE. Thank you, Mr. Chairman and Senator KENNEDY, for your interest in this important issue. I look forward to working with you as S. 1186 moves through the legislative process, as well as on S. 1170, the Working American Training Voucher Act.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. KENNEDY. I yield 3 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise in support of H.R. 1385, the Workforce Investment Partnership Act. I really believe this bill would provide the infrastructure necessary to reform our Federal job training system. Currently, Federal job training programs are a hodgepodge of rules, regulations and requirements, which reflect duplicative agency responsibilities. This unfortunate situation deters employees with good intentions from seeking assistance for those in need. For the past 8 months, my colleagues in the Senate Labor and Human Resources Committee have been working diligently to reform this ineffective system.

H.R. 1385 is an ideal bill, a bipartisan bill that will consolidate dozens of programs within the Federal system of vocational and adult education, vocational rehabilitation, and job training programs.

It will give states and local governments the flexibility to design training programs that best meet the needs of their communities. It encourages ''One-Stop Customer Service'' centers where applicants and employers may go to inquire about different training and employment opportunities that are available.

In the State of Hawaii, efforts are already underway to streamline various workforce-related organizations and

programs into a comprehensive system that encompasses economic development, workforce, and education priorities. The Hawaii State Legislature recently consolidated five Hawaii Department of Labor and Industrial Relations advisory policy bodies into a single agency, the Hawaii Workforce Development Council.

This council is similar to entities in 30 other states.

Many of our states have begun the process of consolidation, and it is time that the Federal government provide them with the direction and the resources necessary to complete this process.

I thank my colleagues, Senator DEWINE, JEFFORDS, KENNEDY, and WELLSTONE for their efforts in bringing forward this bipartisan compromise for Senate consideration. H.R. 1385 will target Federal funds to those individuals who need it most and to those programs that are proven to be effective. I believe this bill will provide the infrastructure necessary to reform our Federal job training system.

The time is now to reform this system, and I am pleased to express my support for this bill.

Mr. KENNEDY. Mr. President, I would be glad to yield 15 seconds to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I mentioned to staff and other Senators but I didn't share the comments on the floor, and I didn't mention the really fine work of Mark Powden and Dwayne Sattler. I appreciate their work. I mentioned some people who I had a chance to work with. I forgot to mention others. I was feeling guilty.

I thank the Senator for the 15 seconds.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes 30 seconds.

Mr. KENNEDY. Mr. President, I yield myself 7½ minutes.

Mr. President, as was stated by the Senators from Ohio, Vermont, and Minnesota, in just a few moments we are going to vote on this legislation, which will make such a very, very important difference for millions of Americans.

I want to express my very deep sense of appreciation for the really excellent work that has been done by the chairman of the subcommittee, Senator DEWINE, and our friend and colleague, Senator WELLSTONE, and the chairman of the full committee, Senator JEFFORDS.

These are complex issues and involve a variety of different interests and various constituency groups. But we all have a common purpose and a common goal; that is, to try to make sure that America has the best trained workforce we could possibly have as we move into the 21st century.

The process has not been easy. It has been an issue which our committee has over a very considerable period of time wrestled with. In 1970s, we attempted improving the CETA job training program. There were many, many problems in that program. In the early 1980s, we moved in a different direction. That direction was the Job Training Partnership Act, which attempted to refashion and shape our job programs with greater emphasis on private sector employment. It was the only domestic program that passed between 1980 and 1984. In many respects, it has worked well. But, the enormous technological changes we have seen in the workplace require new training initiatives. Since the early 1990s, we have been working to develop the most effective approach.

Now I am very, very hopeful that those hours and days of hearings, and the very solid work that has been done by the Committee will result in passage of this landmark legislation. I hope it will now not only receive the overwhelming support of the Members of this body, but also that we can move ahead into the conference and reach an agreement worthy of all our support. 1998 should be the year that workforce legislation is enacted into law. It would mean so much for millions of Americans in need of educational and career training opportunities.

We have had a fairly contentious Congress so far. But this, I think, has been an extraordinary example of the legislative process working. I think it is a real tribute overall to our chairman, Senator JEFFORDS, with his leadership.

We are designing legislation for a workforce that will have probably seven or eight different jobs during their careers. Thirty years ago, if a person worked in the Fall River Shipyard in Massachusetts, his father worked there and his grandfather worked there before him, and he spent his entire career there. But now we know that for new entries into that workforce, they are going to have seven different jobs.

With the global economy, we are going to find there are going to be new industries that are highly successful. There will be other industries that will be facing consolidation. We will have downsizing. We will have expansion. New skills that will be necessary. Individual workers will need access to training to update their skills throughout their working lives.

This legislation will provide the opportunity to get that training. It is really a very, very important new concept and new idea, and one that I think can really ensure that our workforce is going to be the best in the world.

We are talking about included in this legislation programs for individuals who are dislocated workers and others who are disadvantaged adults and youth. We are talking about individuals with disabilities who want to be able to work and pull their fair share. We are talking about at-risk youth. We are also dealing with adult literacy, and vocational education programs. Together, these programs will prepare the workforce of tomorrow.

Mr. President, this is really, I think, a major achievement. I am enormously grateful to my staff: to Jeffrey Teitz, who has done an outstanding job on the workforce and education issues; and to Connie Gardner, who has done an extraordinary job on vocational rehabilitation. Jeffrey Teitz, along with Sherry Kaiman of Senator JEFFORDS' staff, Dwayne Sattler of Senator DEWINE's staff, and Brian Ahlberg of Senator WELLSTONE's staff, worked for over a year to fashion the consensus legislation which we are considering today. I am proud of their work. I also want to recognize Patricia Morrissey of Senator JEFFORDS' staff on vocational rehabilitation.

All of us who are in support of this legislation believe it will make America have the best educated and the best trained workforce in the world; and that those families who participate in these programs will have the great opportunities open to them. It will enable them to realize their own American dreams. I hope my colleagues will support it overwhelmingly.

Mr. President, while employment training legislation has not received the same level of public attention as some other issues on this year's agenda, very few bills will have a greater impact on more Americans than the Workforce Investment Partnership Act.

The importance of highly developed employment skills has never been greater. The gap in earnings between skilled and unskilled workers is steadily widening. For those who enter the workforce with good academic training and well-developed career skills, this new economy offers almost unlimited potential. However, for those who lack basic proficiency in language, math and science and who have no career skills, the new economy presents an increasingly hostile environment.

An educated workforce has become the most valuable resource in the modern economy. Our nation's long term economic vitality depends on the creation of an effective, accessible, and accountable system of job training and career development which is open to all our citizens. Schools must assume more responsibility for preparing their students to meet the challenges of the 21st century workplace. Disadvantaged adults and out of school youth need the opportunity to develop job skills which will make them productive members of the community. Dislocated workers who have been displaced by the rapid pace of technological change deserve the chance to pursue new careers. Individuals with disabilities need the opportunity to fully develop their career potential. The way in which we respond to these challenges today will determine how prosperous a nation we are in the next century.

The Workforce Investment Partnership Act, unanimously approved by the Labor and Human Resources Committee will provide employment training opportunities for millions of Americans. It responds to the challenge of

the changing workplace by enabling men and women to acquire the skills required to enter the workforce and to upgrade their skills throughout their careers. It will provide them with access to the educational tools that will enable them not only to keep up, but to get ahead.

The legislation is the product of a true bipartisan collaboration. I want to publicly commend Senators JEFFORDS and DEWINE for the genuine spirit of bipartisanship which has made this effort possible. Senator WELLSTONE and I appreciate it. The resulting legislation will, I believe, truly expand career options, encourage greater program innovation, and facilitate cooperative efforts amongst business, labor, education and state and local government.

The Workforce Investment Partnership Act is designed to provide easy access to state of the art employment training programs which are geared to real job opportunities in the community through a single, customer-friendly system of One Stop Career Centers. The cornerstones of this new system are individual choice and quality labor market information.

No training system can function effectively without accurate and timely information. The frequent unavailability of quality labor market information is one of the most serious flaws in the current system. This legislation places a strong emphasis on providing accurate and timely information about what area industries are growing, what skills those jobs require, and what earning potential they have. Extensive business community and organized labor participation are encouraged in developing a regional plan based on this information. Once a career choice is made, the individual must still select a training provider. At present, many applicants make that choice with a little or no reliable information. Under this bill, each training provider will have to publicly report graduation rates, job placement and retention rates, and average earnings of graduates.

Because of the extensive information which will be available to each applicant, real consumer choice in the selection of a career and of a training provider will be possible. The legislation establishes individual training accounts for financially eligible participants, which they can use to access career education and skill training programs. Men and women seeking training assistance will no longer be limited to a few predetermined options. As long as there are real job opportunities in the field selected and the training provider meets established performance standards, the individual will be free to choose which option best suits his or her needs.

There is no challenge facing America today which is tougher or more important than providing at-risk, often out-of-school, youth with meaningful education and employment opportunities. Far too many of our teenagers are being left behind without the skills needed to survive in the 21st century economy. I am particularly pleased with the commitment which the Workforce Investment Partnership Act makes to these young men and women. This legislation authorizes a new initiative focused on teenagers living in poverty in communities offering them few constructive employment opportunities. Each year, the Secretary of Labor will award grants from a $250 million fund to innovative programs designed to provide opportunities to youth living in these areas. The programs will emphasize mentoring, strong links between academic and worksite learning, and job placement and retention. It will encourage broad based community participation from local service agencies and area employers. These model programs will, we believe, identify the techniques which are most effective in reaching those youth at greatest risk.

This legislation also provides for the continuation of JobCorps and the Summer Jobs Program as essential elements of a comprehensive effort to help disadvantaged youth gain valuable training and work experience.

The Workforce Investment Partnership Act includes titles reauthorizing major vocational education and adult literacy programs. Both programs will continue to be separately funded and independently administered. We have incorporated them in the Workforce Act because they must be integral components of any comprehensive strategy to prepare people to meet the demands of the 21st century workplace.

Students who participate in vocational education must be provided with both strong academic preparation and advanced employment skills training. Recognizing this core principle, the legislation supports broad-based career preparation education which meets both high academic standards and teaches state-of-the-art technological skills.

Adult literacy programs are essential for the 27% of the adult population who have not earned a high school diploma or its equivalent. Learning to read and communicate effectively are the first steps to career advancement. A leading authority on this issue, Professor Richard Wade of the City University Graduate Center in New York, has called adult literacy ''America's Silent Scandal'', and he's right. This legislation will increase access to educational opportunities for those people most in need of assistance and enhance the quality of services provided.

The Workforce Investment Partnership Act will make it possible for millions of Americans to gain the skills needed to compete in a global economy. I urge all of my colleagues to support it.

I yield the remainder of the time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JEFFORDS. Mr. President, I urge my colleagues to vote for this bill. It is a tremendous step forward in helping this Nation meet international competition. I praise the staff on both sides for making it possible for us to come here in this great love fest that we have had in the Chamber. Having voted it out of the committee unanimously, I hope that this body would see fit to do the same.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—91

Abraham	Ford	Mack
Akaka	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Boxer	Grams	Murkowski
Breaux	Grassley	Murray
Bryan	Gregg	Nickles
Bumpers	Hagel	Reed
Burns	Harkin	Reid
Byrd	Hatch	Robb
Campbell	Hollings	Roberts
Chafee	Hutchinson	Rockefeller
Cleland	Hutchison	Roth
Coats	Inouye	Santorum
Cochran	Jeffords	Sarbanes
Collins	Johnson	Sessions
Conrad	Kempthorne	Smith (OR)
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden
Feingold	Lott	
Feinstein	Lugar	

NAYS—7

Allard	Brownback	Smith (NH)
Ashcroft	Inhofe	
Bond	Shelby	

NOT VOTING—2

Faircloth	Helms

The bill (H.R. 1385), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1385) entitled ''An Act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Workforce Investment Partnership Act of 1998''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) ADULT.—In paragraph (14) and title III (other than section 302), the term ''adult'' means an individual who is age 22 or older.

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

(A) who have attained 16 years of age or who are beyond the age of compulsory school attendance under State law;

(B) who are not enrolled in secondary school; and

(C) who—

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

(ii) do not possess a secondary school diploma or its recognized equivalent; or

(iii) are unable to speak, read, or write the English language.

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

(A) a specialized public secondary school used exclusively or principally for the provision of vocational education for individuals who seek to study and prepare for entering the labor market;

(B) the department of a public 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 public or nonprofit technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who—

(i)(I) have completed public secondary school; or

(II) have left public secondary school; and

(ii) seek to study and prepare for entering the labor market; or

(D) the department or division of a junior college, community college, or university that—

(i) operates under the policies of the appropriate State agency that oversees postsecondary education and is approved under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b et seq.); and

(ii) provides vocational education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a degree; and

(iii) admits as regular students both individuals who have completed public secondary school and individuals who have left public secondary school.

(4) CHIEF ELECTED OFFICIAL.—The term ''chief elected official'' means—

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than 1 unit of general local government, the individuals designated under the agreement described in section 308(d)(1)(B)(i).

(5) DISADVANTAGED ADULT.—In title III, and except as provided in section 302, the term ''disadvantaged adult'' means an adult who is a low-income individual.

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

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

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

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop customer service center, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

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

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

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services under title III other than training services described in section 315(c)(3), intensive services, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

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

(D) is a displaced homemaker.

(7) DISPLACED HOMEMAKER.—The term ''displaced homemaker'' means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent on the income of another family member but is no longer supported by that income; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(8) ECONOMIC DEVELOPMENT AGENCIES.—The term ''economic development agencies'' includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(9) 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.

(10) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY.—The terms ''elementary school'' and ''local educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(11) ELIGIBLE AGENCY.—The term ''eligible agency'' in the case of vocational education, or adult education and literacy, activities or requirements described in this Act, means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for vocational education, or adult education and literacy, respectively, in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(12) ELIGIBLE INSTITUTION.—In title I, the term ''eligible institution'' means—

(A) an institution of higher education;

(B) a local educational agency providing education at the postsecondary level;

(C) an area vocational education school providing education at the postsecondary level;

(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.); and

(E) a consortium of 2 or more of the entities described in subparagraphs (A) through (D).

(13) ELIGIBLE PROVIDER.—The term ''eligible provider''—

(A) in title II, means—

(i) a local educational agency;

(ii) a community-based organization;

(iii) an institution of higher education;

(iv) a public or private nonprofit agency;

(v) a consortium of such agencies, organizations, or institutions; or

(vi) a library; and

(B) in title III, used with respect to—

(i) training services (other than on-the-job training), means a provider who is identified in accordance with section 312;

(ii) youth activities, means a provider who is awarded a grant in accordance with section 313; or

(iii) other workforce investment activities, means a public or private entity selected to be responsible for such activities, in accordance with subtitle A of title III, such as a one-stop customer service center operator designated or certified under section 311.

(14) EMPLOYMENT AND TRAINING ACTIVITY.—The term ''employment and training activity'' means an activity described in section 314(b)(1) or subsection (c)(1) or (d) of section 315, carried out for an adult or dislocated worker.

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

(16) GOVERNOR.—The term ''Governor'' means the chief executive officer of a State.

(17) INDIVIDUAL WITH A DISABILITY.—

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

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

(18) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term ''individual of limited English proficiency'' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

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

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

(19) INSTITUTION OF HIGHER EDUCATION.—Except for purposes of subtitle B of title I, the term ''institution of higher education'' means an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(20) LITERACY.—

(A) IN GENERAL.—The term ''literacy'' means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job and in society.

(B) WORKPLACE LITERACY PROGRAM.—The term ''workplace literacy program'' means a program of literacy activities that is offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

(21) LOCAL AREA.—In paragraph (4) and title III, the term ''local area'' means a local workforce investment area designated under section 307.

(22) LOCAL PARTNERSHIP.—In title III, the term ''local partnership'' means a local workforce investment partnership established under section 308(a).

(23) LOCAL PERFORMANCE MEASURE.—The term ''local performance measure'' means a performance measure established under section 321(c).

(24) LOW-INCOME INDIVIDUAL.—In paragraph (51) and title III, the term ''low-income individual'' means an individual who—

(A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line, for an equivalent period; or

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

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

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

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

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

(25) LOWER LIVING STANDARD INCOME LEVEL.—The term ''lower living standard income level'' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary of Labor.

(26) NONTRADITIONAL EMPLOYMENT.—In titles I and III, 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.

(27) 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.

(28) OUT-OF-SCHOOL YOUTH.—The term ''out-of-school youth'' means—

(A) a youth who is a school dropout; or

(B) a youth who has received a secondary school diploma or its equivalent but is basic literacy skills deficient, unemployed, or underemployed.

(29) 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.

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

(31) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term ''postsecondary educational institution'' means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(32) 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.

(33) PUBLIC ASSISTANCE.—In title III, the term ''public assistance'' means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(34) RAPID RESPONSE ACTIVITY.—In title III, the term ''rapid response activity'' means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 306(a)(2), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

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

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

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

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

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

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

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

(35) 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.

(36) 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), except that the term does not include education below grade 9.

(37) SECRETARY.—

(A) TITLES I AND II.—In titles I and II, the term ''Secretary'' means the Secretary of Education.

(B) TITLE III.—In title III, the term ''Secretary'' means the Secretary of Labor.

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

(39) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such agency or officer, an agency or officer designated by the Governor or by State law.

(40) STATE PERFORMANCE MEASURE.—In title III, the term ''State performance measure'' means a performance measure established under section 321(b).

(41) STATEWIDE PARTNERSHIP.—The term ''statewide partnership'' means a partnership established under section 303.

(42) SUPPORTIVE SERVICES.—

(A) TITLE I.—In title I, the term ''supportive services'' means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

(B) TITLE III.—In title III, the term ''supportive services'' means services such as transportation, child care, dependent care, housing, and needs-based payments, that are necessary to enable an individual to participate in employment and training activities or youth activities.

(43) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term ''tribally controlled community college'' means an institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.).

(44) UNIT OF GENERAL LOCAL GOVERNMENT.—In title III, 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.

(45) VETERAN; RELATED DEFINITIONS.—

(A) VETERAN.—The term ''veteran'' means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) RECENTLY SEPARATED VETERAN.—The term ''recently separated veteran'' means any veteran who applies for participation under title III within 48 months of the discharge or release from active military, naval, or air service.

(46) VOCATIONAL EDUCATION.—The term ''vocational education'' means organized education that—

(A) offers a sequence of courses that provides individuals with the academic and technological knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

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

(47) 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.).

(48) VOCATIONAL STUDENT ORGANIZATION.—

(A) IN GENERAL.—The term ''vocational student organization'' means an organization for individuals enrolled in a vocational education program.

(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in vocational education at the local level.

(49) WELFARE RECIPIENT.—The term ''welfare recipient'' means a person receiving payments described in paragraph (24)(A).

(50) WORKFORCE INVESTMENT ACTIVITY.—The term ''workforce investment activity'' means an employment and training activity, a youth activity, and an activity described in section 314.

(51) YOUTH.—In paragraph (52) and title III (other than section 302 and subtitles B and C of such title), the term ''youth'' means an individual who—

(A) is not less than age 14 and not more than age 21;

(B) is a low-income individual; and

(C) an individual who is 1 or more of the following:

(i) Deficient in basic literacy skills.

(ii) A school dropout.

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

(iv) Pregnant or a parent.

(v) An offender.

(vi) An individual who requires additional assistance to complete an educational program, or to secure and hold employment.

(52) YOUTH ACTIVITY.—The term ''youth activity'' means an activity described in section 316, carried out for youth.

(53) YOUTH PARTNERSHIP.—The term ''youth partnership'' means a partnership established under section 308(i).

TITLE I—VOCATIONAL, TECHNOLOGICAL, AND TECH-PREP EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Carl D. Perkins Vocational and Applied Technology Education Act of 1998''.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in order to be successful workers, citizens, and learners in the 21st century, individuals will need—

(A) a combination of strong basic and advanced academic skills;

(B) computer and other technical skills;

(C) theoretical knowledge;

(D) communications, problem-solving, teamwork, and employability skills; and

(E) the ability to acquire additional knowledge and skills throughout a lifetime;

(2) students participating in vocational education can achieve challenging academic and technical skills, and may learn better and retain more, when the students learn in context, learn by doing, and have an opportunity to learn and understand how academic, vocational, and technological skills are used outside the classroom;

(3)(A) many high school graduates in the United States do not complete a rigorous course of study that prepares the graduates for completing a 2-year or 4-year college degree or for entering high-skill, high-wage careers;

(B) adult students are an increasingly diverse group and often enter postsecondary education unprepared for academic and technical work; and

(C) certain individuals often face great challenges in acquiring the knowledge and skills needed for successful employment;

(4) community colleges, technical colleges, and area vocational education schools are offering adults a gateway to higher education, and access to quality certificates and degrees that increase their skills and earnings, by—

(A) ensuring that the academic, vocational, and technological skills gained by students adequately prepare the students for the workforce; and

(B) enhancing connections with employers and 4-year institutions of higher education;

(5) local, State, and national programs supported under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) (as such Act was in effect on the day before the date of enactment of this Act) have assisted many students in obtaining technical, academic, and employability skills, and tech-prep education;

(6) the Federal Government can assist States and localities by carrying out nationally significant research, program development, demonstration, dissemination, evaluation, data collection, professional development, and technical assistance activities that support State and local efforts regarding vocational education; and

(7) through a performance partnership with States and localities based on clear programmatic goals, increased State and local flexibility, improved accountability, and performance measures, the Federal Government will provide to States and localities financial assistance for the improvement and expansion of vocational education for students participating in vocational education.

(b) PURPOSE.—The purpose of this title is to make the United States more competitive in the world economy by developing more fully the academic, technological, vocational, and employability skills of secondary students and postsecondary students who elect to enroll in vocational education programs, by—

(1) building on the efforts of States and localities to develop challenging academic standards;

(2) promoting the development of services and activities that integrate academic, vocational, and technological instruction, and that link secondary and postsecondary education for participating vocational education students;

(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational education, including tech-prep education; and

(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational education programs, services, and activities.

SEC. 103. VOLUNTARY SELECTION AND PARTICIPATION.

No funds made available under this title shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; and

(2) to mandate that any individual participate in a vocational education program, including a vocational education program that requires the attainment of a federally funded skill level or standard.

SEC. 104. CONSTRUCTION.

Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.

Subtitle A—Vocational Education

CHAPTER 1—FEDERAL PROVISIONS

SEC. 111. RESERVATIONS AND STATE ALLOTMENT.

(a) RESERVATIONS AND STATE ALLOTMENT.—

(1) RESERVATIONS.—From the sum appropriated under section 171 for each fiscal year, the Secretary shall reserve—

(A) 0.2 percent to carry out section 113;

(B) 1.80 percent to carry out sections 114 and 115, of which—

(i) 1.25 percent of the sum shall be available to carry out section 114(b);

(ii) 0.25 percent of the sum shall be available to carry out section 114(c); and

(iii) 0.30 percent of the sum shall be available to carry out section 115; and

(C) 1.3 percent to carry out sections 116, 163, 164, 165, and 166, of which not less than 0.65 percent of the sum shall be available to carry out section 116 for each of the fiscal years 2001 through 2005.

(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 171 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) MINIMUM ALLOTMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 171 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) REQUIREMENT.—Due to the application of subparagraph (A), for any fiscal year, no State shall receive more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(C) SPECIAL RULE.—

(i) IN GENERAL.—Subject to paragraph (4), no State, by reason of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act); and

(II) the amount calculated under clause (ii).

(ii) AMOUNT.—The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(4) HOLD HARMLESS.—

(A) IN GENERAL.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of this Act) for fiscal year 1997.

(B) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) REALLOTMENT.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) ALLOTMENT RATIO.—

(1) IN GENERAL.—The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) PROMULGATION.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) DEFINITION OF PER CAPITA INCOME.—For the purpose of this section, the term ''per capita

income'' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) POPULATION DETERMINATION.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) DEFINITION OF STATE.—For the purpose of this section, the term ''State'' means each of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, and the United States Virgin Islands.

SEC. 112. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) PUBLICATION OF PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(A) Student attainment of academic skills.

(B) Student attainment of job readiness skills.

(C) Student attainment of vocational skill proficiencies for students in vocational education programs, that are necessary for the receipt of a secondary school diploma or its recognized equivalent, or a secondary school skill certificate.

(D) Receipt of a postsecondary degree or certificate.

(E) Retention in, and completion of, secondary school education (as determined under State law), placement in, retention in, and completion of postsecondary education, employment, or military service.

(F) Participation in and completion of vocational education programs that lead to nontraditional employment.

(2) SPECIAL RULE.—The Secretary shall establish 1 set of performance measures for students served under this title, including populations described in section 124(c)(16).

(b) EXPECTED LEVELS OF PERFORMANCE.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 113. ASSISTANCE FOR THE OUTLYING AREAS.

(a) IN GENERAL.—From the funds reserved under section 111(a)(1)(A), the Secretary—

(1) shall award a grant in the amount of $500,000 to Guam for vocational education and training for the purpose of providing direct educational services related to vocational education, including—

(A) teacher and counselor training and retraining;

(B) curriculum development; and

(C) improving vocational education programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education; and

(2) shall award a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands for vocational education for the purpose described in paragraph (1).

(b) SPECIAL RULE.—

(1) IN GENERAL.—From funds reserved under section 111(a)(1)(A) and not awarded under subsection (a), the Secretary shall make available the amount awarded to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section was in effect on the day before the date of enactment of this Act) to award grants under the succeeding sentence. From the amount made available under the preceding sentence, the Secretary shall award grants, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau for the purpose described in subsection (a)(1).

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this title for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

SEC. 114. INDIAN AND HAWAIIAN NATIVE PROGRAMS.

(a) DEFINITIONS; AUTHORITY OF SECRETARY.—

(1) DEFINITIONS.—For the purpose of this section—

(A) the term ''Act of April 16, 1934'' means the Act entitled ''An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes'', enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

(B) the term ''Bureau funded school'' has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026);

(C) the term ''Hawaiian native'' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii; and

(D) the terms ''Indian'' and ''Indian tribe'' have the meanings given the terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) AUTHORITY.—From the funds reserved pursuant to section 111(a)(1)(B), the Secretary shall award grants and enter into contracts for Indian and Hawaiian native programs in accordance with this section, except that such programs shall not include secondary school programs in Bureau funded schools.

(b) INDIAN PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the funds reserved pursuant to section 111(a)(1)(B)(i), the Secretary is directed—

(i) upon the request of any Indian tribe, or a tribal organization serving an Indian tribe, which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under the Act of April 16, 1934; or

(ii) upon an application received from a Bureau funded school offering postsecondary or adult education programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any Indian tribe or tribal organization, or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by, and consistent with the purpose of, this title.

(B) REQUIREMENTS.—The grants or contracts described in subparagraph (A), shall be subject to the following:

(i) TRIBES AND TRIBAL ORGANIZATIONS.—Such grants or contracts with any tribes or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

(ii) BUREAU FUNDED SCHOOLS.—Such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or the Act of April 16, 1934.

(C) REGULATIONS.—If the Secretary promulgates any regulations applicable to subparagraph (B), the Secretary shall—

(i) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

(ii) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the ''Negotiated Rulemaking Act of 1990''.

(D) APPLICATION.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

(E) PERFORMANCE MEASURES AND EVALUATION.—Any Indian tribe, tribal organization, or Bureau funded school that receives assistance under this section shall—

(i) establish performance measures and expected levels of performance to be achieved by students served under this section; and

(ii) evaluate the quality and effectiveness of activities and services provided under this subsection.

(F) MINIMUM.—In the case of a Bureau funded school, the minimum amount of a grant awarded or contract entered into under this section shall be $35,000.

(G) RESTRICTIONS.—The Secretary may not place upon grants awarded or contracts entered into under this paragraph any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational education programs, and shall give special consideration to—

(i) grants or contracts which involve, coordinate with, or encourage tribal economic development plans; and

(ii) applications from tribally controlled community colleges that—

(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of vocational education programs.

(H) STIPENDS.—

(i) IN GENERAL.—Funds received pursuant to grants or contracts described in subparagraph (A) may be used to provide stipends to students who are enrolled in vocational education programs and who have acute economic needs which cannot be met through work-study programs.

(ii) AMOUNT.—Stipends described in clause (i) shall not exceed reasonable amounts as prescribed by the Secretary.

(2) MATCHING.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of

funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(3) SPECIAL RULE.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

(c) HAWAIIAN NATIVE PROGRAMS.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary shall award grants or enter into contracts, with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii, for the planing, conduct, or administration of programs, or portions thereof, that are described in this title and consistent with the purpose of this title, for the benefit of Hawaiian natives.

SEC. 115. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) IN GENERAL.—It is the purpose of this section to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From the funds reserved pursuant to section 111(a)(1)(B)(iii), the Secretary shall make grants to tribally controlled postsecondary vocational institutions to provide basic support for the vocational education and training of Indian students.

(2) AMOUNT OF GRANTS.—

(A) IN GENERAL.—If the sum appropriated for any fiscal year for grants under this section is not sufficient to pay in full the total amount that approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant that received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(B) PER CAPITA DETERMINATION.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(c) ELIGIBLE GRANT RECIPIENTS.—To be eligible for assistance under this section a tribally controlled postsecondary vocational institution shall—

(1) be governed by a board of directors or trustees, a majority of whom are Indians;

(2) demonstrate adherence to stated goals, a philosophy, or a plan of operation which 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;

(3) have been in operation for at least 3 years;

(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

(d) GRANT REQUIREMENTS.—

(1) APPLICATIONS.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this section shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this section that will allow the Secretary to audit and monitor programs.

(2) NUMBER.—The Secretary shall award not less than 2 grants under this section for each fiscal year.

(3) CONSULTATION.—In awarding grants under this section, the Secretary shall, to the extent practicable, consult with the boards of trustees of, and the tribal governments chartering, the institutions desiring the grants.

(4) LIMITATION.—Amounts made available through grants under this section shall not be used in connection with religious worship or sectarian instruction.

(e) USES OF GRANTS.—

(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

(2) ACCOUNTING.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) EFFECT ON OTHER PROGRAMS.—

(1) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or any other applicable program for the benefit of institutions of higher education or vocational education.

(2) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the ''Snyder Act'') (42 Stat. 208, chapter 115; 25 U.S.C. 13).

(3) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under such Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) NEEDS ESTIMATE AND REPORT ON FACILITIES AND FACILITIES IMPROVEMENT.—

(1) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the goals and requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(2) STUDY OF TRAINING AND HOUSING NEEDS.—

(A) IN GENERAL.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

(i) training equipment needs;

(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

(iii) immediate facilities needs.

(B) REPORT.—The Secretary shall report to Congress not later than July 1, 1999, on the results of the study required by subparagraph (A).

(C) CONTENTS.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

(D) PRIORITY.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

(3) LONG-TERM STUDY OF FACILITIES.—

(A) IN GENERAL.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

(B) CONTENTS.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(C) SUBMISSION.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

(h) DEFINITIONS.—For the purposes of this section:

(1) INDIAN; INDIAN TRIBE.—The terms ''Indian'' and ''Indian tribe'' have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) 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 tribes; and

(B) offers technical degrees or certificate granting programs.

(3) INDIAN STUDENT COUNT.—The term ''Indian student count'' means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational institution, determined as follows:

(A) REGISTRATIONS.—The registrations of Indian students as in effect on October 1 of each year.

(B) SUMMER TERM.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the

computation of the Indian student count in the succeeding fall term.

(C) ADMISSION CRITERIA.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school diploma or its recognized equivalent shall be counted toward the computation of the Indian student count.

(D) DETERMINATION OF HOURS.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational institution shall be included in determining the sum of all credit or clock hours.

(E) CONTINUING EDUCATION.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

SEC. 116. INCENTIVE GRANTS.

(a) IN GENERAL.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment programs as determined by the State.

CHAPTER 2—STATE PROVISIONS

SEC. 121. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) the efficient and effective performance of the eligible agency's duties under this subtitle; and

(3) consultation with other appropriate agencies, groups, and individuals that are involved in the development and implementation of activities assisted under this subtitle, such as employers, parents, students, teachers, labor organizations, State and local elected officials, and local program administrators.

SEC. 122. STATE USE OF FUNDS.

(a) RESERVATIONS.—From funds allotted to each State under section 111(a) for each fiscal year, the eligible agency shall reserve—

(1) not more than 14 percent of the funds to carry out section 123;

(2) not more than 10 percent of the funds, or $300,000, whichever is greater, of which—

(A) $60,000 shall be available to provide technical assistance and advice to local educational agencies, postsecondary educational institutions, and other interested parties in the State for gender equity activities; and

(B) the remainder may be used to—

(i) develop the State plan;

(ii) review local applications;

(iii) monitor and evaluate program effectiveness;

(iv) provide technical assistance; and

(v) assure compliance with all applicable Federal laws, including required services and activities for individuals who are members of populations described in section 124(c)(16); and

(3) 1 percent of the funds, or the amount the State expended under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) for vocational education programs for criminal offenders for the fiscal year 1997, whichever is greater, to carry out programs for criminal offenders.

(b) REMAINDER.—From funds allotted to each State under section 111(a) for each fiscal year and not reserved under subsection (a), the eligible agency shall determine the portion of the funds that will be available to carry out sections 131 and 132.

(c) MATCHING REQUIREMENT.—Each eligible agency receiving funds under this subtitle shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(2).

SEC. 123. STATE LEADERSHIP ACTIVITIES.

(a) MANDATORY.—Each eligible agency shall use the funds reserved under section 122(a)(1) to conduct programs, services, and activities that further the development, implementation, and improvement of vocational education within the State and that are integrated, to the maximum extent possible, with challenging State academic standards, including—

(1) providing comprehensive professional development (including initial teacher preparation) for vocational, academic, guidance, and administrative personnel, that—

(A) will help the teachers and personnel to assist students in meeting the expected levels of performance established under section 112;

(B) reflects the eligible agency's assessment of the eligible agency's needs for professional development; and

(C) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.);

(2) developing and disseminating curricula that are aligned, as appropriate, with challenging State academic standards, and vocational and technological skills;

(3) monitoring and evaluating the quality of, and improvement in, activities conducted with assistance under this subtitle;

(4) providing gender equity programs in secondary and postsecondary vocational education;

(5) supporting tech-prep education activities;

(6) improving and expanding the use of technology in instruction;

(7) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technological skills; and

(8) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

(b) PERMISSIVE.—Each eligible agency may use the funds reserved under section 122(a)(1) for—

(1) improving guidance and counseling programs that assist students in making informed education and vocational decisions;

(2) supporting vocational student organizations, especially with respect to efforts to increase the participation of students who are members of populations described in section 124(c)(16);

(3) providing vocational education programs for adults and school dropouts to complete their secondary school education; and

(4) providing assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education.

SEC. 124. STATE PLAN.

(a) STATE PLAN.—

(1) IN GENERAL.—Each eligible entity desiring assistance under this subtitle for any fiscal year shall prepare and submit to the Secretary a State plan for a 3-year period, together with such annual revisions as the eligible agency determines to be necessary.

(2) COORDINATION.—The period required by paragraph (1) shall be coordinated with the period covered by the State plan described in section 304.

(3) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included with the State plan.

(b) PLAN DEVELOPMENT.—The eligible agency shall develop the State plan with representatives of secondary and postsecondary vocational education, parents, representatives of populations described in section 124(c)(16), and businesses, in the State and shall also consult the Governor of the State.

(c) PLAN CONTENTS.—The State plan shall include information that—

(1) describes the vocational education activities to be assisted that are designed to meet and reach the State performance measures;

(2) describes the integration of academic and technological education with vocational education;

(3) describes how the eligible agency will disaggregate data relating to students participating in vocational education in order to adequately measure the progress of the students;

(4) describes how the eligible agency will adequately address the needs of students in alternative education programs;

(5) describes how the eligible agency will provide local educational agencies, area vocational education schools, and eligible institutions in the State with technical assistance;

(6) describes how the eligible agency will encourage the participation of the parents of secondary school students who are involved in vocational education activities;

(7) identifies how the eligible agency will obtain the active participation of business, labor organizations, and parents in the development and improvement of vocational education activities carried out by the eligible agency;

(8) describes how vocational education relates to State and regional employment opportunities;

(9) describes the methods proposed for the joint planning and coordination of programs carried out under this subtitle with other Federal education programs;

(10) describes how funds will be used to promote gender equity in secondary and postsecondary vocational education;

(11) describes how funds will be used to improve and expand the use of technology in instruction;

(12) describes how funds will be used to serve individuals in State correctional institutions;

(13) describes how funds will be used effectively to link secondary and postsecondary education;

(14) describes how funds will be allocated and used at the secondary and postsecondary level, any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia;

(15) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(16) describes the eligible agency's program strategies for populations that include, at a minimum—

(A) low-income individuals, including foster children;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with other barriers to educational achievement, including individuals with limited English proficiency;

(17) describes how individuals who are members of the special populations described in subsection (c)(16)—

(A) will be provided with equal access to activities assisted under this title; and

(B) will not be discriminated against on the basis of their status as members of the special populations; and

(18) contains the description and information specified in paragraphs (9) and (17) of section 304(b) concerning the provision of services only for postsecondary students and school dropouts.

(d) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 112 are sufficiently rigorous to meet the purpose of this title.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding approval of State plans.

(4) TIMEFRAME.—A State plan shall be deemed approved if the Secretary has not responded to the eligible agency regarding the plan within 90 days of the date the Secretary receives the plan.

(e) ASSURANCES.—A State plan shall contain assurances that the State will comply with the requirements of this title and the provisions of the State plan, and provide for such fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State under this title.

(f) ELIGIBLE AGENCY REPORT.—

(1) IN GENERAL.—The eligible agency shall annually report to the Secretary regarding—

(A) the quality and effectiveness of the programs, services, and activities, assisted under this subtitle, based on the performance measures and expected levels of performance described in section 112; and

(B) the progress each population of individuals described in section 124(c)(16) is making toward achieving the expected levels of performance.

(2) CONTENTS.—The eligible agency report also—

(A) shall include such information, in such form, as the Secretary may reasonably require, in order to ensure the collection of uniform data; and

(B) shall be made available to the public.

CHAPTER 3—LOCAL PROVISIONS

SEC. 131. DISTRIBUTION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

(a) ALLOCATION.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available for secondary school vocational education activities under section 122(b) for any fiscal year to local educational agencies within the State as follows:

(1) 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 amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such year.

(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 with disabilities who have individualized education programs under section 614(d) of the Individuals With Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such year.

(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 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) MINIMUM ALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no local educational agency shall receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is not less than $25,000. 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) for a local educational agency that is located in a rural, sparsely populated area.

(3) REALLOCATION.—Any amounts that are not allocated by reason of paragraph (1) or (2) shall be reallocated to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(c) LIMITED JURISDICTION AGENCIES.—

(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this subtitle 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 allocated under paragraph (1) 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.

(d) 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 fiscal year by such entity for secondary school vocational education activities under section 122(b) to the appropriate area vocational education school or educational service agency in any case in which—

(A) the area vocational education school or educational service agency, and the local educational agency concerned—

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

(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

(B)(i) the area vocational education school or educational service agency serves an approximately equal or greater proportion of students who are individuals with disabilities or are low-income than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the educational service agency; or

(ii) the area vocational education school, educational service agency, or local educational agency demonstrates that the vocational education school or educational service agency is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area vocational education school or educational service agency.

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

(A) the amount that will otherwise be distributed to the local educational agency 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 described in paragraph (1)(B)(i) 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) STATE DETERMINATION.—

(A) IN GENERAL.—For the purposes of this subsection, the eligible agency may determine the number of students who are low-income on the basis of—

(i) eligibility for—

(I) free or reduced-price meals under the National School Lunch Act (7 U.S.C. 1751 et seq.);

(II) assistance under a State program funded under part A of title IV of the Social Security Act;

(III) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(IV) services under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); or

(ii) another index of economic status, including an estimate of such index, if the eligible agency demonstrates to the satisfaction of the Secretary that such index is a more representative means of determining such number.

(B) DATA.—If an eligible agency elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the eligible agency shall ensure that the data used is not duplicative.

(4) 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.

(5) SPECIAL RULE.—Notwithstanding the provisions of paragraphs (1), (2), (3), and (4), 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—

(A) 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 that are accessible to students who are individuals with disabilities or are low-income, and are served by such local educational agency; and

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

(e) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

SEC. 132. DISTRIBUTION FOR POSTSECONDARY VOCATIONAL EDUCATION.

(a) DISTRIBUTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available for

postsecondary vocational education under section 122(b) for any fiscal year to eligible institutions within the State in accordance with paragraph (2).

(2) ALLOCATION.—Each eligible institution in the State having an application approved under section 134 for a fiscal year shall be allocated an amount that bears the same relationship to the amount of funds made available for postsecondary vocational education under section 122(b) for the fiscal year as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled for the preceding fiscal year by such eligible institution in vocational education programs that do not exceed 2 years in duration bears to the number of such recipients enrolled in such programs within the State for such fiscal year.

(3) SPECIAL RULE FOR CONSORTIA.—In order for a consortium described in section 2(12)(E) to receive assistance under this section, such consortium shall operate joint projects that—

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

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

(4) MINIMUM ALLOCATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no eligible institution shall receive an allocation under paragraph (2) unless the amount allocated to the eligible institution under paragraph (2) is not less than $65,000.

(B) WAIVER.—The eligible agency may waive the application of subparagraph (A) in any case in which the eligible institution is located in a rural, sparsely populated area.

(C) REALLOCATION.—Any amounts that are not allocated by reason of subparagraph (A) or (B) shall be reallocated to eligible institutions that meet the requirements of subparagraph (A) or (B) in accordance with the provisions of this section.

(5) DEFINITION OF 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).

(b) ALTERNATIVE ALLOCATION.—An eligible agency may allocate funds made available for postsecondary education under section 122(b) for a fiscal year using an alternative formula if the eligible agency demonstrates to the Secretary's satisfaction that—

(1) the alternative formula better meets the purpose of this title; and

(2)(A) the formula described in subsection (a) does not result in an allocation of funds to the eligible institutions that serve the highest numbers or percentages of low-income students; and

(B) the alternative formula will result in such a distribution.

SEC. 133. LOCAL ACTIVITIES.

(a) MANDATORY.—Funds made available to a local educational agency or an eligible institution under this subtitle shall be used—

(1) to initiate, improve, expand, and modernize quality vocational education programs;

(2) to improve or expand the use of technology in vocational instruction, including professional development in the use of technology, which instruction may include distance learning;

(3) to provide services and activities that are of sufficient size, scope, and quality to be effective;

(4) to integrate academic education with vocational education for students participating in vocational education;

(5) to link secondary education (as determined under State law) and postsecondary education, including implementing tech-prep programs;

(6) to provide professional development activities to teachers, counselors, and administrators, including—

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

(B) internship programs that provide business experience to teachers; and

(C) programs designed to train teachers specifically in the use and application of technology;

(7) to develop and implement programs that provide access to, and the supportive services needed to participate in, quality vocational education programs for students, including students who are members of the populations described in section 124(c)(16);

(8) to develop and implement performance management systems and evaluations; and

(9) to promote gender equity in secondary and postsecondary vocational education.

(b) PERMISSIVE.—Funds made available to a local educational agency or an eligible institution under this subtitle may be used—

(1) to carry out student internships;

(2) to provide guidance and counseling for students participating in vocational education programs;

(3) to provide vocational education programs for adults and school dropouts to complete their secondary school education;

(4) to acquire and adapt equipment, including instructional aids;

(5) to support vocational student organizations;

(6) to provide assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education; and

(7) to support other vocational education activities that are consistent with the purpose of this title.

SEC. 134. LOCAL APPLICATION.

(a) IN GENERAL.—Each local educational agency or eligible institution desiring assistance under this subtitle shall submit an application to the eligible agency at such time, in such manner, and accompanied by such information as the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) may require.

(b) CONTENTS.—Each application shall, at a minimum—

(1) describe how the vocational education activities will be carried out pertaining to meeting the expected levels of performance;

(2) describe the process that will be used to independently evaluate and continuously improve the performance of the local educational agency or eligible institution, as appropriate;

(3) describe how the local educational agency or eligible institution, as appropriate, will plan and consult with students, parents, representatives of populations described in section 124(c)(16), businesses, labor organizations, and other interested individuals, in carrying out activities under this subtitle;

(4) describe how the local educational agency or eligible institution, as appropriate, will review vocational education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to the programs, for populations described in section 124(c)(16); and

(5) describe how individuals who are members of the special populations described in section 124(c)(16) will not be discriminated against on the basis of their status as members of the special populations.

SEC. 135. CONSORTIA.

A local educational agency and an eligible institution may form a consortium to carry out the provisions of this chapter if the sum of the amount the consortium receives for a fiscal year under sections 131 and 132 equals or exceeds $65,000.

Subtitle B—Tech-Prep Education

SEC. 151. SHORT TITLE.

This subtitle may be cited as the ''Tech-Prep Education Act''.

SEC. 152. PURPOSES.

The purposes of this subtitle are—

(1) to provide implementation grants to consortia of local educational agencies, postsecondary educational institutions, and employers or labor organizations, for the development and operation of programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate;

(2) to provide, in a systematic manner, strong, comprehensive links among secondary schools, postsecondary educational institutions, and local or regional employers, or labor organizations; and

(3) to support the use of contextual, authentic, and applied teaching and curriculum based on each State's academic, occupational, and employability standards.

SEC. 153. DEFINITIONS.

(a) In this subtitle:

(1) ARTICULATION AGREEMENT.—The term ''articulation agreement'' means a written commitment to a program designed to provide students with a non duplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

(2) COMMUNITY COLLEGE.—The term ''community college''—

(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141) for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled community colleges.

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

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

(B) integrates academic and vocational instruction, and utilizes work-based and worksite learning where appropriate and available;

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

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

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

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

SEC. 154. PROGRAM AUTHORIZED.

(a) DISCRETIONARY AMOUNTS.—

(1) IN GENERAL.—For any fiscal year for which the amount appropriated under section 157 to carry out this subtitle is equal to or less than $50,000,000, the Secretary shall award grants for tech-prep education programs to consortia between or among—

(A) a local educational agency, an intermediate educational agency or area vocational education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

(B)(i) a nonprofit institution of higher education that offers—

(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), including an institution receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational institution; or

(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of

section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

(A) institutions of higher education that award a baccalaureate degree; and

(B) employer or labor organizations.

(b) STATE GRANTS.—

(1) IN GENERAL.—For any fiscal year for which the amount made available under section 157 to carry out this subtitle exceeds $50,000,000, the Secretary shall allot such amount among the States in the same manner as funds are allotted to States under paragraphs (2), (3), and (4) of section 111(a).

(2) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State's allotment under this paragraph to the eligible agency that serves the State and has an application approved under paragraph (4).

(3) AWARD BASIS.—From amounts made available to each eligible agency under this subsection, the eligible agency shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs to consortia described in subsection (a).

(4) STATE APPLICATION.—Each eligible agency desiring assistance under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

SEC. 155. TECH-PREP EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—Each consortium shall use amounts provided through the grant to develop and operate a tech-prep education program.

(b) CONTENTS OF PROGRAM.—Any such tech-prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate's degree or a certificate in a specific career field;

(3) include the development of tech-prep education program curricula for both secondary and postsecondary levels that—

(A) meets academic standards developed by the State;

(B) links secondary schools and 2-year postsecondary institutions, and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields;

(C) uses, where appropriate and available, work-based or worksite learning in conjunction with business and industry; and

(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs.

(4) include a professional development program for academic, vocational, and technical teachers that—

(A) is designed to train teachers to effectively implement tech-prep education curricula;

(B) provides for joint training for teachers from all participants in the consortium;

(C) is designed to ensure that teachers stay current with the needs, expectations, and methods of business and industry;

(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

(E) provides training in the use and application of technology;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) make tech-prep education opportunities known to students interested in such activities;

(B) ensure that such students successfully complete such programs;

(C) ensure that such students are placed in appropriate employment; and

(D) stay current with the needs, expectations, and methods of business and industry;

(6) provide equal access to the full range of technical preparation programs to individuals who are members of populations described in section 124(c)(16), including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) provide for preparatory services that assist all participants in such programs.

(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such tech-prep program may—

(1) provide for the acquisition of tech-prep education program equipment;

(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs;

(3) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

(4) establish articulation agreements with institutions of higher education, labor organizations, or businesses located outside of the State served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

SEC. 156. APPLICATIONS.

(a) IN GENERAL.—Each consortium that desires to receive a grant under this subtitle shall submit an application to the Secretary or the eligible agency, as appropriate, at such time and in such manner as the Secretary or the eligible agency, as appropriate, shall prescribe.

(b) THREE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this subtitle.

(c) APPROVAL.—The Secretary or the eligible agency, as appropriate, shall approve applications based on the potential of the activities described in the application to create an effective tech-prep education program described in section 155.

(d) SPECIAL CONSIDERATION.—The Secretary or the eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to 4-year institutions of higher education;

(2) are developed in consultation with 4-year institutions of higher education;

(3) address effectively the needs of populations described in section 124(c)(16);

(4) provide education and training in areas or skills where there are significant workforce shortages, including the information technology industry; and

(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this subtitle, the Secretary shall ensure an equitable distribution of assistance among States, and the Secretary or the eligible agency, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(f) NOTICE.—

(1) IN GENERAL.—In the case of grants to be awarded by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

(2) NOTIFICATION.—The Secretary shall notify the State educational agency and the State agency for higher education of a State each time a consortium located in the State is selected to receive a grant under this subtitle.

SEC. 157. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

SEC. 158. DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 154(a) to enable the consortia to carry out tech-prep education programs.

(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

(1) shall—

(A) involve the location of a secondary school on the site of a community college;

(B) involve a business as a member of the consortium; and

(C) require the voluntary participation of secondary school students in the tech-prep education program; and

(2) may provide summer internships at a business for students or teachers.

(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

(d) APPLICABILITY.—The provisions of sections 154, 155, 156, and 157 shall not apply to this section, except that—

(1) the provisions of section 154(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 155(b), except that such paragraph (3)(B) shall be applied by striking '', and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields''; and

(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 156(d), except that such paragraph (1) shall be applied by striking ''or the transfer of students to 4-year institutions of higher education''.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle C—General Provisions

SEC. 161. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this title for vocational education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational education and tech-prep activities.

(b) MAINTENANCE OF EFFORT.—

(1) DETERMINATION.—No payments shall be made under this title for any fiscal year to an eligible agency for vocational education or tech-prep activities unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of the State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second fiscal

year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant 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 section 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.

(c) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 162. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) LOCAL EVALUATION.—Each eligible agency shall evaluate annually the vocational education and tech-prep activities of each local educational agency or eligible institution receiving assistance under this title, using the performance measures established under section 112.

(b) IMPROVEMENT ACTIVITIES.—If, after reviewing the evaluation, an eligible agency determines that a local educational agency or eligible institution is not making substantial progress in achieving the purpose of this title, the local educational agency or eligible institution, in consultation with teachers, parents, and other school staff, shall—

(1) conduct an assessment of the educational and other problems that the local educational agency or eligible institution shall address to overcome local performance problems;

(2) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

(3) conduct regular evaluations of the progress being made toward program improvement goals.

(c) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 124, or is not making substantial progress in meeting the purpose of this title, based on the performance measures and expected levels of performance under section 112 included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(d) WITHHOLDING OF FEDERAL FUNDS.—If, after a reasonable time, but not earlier than 1 year after implementing activities described in subsection (c), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant funds under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services, and activities within the State to meet the purpose of this title.

SEC. 163. NATIONAL ACTIVITIES.

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation, capacity-building, and technical assistance activities that carry out the purpose of this title.

SEC. 164. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a national assessment of vocational education programs assisted under this title, through studies and analyses conducted independently through competitive awards.

(b) INDEPENDENT ADVISORY PANEL.—The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of labor organizations, business, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed and the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

(c) CONTENTS.—The assessment required under subsection (a) shall include descriptions and evaluations of—

(1) the effect of the vocational education programs assisted under this title on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal, and local vocational education systems to address the purpose of this title;

(2) expenditures at the Federal, State, tribal, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State distribution formulas) on the delivery of services;

(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

(4) participation in vocational education programs;

(5) academic and employment outcomes of vocational education, including analyses of—

(A) the number of vocational education students and tech-prep students who meet State academic standards;

(B) the extent and success of integration of academic and vocational education for students participating in vocational education programs; and

(C) the degree to which vocational education is relevant to subsequent employment or participation in postsecondary education;

(6) employer involvement in, and satisfaction with, vocational education programs;

(7) the use and impact of educational technology and distance learning with respect to vocational education and tech-prep programs; and

(8) the effect of performance measures, and other measures of accountability, on the delivery of vocational education services.

(d) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate in the design and implementation of the assessment required under subsection (a).

(2) REPORTS.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary—

(A) an interim report regarding the assessment on or before July 1, 2001; and

(B) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

(3) PROHIBITION.—Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under subsection (b) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

SEC. 165. NATIONAL RESEARCH CENTER.

(a) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary, through grants, contracts, or cooperative agreements, may establish 1 or more national centers in the areas of—

(A) applied research and development; and

(B) dissemination and training.

(2) CONSULTATION.—The Secretary shall consult with the States prior to establishing 1 or more such centers.

(3) ELIGIBLE ENTITIES.—Entities eligible to receive funds under this section are institutions of higher education, other public or private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

(b) ACTIVITIES.—

(1) IN GENERAL.—The national center or centers shall carry out such activities as the Secretary determines to be appropriate to assist State and local recipients of funds under this title to achieve the purpose of this title, which may include the research and evaluation activities in such areas as—

(A) the integration of vocational and academic instruction, secondary and postsecondary instruction;

(B) effective inservice and preservice teacher education that assists vocational education systems;

(C) education technology and distance learning approaches and strategies that are effective with respect to vocational education;

(D) performance measures and expected levels of performance that serve to improve vocational education programs and student achievement;

(E) effects of economic changes on the kinds of knowledge and skills required for employment or participation in postsecondary education;

(F) longitudinal studies of student achievement; and

(G) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include—

(i) serving as a repository for information on vocational and technological skills, State academic standards, and related materials; and

(ii) developing and maintaining national networks of educators who facilitate the development of vocational education systems.

(2) REPORT.—The center or centers conducting the activities described in paragraph (1) annually shall prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary shall submit that report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

(c) REVIEW.—The Secretary shall—

(1) consult at least annually with the national center or centers and with experts in education to ensure that the activities of the national center or centers meet the needs of vocational education programs; and

(2) undertake an independent review of each award recipient under this section prior to extending an award to such recipient beyond a 5-year period.

SEC. 166. DATA SYSTEMS.

(a) IN GENERAL.—The Secretary shall maintain a data system to collect information about, and report on, the condition of vocational education and on the effectiveness of State and

local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational education. The Secretary annually shall report to Congress on the Secretary's analysis of performance data collected each year pursuant to this title, including an analysis of performance data regarding the populations described in section 124(c)(16).

(b) DATA SYSTEM.—In maintaining the data system, the Secretary shall ensure that the data system is compatible with other Federal information systems.

(c) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational education for a nationally representative sample of students. Such assessment may include international comparisons.

SEC. 167. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking ''to be held in 1995''; and

(2) in subsection (b)—

(A) in paragraph (4), by striking ''in the summer of 1995;'' and inserting ''; and'';

(B) in paragraph (5), by striking ''in 1996 and thereafter, as well as replicate such program internationally; and'' and inserting ''and internationally.''; and

(C) by striking paragraph (6).

SEC. 168. DEFINITION.

In this title, the term ''gender equity'', used with respect to a program, service, or activity, means a program, service, or activity that is designed to ensure that men and women (including single parents and displaced homemakers) have access to opportunities to participate in vocational education that prepares the men and women to enter high-skill, high-wage careers.

Subtitle D—Authorization of Appropriations

SEC. 171. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out subtitle (A), and sections 163, 164, 165, and 166, such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle E—Repeal

SEC. 181. REPEAL.

(a) REPEAL.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is repealed.

(b) 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 ''Carl D. Perkins Vocational and Applied Technology Education Act of 1998''.

(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) 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 ''Carl D. Perkins Vocational and Applied Technology Education Act of 1998'';

(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 ''Carl D. Perkins Vocational and Applied Technology Education Act of 1998'';

(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 ''Carl D. Perkins Vocational and Applied Technology Education Act of 1998''.

(4) 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 Carl D. Perkins Vocational and Applied Technology Education Act of 1998''.

(5) 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, 1999''.

(6) 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 2(3) of the Workforce Investment Partnership Act of 1998''; 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 2 of such Act)''.

(7) 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 ''Carl D. Perkins Vocational and Applied Technology Education Act of 1998''.

(8) 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 Carl D. Perkins Vocational and Applied Technology Education Act of 1998''.

(9) 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 ''employment and training programs'' and inserting ''workforce investment activities''; and

(ii) by striking ''the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)'' and inserting ''the Carl D. Perkins Vocational and Applied Technology Education Act of 1998''.

TITLE II—ADULT EDUCATION AND LITERACY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Adult Education and Literacy Act''.

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the National Adult Literacy Survey and other studies have found that more than one-fifth of American adults demonstrate very low literacy skills that make it difficult for the adults to be economically self-sufficient, much less enter high-skill, high-wage jobs;

(2) data from the National Adult Literacy Survey show that adults with very low levels of literacy are 10 times as likely to be poor as adults with high levels of literacy; and

(3) our Nation's well-being is dependent on the knowledge and skills of all of our Nation's citizens.

(b) PURPOSE.—It is the purpose of this title to create a partnership among the Federal Government, States, and localities to help provide for adult education and literacy services so that adults who need such services, will, as appropriate, be able to—

(1) become literate and obtain the knowledge and skills needed to compete in a global economy;

(2) complete a secondary school education; and

(3) have the education skills necessary to support the educational development of their children.

Subtitle A—Adult Education and Literacy Programs

CHAPTER 1—FEDERAL PROVISIONS

SEC. 211. RESERVATION; GRANTS TO STATES; ALLOTMENTS.

(a) RESERVATION OF FUNDS FOR NATIONAL LEADERSHIP ACTIVITIES.—From the amount appropriated for any fiscal year under section 246, the Secretary shall reserve—

(1) 1.5 percent to carry out section 213;

(2) 2 percent to carry out section 243; and

(3) 1.5 percent to carry out section 245.

(b) GRANTS TO STATES.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year to enable the eligible agency to carry out the activities assisted under this subtitle.

(c) ALLOTMENTS.—

(1) INITIAL ALLOTMENTS.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary first shall allot to each eligible agency having a State plan approved under section 224 the following amounts:

(A) $100,000 in the case of an eligible agency serving 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) $250,000, in the case of any other eligible agency.

(2) ADDITIONAL ALLOTMENTS.—From the sum appropriated under section 246, not reserved under subsection (a), and not allotted under paragraph (1), for any fiscal year, the Secretary shall allot to each eligible agency an amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) QUALIFYING ADULT.—For the purposes of this subsection, the term ''qualifying adult'' means an adult who—

(1) is at least 16 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not possess a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) SPECIAL RULE.—

(1) IN GENERAL.—From amounts made available under subsection (c) for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the Secretary

shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this subtitle that the Secretary determines are not inconsistent with this subsection.

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—An eligible agency may receive a grant under this subtitle for any fiscal year only if the Secretary finds that the amount expended by the State for adult education and literacy, in the second fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of the amount expended for adult education and literacy in the third fiscal year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this subsection for 1 fiscal year only if the Secretary determines that such a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State.

(g) REALLOTMENT.—If the Secretary determines that any amount of a State's allotment under this section for any fiscal year will not be required for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallotment to 1 or more States on the basis that the Secretary determines would best serve the purpose of this title.

SEC. 212. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) PERFORMANCE MEASURES.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(1) Demonstrated improvements in literacy skill levels in reading, writing and speaking the English language, numeracy, and problem-solving.

(2) Attainment of secondary school diplomas or their recognized equivalent.

(3) Placement in, retention in, or completion of, postsecondary education, training, or unsubsidized employment.

(b) EXPECTED LEVELS OF PERFORMANCE.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 213. NATIONAL LEADERSHIP ACTIVITIES.

(a) AUTHORITY.—From the amount reserved under section 211(a)(1) for any fiscal year, the Secretary may establish a program of national leadership and evaluation activities to enhance the quality of adult education and literacy nationwide.

(b) METHOD OF FUNDING.—The Secretary may carry out national leadership and evaluation activities directly or through grants, contracts, or cooperative agreements.

(c) USES OF FUNDS.—Funds made available to carry out this section shall be used for—

(1) research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(2) demonstration of model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs;

(3) dissemination, such as dissemination of information regarding promising practices resulting from federally funded demonstration programs;

(4) evaluations and assessments, such as periodic independent evaluations of activities assisted under this subtitle and assessments of the condition and progress of literacy in the United States;

(5) efforts to support capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities under this subtitle;

(6) data collection, such as improvement of both local and State data systems through technical assistance and development of model performance data collection systems;

(7) professional development, such as technical assistance activities to advance effective training practices, identify exemplary professional development projects, and disseminate new findings in adult education training;

(8) technical assistance, such as endeavors that aid distance learning, and promote and improve the use of technology in the classroom; or

(9) other activities designed to enhance the quality of adult education and literacy nationwide.

CHAPTER 2—STATE PROVISIONS

SEC. 221. STATE ADMINISTRATION.

(a) IN GENERAL.—Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subtitle; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

(b) STATE-IMPOSED REQUIREMENTS.—Whenever a State imposes any rule or policy relating to the administration and operation of activities funded under this subtitle (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline), the State shall identify the rule or policy as a State-imposed requirement.

SEC. 222. STATE DISTRIBUTION OF FUNDS; STATE SHARE.

(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than 80 percent of the grant funds to carry out section 225 and to award grants and contracts under section 231, of which not more than 10 percent of the 80 percent shall be available to carry out section 225;

(2) shall use not more than 15 percent of the grant funds to carry out State leadership activities under section 223; and

(3) shall use not more than 5 percent of the grant funds, or $80,000, whichever is greater, for administrative expenses of the eligible agency.

(b) STATE SHARE REQUIREMENT.—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide an amount equal to 25 percent of the total amount of funds expended for adult education in the State or outlying area, except that the Secretary may decrease the amount of funds required under this subsection for an eligible agency serving an outlying area.

(2) STATE'S SHARE.—An eligible agency's funds required under paragraph (1) may be in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subtitle.

SEC. 223. STATE LEADERSHIP ACTIVITIES.

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for 1 or more of the following activities:

(1) Professional development and training, including training in the use of software and technology.

(2) Developing and disseminating curricula for adult education and literacy activities.

(3) Monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this subtitle.

(4) Establishing challenging performance measures and levels of performance for literacy proficiency in order to assess program quality and improvement.

(5) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(6) Linkages with postsecondary institutions.

(7) Supporting State or regional networks of literacy resource centers.

(8) Other activities of statewide significance that promote the purpose of this subtitle.

(b) COLLABORATION.—In carrying out this section, eligible agencies shall collaborate where possible and avoid duplicating efforts in order to maximize the impact of the activities described in subsection (a).

SEC. 224. STATE PLAN.

(a) 3-YEAR PLANS.—

(1) IN GENERAL.—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a 3-year State plan.

(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) PLAN CONTENTS.—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State for adult education and literacy activities, including individuals most in need or hardest to serve, such as educationally disadvantaged adults, immigrants, individuals with limited English proficiency, incarcerated individuals, homeless individuals, recipients of public assistance, and individuals with disabilities;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 212;

(4) a description of how the eligible agency will ensure that the data reported to the eligible agency from eligible providers under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(5) a description of the performance measures required under section 212(a) and how such performance measures and the expected levels of performance will ensure improvement of adult education and literacy activities in the State or outlying area;

(6) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

(7) a description of how the eligible agency will fund local activities in accordance with the priorities described in section 242(a);

(8) a description of how the eligible agency will determine which eligible providers are eligible for funding in accordance with the preferences described in section 242(b);

(9) a description of how funds will be used for State leadership activities, which activities may include professional development and training, instructional technology, and management technology;

(10) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirement in section 241;

(11) a description of the process that will be used for public participation and comment with respect to the State plan;

(12) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(13) a description of the measures that will be taken by the eligible agency to assure coordination of and avoid duplication among—

(A) adult education activities authorized under this subtitle;

(B) activities authorized under title III;

(C) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(D) a work program authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(E) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(F) activities authorized under chapter 41 of title 38, United States Code;

(G) training activities carried out by the Department of Housing and Urban Development; and

(H) programs authorized under State unemployment compensation laws in accordance with applicable Federal law; and

(14) the description and information specified in paragraphs (9) and (17) of section 304(b).

(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit a revision to the State plan to the Secretary.

(d) CONSULTATION.—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 212 are sufficiently rigorous to meet the purpose of this title.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

(a) PROGRAM AUTHORIZED.—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education or education for other institutionalized individuals.

(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the State;

(3) bilingual programs, or English as a second language programs; and

(4) secondary school credit programs.

(c) DEFINITION OF CRIMINAL OFFENDER.—

(1) CRIMINAL OFFENDER.—The term ''criminal offender'' means any individual who is charged with or convicted of any criminal offense.

(2) CORRECTIONAL INSTITUTION.—The term ''correctional institution'' means any—

(A) prison;

(B) jail;

(C) reformatory;

(D) work farm;

(E) detention center; or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

CHAPTER 3—LOCAL PROVISIONS

SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

(a) GRANTS.—From funds made available under section 222(a)(1), each eligible agency shall award multiyear grants or contracts to eligible providers within the State to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) SPECIAL RULE.—Each eligible agency receiving funds under this subtitle shall ensure that all eligible providers have direct and equitable access to apply for grants or contracts under this section.

(c) REQUIRED LOCAL ACTIVITIES.—Each eligible provider receiving a grant or contract under this subtitle shall establish programs that provide instruction or services that meet the purpose described in section 202(b), such as—

(1) adult education and literacy services; or

(2) English literacy programs.

SEC. 232. LOCAL APPLICATION.

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent;

(2) how the expected levels of performance of the eligible provider with respect to participant recruitment, retention, and performance measures described in section 212, will be met and reported to the eligible agency; and

(3) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy programs.

SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.

(a) IN GENERAL.—Subject to subsection (b), of the sum that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

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

CHAPTER 4—GENERAL PROVISIONS

SEC. 241. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 242. PRIORITIES AND PREFERENCES.

(a) PRIORITIES.—Each eligible agency and eligible provider receiving assistance under this subtitle shall give priority in using the assistance to adult education and literacy activities that—

(1) are built on a strong foundation of research and effective educational practice;

(2) effectively employ advances in technology, as appropriate, including the use of computers;

(3) provide learning in real life contexts to ensure that an individual has the skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship;

(4) are staffed by well-trained instructors, counselors, and administrators;

(5) are of sufficient intensity and duration for participants to achieve substantial learning gains, such as by earning a basic skills certificate that reflects skills acquisition and has meaning to employers;

(6) establish measurable performance levels for participant outcomes, such as levels of literacy achieved and attainment of a secondary school diploma or its recognized equivalent, that are tied to challenging State performance levels for literacy proficiency;

(7) coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary institutions, 1-stop customer service centers, job training programs, and social service agencies;

(8) offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs; and

(9) maintain a high-quality information management system that has the capacity to report client outcomes and to monitor program performance against the State performance measures.

(b) PREFERENCES.—In determining which eligible providers will receive funds under this subtitle for a fiscal year, each eligible agency receiving a grant under this subtitle, in addition to addressing the priorities described in subsection (a), shall—

(1) give preference to eligible providers that the eligible agency determines serve—

(A) local areas with high concentrations of individuals in poverty or with low levels of literacy (including English language proficiency); or

(B) local communities that have a demonstrated need for additional English as a second language programs; and

(2) consider—

(A) the results, if any, of the evaluations required under section 244(a); and

(B) the degree to which the eligible provider will coordinate with and utilize other literacy and social services available in the community.

SEC. 243. INCENTIVE GRANTS.

(a) IN GENERAL.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment programs as determined by the State.

SEC. 244. EVALUATION, IMPROVEMENT, AND ACCOUNT-ABILITY.

(a) LOCAL EVALUATION.—Each eligible agency shall biennially evaluate the adult education and literacy activities of each eligible provider that receives a grant or contract under this subtitle, using the performance measures established under section 212.

(b) IMPROVEMENT ACTIVITIES.—If, after reviewing the evaluation, an eligible agency determines that an eligible provider is not making substantial progress in achieving the purpose of this subtitle, the eligible agency may work jointly with the eligible provider to develop an improvement plan. If, after not more than 2 years of implementation of the improvement plan, the eligible agency determines that the eligible provider is not making substantial progress, the eligible agency shall take whatever corrective action the eligible agency deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with State law. The eligible agency shall take corrective action under the preceding sentence only after the eligible agency has provided technical assistance to the eligible provider and shall ensure, to the extent practicable, that any corrective action the eligible agency takes allows for continued services to and activities for the individuals served by the eligible provider.

(c) STATE REPORT.—

(1) IN GENERAL.—The eligible agency shall report annually to the Secretary regarding the quality and effectiveness of the adult education and literacy activities funded through the eligible agency's grants or contracts under this subtitle, based on the performance measures and expected levels of performance included in the State plan.

(2) INFORMATION.—The eligible agency shall include in the reports such information, in such form, as the Secretary may require in order to ensure the collection of uniform national data.

(3) AVAILABILITY.—The eligible agency shall make available to the public the annual report under this subsection.

(d) TECHNICAL ASSISTANCE.—If the Secretary determines that the eligible agency is not properly implementing the eligible agency's responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this subtitle, based on the performance measures and expected levels of performance included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(e) WITHHOLDING OF FEDERAL FUNDS.—If, not earlier than 2 years after implementing activities described in subsection (d), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services and activities within the State to meet the purpose of this title.

SEC. 245. NATIONAL INSTITUTE FOR LITERACY.

(a) PURPOSE.—The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) is a national resource for adult education and literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved literacy services.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There shall be a 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 with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the ''Interagency Group''). The Secretary may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education the purpose of which is determined by the Secretary to be related to the purpose of the Institute.

(2) RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the ''Board'') established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board's recommendations.

(3) DAILY OPERATIONS.—The daily operations of the Institute shall be administered by the Director of the Institute.

(c) DUTIES.—

(1) IN GENERAL.—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized to—

(A) establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including the integration of such instruction with occupational skills training;

(ii) public and private literacy and basic skills programs and Federal, State, and local policies affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) coordinate the support of research and development on literacy and basic skills for adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies;

(D) collect and disseminate information on methods of advancing literacy;

(E) provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services; and

(ii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources; and

(G) undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. 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.

(d) LITERACY LEADERSHIP.—

(1) IN GENERAL.—The Institute may, in consultation with the Board, award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) INTERNSHIPS.—The Institute, in consultation with the Board, is authorized to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's purpose and to accept assistance from volunteers.

(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There shall be a National Institute for Literacy Advisory Board, which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) COMPOSITION.—The Board shall comprise individuals who are not otherwise officers or employees of the Federal Government and who are representative of such entities as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English as a second language programs and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) labor organizations.

(2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute; and

(B) provide independent advice on the operation of the Institute.

(3) APPOINTMENTS.—

(A) IN GENERAL.—Appointments to the Board made after the date of enactment of the Workforce Investment Partnership Act shall be for 3-year terms, except that the initial terms for members may be established at 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(4) OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members.

(5) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of its members.

(f) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) RULES.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) REPORT.—The Institute shall submit a biennial report to the Interagency Group and Congress.

(l) NONDUPLICATION.—The Institute shall not duplicate any functions carried out by the Secretary, the Secretary of Labor, or the Secretary of Health and Human Services under this subtitle. This subsection shall not be construed to prohibit the Secretaries from delegating such functions to the Institute.

(m) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

SEC. 246. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle B—Repeal

SEC. 251. REPEAL.

(a) REPEAL.—The Adult Education Act (20 U.S.C. 1201 et. seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking ''Adult Education Act'' and inserting ''Workforce Investment Partnership Act of 1998''.

(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 Investment Partnership Act of 1998''.

(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 Investment Partnership Act of 1998''.

(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 2 of the Workforce Investment Partnership Act of 1998''.

(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 2 of the Workforce Investment Partnership Act of 1998''.

(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 Investment Partnership Act of 1998''.

(4) NATIONAL LITERACY ACT OF 1991.—The National Literacy Act of 1991 (20 U.S.C. 1201 note) is repealed.

TITLE III—WORKFORCE INVESTMENT AND RELATED ACTIVITIES

Subtitle A—Workforce Investment Activities

CHAPTER 1—ALLOTMENTS TO STATES FOR ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES

SEC. 301. GENERAL AUTHORIZATION.

The Secretary of Labor shall make an allotment to each State that has a State plan approved under section 304 and a grant to each outlying area that complies with the requirements of this title, to enable the State or outlying area to assist local areas in providing, through a statewide workforce investment system—

(1) adult employment and training activities;

(2) dislocated worker employment and training activities; and

(3) youth activities, including summer employment opportunities, tutoring, activities to promote study skills, alternative secondary school services, employment skill training, adult mentoring, and supportive services.

SEC. 302. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 322(a) for a fiscal year in accordance with subsection (b)(1);

(2)(A) reserve 20 percent of the amount appropriated under section 322(b) for a fiscal year for use under subsection (b)(2)(A), and under sections 366(b)(2), 367(f), and 369; and

(B) make allotments from 80 percent of the amount appropriated under section 322(b) for a fiscal year in accordance with subsection (b)(2)(B); and

(3)(A) for each fiscal year in which the amount appropriated under section 322(c) exceeds $1,000,000,000, reserve a portion determined under subsection (b)(3)(A) of the amount appropriated under section 322(c) for use under sections 362 and 364; and

(B) use the remainder of the amount appropriated under section 322(c) for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(3) and make funds available for use under section 361.

(b) ALLOTMENT AMONG STATES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out adult employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 202(a)(1) of the Job Training Partnership Act (29 U.S.C. 1602(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make 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 adult employment and training activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 307(a)(2)(A)(ii), the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE.—The Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I) and (III), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than ⅖ of 1 percent of the remainder described in clause (i) for a fiscal year.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(v) DEFINITIONS.—In this subparagraph:

(I) ADULT.—The term ''adult'' means an individual who is not less than age 22 and not more than age 72.

(II) ALLOTMENT PERCENTAGE.—The term ''allotment percentage'', used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the remainder described in clause (i), received through an allotment made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allotted to States under section 202(a) of the Job Training Partnership Act (29 U.S.C. 1602(a)) (as in effect on the day before the date of enactment of this Act) received under such section by the State involved for fiscal year 1998.

(III) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term ''area of substantial unemployment'' means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) DISADVANTAGED ADULT.—Subject to subclause (V), the term ''disadvantaged adult'' means an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(V) DISADVANTAGED ADULT SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude students at an institution of higher education and members of the Armed Forces from the determination of the number of disadvantaged adults.

(VI) EXCESS NUMBER.—The term ''excess number'' means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(bb) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(2) DISLOCATED WORKER EMPLOYMENT AND TRAINING.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent of the amount made available under subsection (a)(2)—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out dislocated worker employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 302(e) of the Job Training Partnership Act (29 U.S.C. 1652(e)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make 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 dislocated worker employment and training activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—The Secretary shall allot the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities.

(ii) FORMULA.—Of the amount—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(iii) DEFINITION.—In this subparagraph, the term ''excess number'' means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) YOUTH ACTIVITIES.—

(A) YOUTH OPPORTUNITY GRANTS.—

(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 322(c) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 364 and provide youth activities under section 362.

(ii) PORTION.—The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount described in clause (i); and

(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—From the portion described in clause (i) for a fiscal year, the Secretary shall make available $10,000,000 to provide youth activities under section 362.

(iv) ROLE MODEL ACADEMY PROJECT.—From the portion described in clause (i) for fiscal year 1999, the Secretary shall make available not more than $10,000,000 to carry out section 364(g).

(B) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(3)(B) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out youth activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (29 U.S.C. and 1631(a) and 1642(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make 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 youth activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(C) STATES.—

(i) IN GENERAL.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(3)(B) for a fiscal year, make available $15,000,000 to provide youth activities under section 361; and

(II) allot the remainder of the amount referred to in subsection (a)(3)(B) for a fiscal year to the States pursuant to clause (ii) for youth activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(I);

(II) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(II); and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 307(a)(2)(A)(ii), the allotment shall be based on the higher of—

(I) the number of youth in families with an income below the low-income level in such area; or

(II) the number of disadvantaged youth in such area.

(iv) MINIMUM PERCENTAGE; MAXIMUM PERCENTAGE; SMALL STATE MINIMUM ALLOTMENT.—

(I) IN GENERAL.—Except as provided in subclause (II), the requirements of clauses (iv) and (v) of paragraph (1)(B) shall apply to allotments made under this subparagraph in the same manner and to the same extent as the requirements apply to allotments made under paragraph (1)(B).

(II) EXCEPTIONS.—For purposes of applying the requirements of those clauses under this subparagraph—

(aa) references in those clauses to the remainder described in clause (i) of paragraph (1)(B) shall be considered to be references to the remainder described in clause (i)(II) of this subparagraph; and

(bb) the term ''allotment percentage'', used with respect to fiscal year 1998, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (29 U.S.C. 1631(b) and 1642(a)) (as in effect on the day before the date of enactment of this Act) received under such sections by the State involved for fiscal year 1998.

(v) DEFINITIONS.—In this subparagraph:

(I) DISADVANTAGED YOUTH.—The term ''disadvantaged youth'' means a youth who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(II) DISADVANTAGED YOUTH SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude students at an institution of higher education and members of the Armed Forces from the determination of the number of disadvantaged youth.

(III) YOUTH.—The term ''youth'' means an individual who is not less than age 16 and not more than age 21.

(4) DEFINITIONS.—In this subsection:

(A) FREELY ASSOCIATED STATES.—The term ''Freely Associated States'' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) LOW-INCOME LEVEL.—The term ''low-income level'', used with respect to a year, means that amount that bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

SEC. 303. STATEWIDE PARTNERSHIP.

(a) IN GENERAL.—The Governor of a State shall establish and appoint the members of a statewide partnership to assist in the development of the State plan described in section 304 and carry out the functions described in subsection (d).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The statewide partnership shall include—

(A) the Governor;

(B) representatives, appointed by the Governor, who—

(i) are representatives of business in the State;

(ii) are owners of businesses, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local partnerships described in section 308(c)(2)(A)(i);

(iii) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(iv) are appointed from among individuals nominated by State business organizations and business trade associations;

(C) representatives, appointed by the Governor, who are individuals who have optimum policymaking authority, including—

(i) representatives of—

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

(II) labor organizations, who have been nominated by State labor federations; and

(III) individuals, and organizations, that have experience relating to youth activities;

(ii) the eligible agency officials responsible for vocational education, including postsecondary vocational education, and for adult education and literacy, and the State officials responsible for postsecondary education (including education in community colleges); and

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

(D) such other State agency officials as the Governor may designate, such as State agency officials carrying out activities relating to employment and training, economic development, public assistance, veterans, youth, juvenile justice and the employment service established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.); and

(E) two members of each chamber of the State legislature, appointed by the appropriate presiding officer of the chamber.

(2) MAJORITY.—A majority of the members of the statewide partnership shall be representatives described in paragraph (1)(B).

(c) CHAIRMAN.—The Governor shall select a chairperson for the statewide partnership from among the representatives described in subsection (b)(1)(B).

(d) FUNCTIONS.—In addition to developing the State plan, the statewide partnership shall—

(1) advise the Governor on the development of a comprehensive statewide workforce investment system;

(2) assist the Governor in preparing the annual report to the Secretaries described in section 321(d);

(3) assist the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act; and

(4) assist in the monitoring and continuous improvement of the performance of the statewide workforce investment system, including the evaluation of the effectiveness of workforce investment activities carried out under this subtitle in serving the needs of employers seeking skilled employees and individuals seeking services.

(e) AUTHORITY OF GOVERNOR.—

(1) AUTHORITY.—The Governor shall have the final authority to determine the contents of and submit the State plan described in section 304.

(2) PROCESS.—Prior to the date on which the Governor submits a State plan under section 304, the Governor shall—

(A) make available copies of a proposed State plan to the public;

(B) allow members of the statewide partnership and members of the public, including representatives of labor organizations and businesses, to submit comments on the proposed State plan to the Governor, not later than the end of the 30-day period beginning on the date on which the proposed State plan is made available; and

(C) include with the State plan submitted to the Secretary under section 304 any such comments that represent disagreement with the plan.

(f) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board, combination of regional workforce development boards, or similar entity) that—

(A) is in existence on December 31, 1997;

(B)(i) is established pursuant to section 122 or title VII of the Job Training Partnership Act (29 U.S.C. 1532 or 1792 et seq.), as in effect on December 31, 1997; or

(ii) is substantially similar to the statewide partnership described in subsections (a), (b), and (c); and

(C) includes representatives of business in the State and representatives of labor organizations in the State.

(2) REFERENCES.—References in this Act to a statewide partnership shall be considered to include such an entity.

SEC. 304. STATE PLAN.

(a) IN GENERAL.—For a State to be eligible to receive an allotment under section 302, the Governor of the State shall submit to the Secretary for approval a single comprehensive State plan (referred to in this title as the ''State plan'') that outlines a 3-year strategy for the statewide workforce investment system of the State and that meets the requirements of section 303 and this section.

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

(1) a description of the statewide partnership described in section 303 used in developing the plan;

(2) a description of State-imposed requirements for the statewide workforce investment system;

(3) a description of the State performance measures developed for the workforce investment activities to be carried out through the system, that includes information identifying the State performance measures, established in accordance with section 321(b);

(4) information describing—

(A) the needs of the State with regard to current and projected employment opportunities;

(B) the job skills necessary to obtain the needed employment opportunities;

(C) the economic development needs of the State; and

(D) the type and availability of workforce investment activities in the State;

(5) an identification of local areas designated in the State, including a description of the process used for the designation of such areas, which shall—

(A) ensure a linkage between participants in workforce investment activities funded under this subtitle, and local employment opportunities;

(B) ensure that a significant portion of the population that lives in the local area also works in the same local area;

(C) ensure cooperation and coordination of activities between neighboring local areas; and

(D) take into consideration State economic development areas;

(6) an identification of the criteria for recognition of chief elected officials who will carry out the policy, planning, and other responsibilities authorized for the officials in this title in the local areas identified under paragraph (5);

(7) an identification of criteria for the appointment of members of local partnerships based on the requirements of section 308;

(8) the detailed plans required under section 8 of the Wagner-Peyser Act;

(9) a description of the measures that will be taken by the State to assure coordination of and avoid duplication among—

(A) workforce investment activities authorized under this subtitle;

(B) other activities authorized under this title;

(C) activities authorized under title I or II;

(D) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(E) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(F) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(G) activities authorized under chapter 41 of title 38, United States Code;

(H) training activities carried out by the Department of Housing and Urban Development; and

(I) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law);

(10) a description of the process used by the State, consistent with section 303(e)(2), to provide an opportunity for public comment, including comment by representatives of labor organizations and businesses, and input into the development of the State plan, prior to submission of the plan;

(11) a description of the process for the public to comment on members of the local partnerships;

(12) a description of the length of terms and appointment processes for members of the statewide partnership and local partnerships in the State;

(13) information identifying how the State will leverage any funds the State receives under this subtitle with other private and Federal resources;

(14) assurances that the State will provide, in accordance with section 374, 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 302;

(15) if appropriate, a description of a within-State allocation formula—

(A) that is based on factors relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(B) through which the State may distribute the funds the State receives under this subtitle for adult employment and training activities or youth activities to local areas;

(16) an assurance that the funds made available to the State through the allotment made under section 302 will supplement and not supplant other public funds expended to provide activities described in this subtitle;

(17) information indicating—

(A) how the services of one-stop partners in the State will be provided through the one-stop customer service system;

(B) how the costs of such services and the operating costs of the system will be funded; and

(C) how the State will assist in the development and implementation of the operating agreement described in section 311(c);

(18) information specifying the actions that constitute a conflict of interest prohibited in the State for purposes of section 308(g)(2)(B);

(19) a description of a core set of consistently defined data elements for reporting on the activities carried out through the one-stop customer service system in the State;

(20) with respect to employment and training activities funded under this subtitle—

(A) information describing the employment and training activities that will be carried out with the funds the State receives under this subtitle, describing how the State will provide rapid response activities to dislocated workers, and designating an identifiable State rapid response dislocated worker unit, to be funded under section 306(a)(2) to carry out statewide rapid response activities, and an assurance that veterans will be afforded services under this subtitle to the extent practicable;

(B) information describing the State strategy for development of a fully operational statewide one-stop customer service system as described in section 315(b), including—

(i) criteria for use by chief elected officials and local partnerships, for designating or certifying one-stop customer service center operators, appointing one-stop partners, and conducting oversight with respect to the one-stop customer service system, for each local area; and

(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 315(c)(2) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.), will be available through the one-stop customer service system of the State;

(C) information describing the criteria used by the local partnership in the development of the local plan described in section 309; and

(D) information describing the procedures the State will use to identify eligible providers of training services, as required under this subtitle; and

(21) with respect to youth activities funded under this subtitle, information—

(A) describing the youth activities that will be carried out with the funds the State receives under this subtitle;

(B) identifying the criteria to be used by the local partnership in awarding grants and contracts under section 313 for youth activities;

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

(D) describing how the State will coordinate the youth activities carried out in the State under this subtitle with the services provided by Job Corps centers in the State.

(c) PLAN SUBMISSION AND APPROVAL.—A State plan submitted to the Secretary under this section by a Governor shall be considered to be approved by the Secretary at the end of the 60-day period beginning on the day the Secretary receives the plan, unless the Secretary makes a written determination, during the 60-day period, that—

(1) the plan is inconsistent with the provisions of this title;

(2) in the case of the portion of the plan described in section 8(a) of the Wagner-Peyser Act (29 U.S.C. 49g(a)), the portion does not satisfy the criteria for approval provided in section 8(d) of such Act); or

(3) the levels of performance have not been agreed to pursuant to section 321(b)(4).

(d) MODIFICATIONS TO INITIAL PLAN.—A State may submit, for approval by the Secretary, substantial modifications to the State plan in accordance with the requirements of this section and section 303, as necessary, during the 3-year period of the plan.

CHAPTER 2—ALLOCATIONS TO LOCAL WORKFORCE INVESTMENT AREAS

SEC. 306. WITHIN STATE ALLOCATIONS.

(a) RESERVATIONS FOR STATE ACTIVITIES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under paragraphs (1)(B), (2)(B), and (3)(C)(ii) of section 302(b) for a fiscal year for statewide workforce investment activities described in subsections (b)(2) and (c) of section 314.

(2) STATEWIDE RAPID RESPONSE ACTIVITIES.—The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 302(b)(2)(B) for a fiscal year for statewide rapid response activities described in section 314(b)(1).

(b) WITHIN STATE ALLOCATION.—

(1) ALLOCATION.—The Governor of the State shall allocate to the local areas the funds that are allotted to the State under section 302(b) and are not reserved under subsection (a) for the purpose of providing employment and training activities to eligible participants pursuant to section 315 and youth activities to eligible participants pursuant to section 316.

(2) METHODS.—The State, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities under section 302(b)(1)(B) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4);

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 302(b)(2)(B) and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (3); and

(C) the funds that are allotted to the State for youth activities under section 302(b)(3)(C)(ii) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4).

(3) ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES FORMULA ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (2)(A) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(I);

(II) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(II); and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 302(b)(1)(B).

(ii) MINIMUM PERCENTAGE.—No local area shall receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area (or the service delivery area that most closely corresponds to the local area) for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term ''allocation percentage'', used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allocated to service delivery

areas under section 202(b) of the Job Training Partnership Act (29 U.S.C. 1602(b)) (as in effect on the day before the date of enactment of this Act) received under such section by the service delivery area that most closely corresponds to the local area involved for fiscal year 1998.

(B) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) FORMULA.—In allocating the funds described in paragraph (2)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs.

(ii) INFORMATION.—The information described in clause (i) shall include—

(I) insured unemployment data;

(II) unemployment concentrations;

(III) plant closing and mass layoff data;

(IV) declining industries data;

(V) farmer-rancher economic hardship data; and

(VI) long-term unemployment data.

(C) YOUTH ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (2)(C) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(I);

(II) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(II); and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 302(b)(3)(C).

(ii) MINIMUM PERCENTAGE.—No local area shall receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area (or the service delivery area that most closely corresponds to the local area) for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term ''allocation percentage'', used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allocated to service delivery areas under sections 252(b) and 262(b) of the Job Training Partnership Act (29 U.S.C. (29 U.S.C. 1631(b), 1642(b)) (as in effect on the day before the date of enactment of this Act) received under such section by the service delivery area that most closely corresponds to the local area involved for fiscal year 1998.

(D) APPLICATION.—For purposes of carrying out subparagraphs (A), (B), and (C), and subparagraphs (A) and (B) of paragraph (4)—

(i) references in section 302(b) to a State shall be deemed to be references to a local area;

(ii) references in section 302(b) to all States shall be deemed to be references to all local areas in the State involved;

(iii) except as described in clauses (i) and (ii), references in paragraphs (1) and (3) of section 302(b) to the term ''excess number'' shall be considered to be references to the term as defined in section 302(b)(1); and

(iv) except as described in clause (i), a reference in section 302(b)(2) to the term ''excess number'' shall be considered to be a reference to the term as defined in such section.

(4) ADULT EMPLOYMENT AND TRAINING AND YOUTH DISCRETIONARY ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(A), in allocating the funds described in paragraph (2)(A) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(A); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) incorporates additional factors (other than the factors described in paragraph (3)(A)) relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(B) YOUTH ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(C), in allocating the funds described in paragraph (2)(C) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(C); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) incorporates additional factors (other than the factors described in paragraph (3)(C)) relating to excess youth poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(5) LIMITATION.—

(A) IN GENERAL.—Of the amount allocated to a local area under this subsection for a fiscal year—

(i) not more than 15 percent of the amount allocated under paragraph (3)(A) or (4)(A);

(ii) not more than 15 percent of the amount allocated under paragraph (3)(B); and

(iii) not more than 15 percent of the amount allocated under paragraph (3)(C) or (4)(B),

may be used by the local partnership for the administrative cost of carrying out local workforce investment activities described in section 315 or 316.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in sections 315 and 316, regardless of whether the funds were allocated under the provisions described in clause (i), (ii), or (iii) of subparagraph (A).

(C) REGULATIONS.—The Secretary, after consulting with the Governors, shall develop and issue regulations that define the term ''administrative cost'' for purposes of this title.

(6) TRANSFER AUTHORITY.—A local partnership may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (3)(A) or (4)(A), and 20 percent of the funds allocated to the local area under paragraph (3)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

(7) FISCAL AUTHORITY.—

(A) FISCAL AGENT.—The chief elected official in a local area shall serve as the fiscal agent for, and shall be liable for any misuse of, the funds allocated to the local area under this section, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the fiscal agent and bear such liability.

(B) DISBURSAL.—The fiscal agent shall disburse such funds for workforce investment activities at the direction of the local partnership, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The fiscal agent shall disburse funds immediately on receiving such direction from the local partnership.

SEC. 307. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Governor shall designate local workforce investment areas in the State, in accordance with the State plan requirements described in section 304(b)(5).

(2) AUTOMATIC DESIGNATION.—

(A) IN GENERAL.—The Governor of the State shall approve a request for designation as a local area—

(i) from any unit of general local government with a population of 500,000 or more, if the designation meets the State plan requirements described in section 304(b)(5);

(ii) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area under the Job Training Partnership Act, if the grant recipient has submitted the request and if the designation meets the State plan requirements described in section 304(b)(5); and

(iii) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of 1,100,000 or less and a population density greater than 900 persons per square mile, if the designation meets the State plan requirements described in section 304(b)(5).

(B) LARGE COUNTIES.—A county with a population of 500,000 or more may request such designation only with the agreement of the political subdivisions within the county with populations of 200,000 or more.

(C) LARGE POLITICAL SUBDIVISIONS.—A single unit of general local government with a population of 200,000 or more that is a service delivery area under the Job Training Partnership Act on the date of enactment of this Act, and that is not designated as a local area by the Governor under paragraph (1), shall have an automatic right to submit an appeal regarding designation to the Secretary. In conducting the appeal, the Secretary may determine that the unit of general local government shall be designated as a local area under paragraph (1), on determining that the programs of the service delivery area have demonstrated effectiveness, if the designation of the unit meets the State plan requirements described in section 304(b)(5).

(3) PERMANENT DESIGNATION.—Once the boundaries for a local area are determined under this section in accordance with the State plan, the boundaries shall not change except with the approval of the Governor.

(b) SMALL STATES.—The Governor of any State determined to be eligible to receive a minimum allotment under paragraph (1) or (3) of section 302(b), in accordance with section 302(b)(1)(B)(iv)(II), for the first year covered by the State plan, or of a State that is a single State service delivery area under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) as of July 1, 1998, may designate the State as a single State local area for the purposes of this title. The Governor shall identify the State as a local area under section 304(b)(5), in lieu of designating local areas as described in subparagraphs (A), (B), and (C) of section 304(b)(5).

SEC. 308. LOCAL WORKFORCE INVESTMENT PARTNERSHIPS AND YOUTH PARTNERSHIPS.

(a) ESTABLISHMENT OF LOCAL PARTNERSHIP.—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment partnership.

(b) ROLE OF LOCAL PARTNERSHIP.—The primary role of the local partnership shall be to set policy for the portion of the statewide workforce investment system within the local area, including—

(1) ensuring that the activities authorized under this subtitle and carried out in the local area meet local performance measures;

(2) ensuring that the activities meet the needs of employers and jobseekers; and

(3) ensuring the continuous improvement of the system.

(c) MEMBERSHIP OF LOCAL PARTNERSHIP.—

(1) STATE CRITERIA.—The Governor of the State shall establish criteria for the appointment of members of the local partnerships for local areas in the State in accordance with the requirements of paragraph (2). Information identifying such criteria shall be included in the State plan, as described in section 304(b)(7).

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

(A) shall include—

(i) a majority of members who—

(I) are representatives of business in the local area;

(II) are owners of businesses, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority;

(III) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(IV) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) chief officers representing local postsecondary educational institutions, representatives of vocational education providers, and representatives of adult education providers;

(iii) chief officers representing labor organizations (for a local area in which such representatives reside), nominated by local labor federations, or (for a local area in which such representatives do not reside) other representatives of employees; and

(iv) chief officers representing economic development agencies, including private sector economic development entities;

(B) may include chief officers who have policymaking authority, from one-stop partners who have entered into an operating agreement described in section 311(c) to participate in the one-stop customer service system in the local area; and

(C) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) CHAIRPERSON.—The local partnership shall elect a chairperson from among the members of the partnership described in paragraph (2)(A)(i).

(d) APPOINTMENT AND CERTIFICATION OF LOCAL PARTNERSHIP.—

(1) APPOINTMENT OF LOCAL PARTNERSHIP MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.—

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

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

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

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

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

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

(C) CONCENTRATED EMPLOYMENT PROGRAMS.—In the case of a local area designated in accordance with section 307(a)(2)(A)(ii), the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local partnership, in accordance with the State criteria established under subsection (c), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

(2) CERTIFICATION.—

(A) IN GENERAL.—The Governor shall annually certify 1 local partnership for each local area in the State.

(B) CRITERIA.—Such certification shall be based on criteria established under subsection (c) and, for a second or subsequent certification, the extent to which the local partnership has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures required under section 321(c).

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

(3) DECERTIFICATION.—

(A) IN GENERAL.—Notwithstanding paragraph (2), the Governor may decertify a local partnership, at any time after providing notice and an opportunity for comment, for—

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local partnership in any of paragraphs (1), (2), (4), (5), and (6) of subsection (e).

(B) PLAN.—If the Governor decertifies a local partnership for a local area, the Governor may require that a local partnership be appointed and certified for the local area pursuant to a plan developed by the Governor in consultation with the chief elected official in the local area and in accordance with the criteria established under subsection (c).

(4) EXCEPTION.—Notwithstanding subsection (c) and paragraphs (1) and (2), if a State described in section 307(b) designates the State as a local area in the State plan, the Governor may designate the statewide partnership described in section 303 to carry out any of the functions described in subsection (e).

(e) FUNCTIONS OF LOCAL PARTNERSHIP.—The functions of the local partnership shall include—

(1) developing and submitting a local plan as described in section 309 in partnership with the appropriate chief elected official;

(2) appointing, certifying, or designating one-stop partners and one-stop customer service center operators, pursuant to the criteria specified in the local plan;

(3) promoting the participation of private sector employers in the statewide workforce investment system, and ensuring the effective provision through the system of connecting, brokering, and coaching activities, through intermediaries such as the entities operating the one-stop customer service center in the local area or through other organizations, to assist such employers in meeting hiring needs;

(4) conducting oversight with respect to the one-stop customer service system;

(5) modifying the list of eligible providers of training services pursuant to subsections (b)(3)(B) and (c)(2)(B) of section 312;

(6) setting local performance measures pursuant to section 312(b)(2)(D)(ii);

(7) analyzing and identifying—

(A) current and projected local employment opportunities; and

(B) the skills necessary to obtain such local employment opportunities;

(8) coordinating the workforce investment activities carried out in the local area with economic development strategies and developing other employer linkages with such activities; and

(9) assisting the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act.

(f) SUNSHINE PROVISION.—The local partnership shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local partnership, including information regarding membership, the appointment of one-stop partners, the designation and certification of one-stop customer service center operators, and the award of grants and contracts to eligible providers of youth activities.

(g) OTHER ACTIVITIES OF LOCAL PARTNERSHIP.—

(1) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no local partnership may directly carry out or enter into a contract for a training service described in section 315(c)(3).

(B) WAIVERS.—The Governor of the State in which the local partnership is located may grant to the local partnership a written waiver of the prohibition set forth in subparagraph (A), if the local partnership provides sufficient evidence that a private or public entity is not available to provide the training service and that the activity is necessary to provide an employment opportunity described in the local plan described in section 309.

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

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

(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 as specified in the State plan.

(h) TECHNICAL ASSISTANCE.—If a local area fails to meet established State or local performance measures, the Governor shall provide technical assistance to the local partnership involved to improve the performance of the local area.

(i) YOUTH PARTNERSHIP.—

(1) ESTABLISHMENT.—There shall be established in each local area of a State, a youth partnership appointed by the local partnership, in cooperation with the chief elected official, in the local area.

(2) MEMBERSHIP.—The membership of each youth partnership—

(A) shall include—

(i) 1 or more members of the local partnership;

(ii) representatives of youth service agencies, including juvenile justice agencies;

(iii) representatives of local public housing authorities;

(iv) parents of youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities;

(vi) representatives of businesses in the local area that employ youth; and

(vii) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local partnership, in cooperation with the chief elected official, determines to be appropriate.

(3) DUTIES.—The duties of the youth partnership include—

(A) the development of the portions of the local plan relating to youth, as determined by the chairperson of the local partnership;

(B) subject to the approval of the local partnership, awarding grants and contracts to, and conducting oversight with respect to, eligible providers of youth activities, as described in section 313, in the local area;

(C) coordinating youth activities in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local partnership.

(j) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (c), and (d), and paragraphs (1) and (2) of subsection (i), a State may

use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C) (i) is established pursuant to section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on December 31, 1997; or

(ii) is substantially similar to the local and youth partnerships described in subsections (a), (c), and (d), and paragraphs (1) and (2) of subsection (i); and

(D) includes—

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations in the local area, for a local area in which such representatives reside; or

(II) for a local area in which such representatives do not reside, other representatives of employees in the local area.

(2) REFERENCES.—References in this Act to a local partnership or a youth partnership shall be considered to include such an entity.

SEC. 309. LOCAL PLAN.

(a) IN GENERAL.—Each local partnership shall develop and submit to the Governor a comprehensive 3-year local plan (referred to in this title as the ''local plan''), in partnership with the appropriate chief elected official. The local plan shall be consistent with the State plan.

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

(1) an identification of the needs of the local area with regard to current and projected employment opportunities;

(2) an identification of the job skills necessary to obtain such employment opportunities;

(3) a description of the activities to be used under this subtitle to link local employers and local jobseekers;

(4) an identification and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(5) an identification of successful eligible providers of youth activities in the local area;

(6) a description of the measures that will be taken by the local area to assure coordination of and avoid duplication among the programs and activities described in section 304(b)(9);

(7) a description of the manner in which the local partnership will coordinate activities carried out under this subtitle in the local area with such activities carried out in neighboring local areas;

(8) a description of the competitive process to be used to award grants and contracts in the local area for activities carried out under this subtitle;

(9) information describing local performance measures for the local area that are based on the performance measures in the State plan;

(10) in accordance with the State plan, a description of the criteria that the chief elected official in the local area and the local partnership will use to appoint, designate, or certify, and to conduct oversight with respect to, one-stop customer service center systems in the local area;

(11) a description of the process used by the local partnership, consistent with subsection (c), to provide an opportunity for public comment, including comment by representatives of labor organizations and businesses, and input into the development of the local plan, prior to submission of the plan; and

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

(c) PROCESS.—Prior to the date on which the local partnership submits a local plan under this section, the local partnership shall—

(1) make available copies of a proposed local plan to the public;

(2) allow members of the local partnership and members of the public, including representatives of labor organizations and businesses, to submit comments on the proposed local plan to the local partnership, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and

(3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

(d) PLAN SUBMISSION AND APPROVAL.—A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 60-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 60-day period that—

(1) deficiencies in activities carried out under this subtitle have been identified, through audits conducted under section 374 or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) the plan does not comply with this title.

(e) LACK OF AGREEMENT.—If the local partnership and the appropriate chief elected official in the local area cannot agree on the local plan after making a reasonable effort, the Governor may develop the local plan.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

SEC. 311. IDENTIFICATION AND OVERSIGHT OF ONE-STOP PARTNERS AND ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.

(a) IN GENERAL.—Consistent with the State plan, the chief elected official and the local partnership shall develop and implement operating agreements described in subsection (c) to appoint one-stop partners, shall designate or certify one-stop customer service center operators, and shall conduct oversight with respect to the one-stop customer service system, in the local area.

(b) ONE-STOP PARTNERS.—

(1) DESIGNATED PARTNERS.—

(A) IN GENERAL.—Each entity that carries out a program, services, or activities described in subparagraph (B) shall make available to participants, through a one-stop customer service center, the services described in section 315(c)(2) that are applicable to such program, and shall participate in the operation of such center as a party to the agreement described in subsection (c), consistent with the requirements of the Federal law in which the program, services, or activities are authorized.

(B) PROGRAMS; SERVICES; ACTIVITIES.—The programs, services, and activities referred to in subparagraph (A) consist of—

(i) core services authorized under this subtitle;

(ii) other activities authorized under this title;

(iii) activities authorized under title I and title II;

(iv) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(v) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 729 et seq.);

(vi) programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

(vii) programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(viii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(ix) activities authorized under chapter 41 of title 38, United States Code;

(x) training activities carried out by the Department of Housing and Urban Development; and

(xi) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—In addition to the entities described in paragraph (1), other entities that carry out human resource programs may make available to participants through a one-stop customer service center the services described in section 315(c)(2) that are applicable to such program, and participate in the operation of such centers as a party to the agreement described in subsection (c), if the local partnership and chief elected official involved approve such participation.

(B) PROGRAMS.—The programs referred to in subparagraph (A) include—

(i) programs authorized under part A of title IV of the Social Security Act;

(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(iii) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)); and

(iv) other appropriate Federal, State, or local programs, including programs in the private sector.

(c) OPERATING AGREEMENTS.—

(1) IN GENERAL.—The one-stop customer service center operator selected pursuant to subsection (d) for a one-stop customer service center shall enter into a written agreement with the local partnership and one-stop partners described in subsection (b) concerning the operation of the center. Such agreement shall be subject to the approval of the chief elected official and the local partnership.

(2) CONTENTS.—The written agreement required under paragraph (1) shall contain—

(A) provisions describing—

(i) the services to be provided through the center;

(ii) how the costs of such services and the operating costs of the system will be funded,

(iii) methods for referral of individuals between the one-stop customer service center operators and the one-stop partners, for the appropriate services and activities;

(iv) the monitoring and oversight of activities carried out under the agreement; and

(v) the duration of the agreement and the procedures for amending the agreement during the term of the agreement; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.—

(1) IN GENERAL.—To be eligible to receive funds made available under this subtitle to operate a one-stop customer service center, an entity shall—

(A) be designated or certified as a one-stop customer service center operator, as described in subsection (a); and

(B) be a public or private entity, or consortium of entities, of demonstrated effectiveness located in the local 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.

(2) EXCEPTION.—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop customer service center operators, except that nontraditional public secondary schools and area vocational education schools shall be eligible for such designation or certification.

(e) ESTABLISHED ONE-STOP CUSTOMER SERVICE SYSTEMS.—For a local area in which a one-stop customer service system has been established prior to the date of enactment of this Act, the local partnership, the chief elected official, and the Governor may agree to appoint, designate, or certify the one-stop partners and one-stop customer service center operators of such system, for purposes of this section.

(f) OVERSIGHT.—The local partnership shall conduct oversight with respect to the one-stop

customer service center system and may terminate for cause the eligibility of such a partner or operator to provide activities through or operate a one-stop customer service center.

SEC. 312. DETERMINATION AND IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES BY PROGRAM.

(a) GENERAL ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (e), to be eligible to receive funds made available under section 306 to provide training services described in section 315(c)(3) (referred to in this title 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) PROVIDERS.—To be eligible to receive the funds, the provider shall be—

(A) a postsecondary educational institution that—

(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate; or

(B) another public or private provider of a program.

(b) INITIAL DETERMINATION AND IDENTIFICATION.—

(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS.—To be eligible to receive funds as described in subsection (a), an institution described in subsection (a)(2)(A) shall submit an application at such time, in such manner, and containing such information as the designated State agency described in subsection (f) may require, after consultation with the local partnerships in the State. On submission of the application, the institution shall automatically be initially eligible to receive such funds for the program described in subsection (a)(2)(A).

(2) OTHER PROVIDERS.—

(A) PROCEDURE.—The Governor, in consultation with the local partnerships in the State, shall establish a procedure for determining the initial eligibility of providers described in subsection (a)(2)(B) to receive such funds for specified programs. The procedure shall require a provider of a program to meet minimum acceptable levels of performance based on—

(i) performance criteria relating to the rates, percentages, increases, and costs described in subparagraph (C) for the program, as demonstrated using verifiable program-specific performance information described in subparagraph (C) and submitted to the designated State agency, as required under subparagraph (C); and

(ii) performance criteria relating to any characteristics for which local partnerships request the submission of information under subparagraph (D) for the program, as demonstrated using the information submitted.

(B) MINIMUM LEVELS.—The Governor shall—

(i) consider, in determining such minimum levels—

(I) criteria relating to the economic, geographic, and demographic factors in the local areas in which the provider provides the program; and

(II) the characteristics of the population served by such provider through the program; and

(ii) verify the minimum levels of performance by using quarterly records described in section 321.

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

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

(ii) the percentage of the graduates of the program placed in unsubsidized employment in an occupation related to the program conducted;

(iii) retention rates of the graduates in unsubsidized employment—

(I) 6 months after the first day of the employment; and

(II) 12 months after the first day of the employment;

(iv) the wages received by the graduates placed in unsubsidized employment after the completion of participation in the program—

(I) on the first day of the employment;

(II) 6 months after the first day of the employment; and

(III) 12 months after the first day of the employment;

(v) where appropriate, the rates of licensure or certification of the graduates, attainment of academic degrees or equivalents, or attainment of other measures of skill; and

(vi) program cost per participant in the program.

(D) ADDITIONAL INFORMATION.—

(i) IN GENERAL.—In addition to the performance information described in subparagraph (C), the local partnerships in the State involved may require that a provider submit, to the local partnerships and to the designated State agency, other performance information relating to the program to be initially identified as an eligible provider of training services, including information regarding the ability of the provider to provide continued counseling and support regarding the workplace to the graduates, for not less than 12 months after the graduation involved.

(ii) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local partnership may require higher levels of performance than the minimum levels established under subparagraph (A)(i) for initial eligibility to receive funds as described in subsection (a).

(3) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) and using the procedure described in paragraph (2)(B), shall—

(i) identify eligible providers of training services described in subparagraphs (A) and (B) of subsection (a)(2), including identifying the programs of the providers through which the providers may offer the training services; and

(ii) compile a list of the eligible providers, and the programs, accompanied by the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) for each such provider described in subsection (a)(2)(B).

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.

(c) SUBSEQUENT ELIGIBILITY.—

(1) INFORMATION AND CRITERIA.—To be eligible to continue to receive funds as described in subsection (a) for a program, a provider shall—

(A) submit the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) annually to the designated State agency at such time and in such manner as the designated State agency may require for the program; and

(B) annually meet the performance criteria described in subsection (b)(2)(A) for the program, as demonstrated utilizing quarterly records described in section 321.

(2) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information and any other information submitted under paragraph (1) and using the procedure described in subsection (b)(2)(A), shall identify eligible providers and programs, and compile a list of the providers and programs, as described in subsection (b)(3), accompanied by the performance information and other information for each such provider.

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.

(3) AVAILABILITY.—Such list and information shall be made widely available to participants in employment and training activities funded under this subtitle, and to others, through the one-stop customer service system described in section 315(b).

(d) ENFORCEMENT.—

(1) ACCURACY OF INFORMATION.—If the designated State agency, after consultation with the local partnership involved, 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 provider to receive funds described in subsection (a) for a period of time, but not less than 2 years.

(2) COMPLIANCE WITH CRITERIA OR REQUIREMENTS.—If the designated State agency, after consultation with the local partnership, determines that a provider described in this section or a program of training services carried out by such a provider fails to meet the required performance criteria described in subsection (c)(1)(B) or subsection (e)(2), as appropriate, or materially violates any provision of this title, including the regulations promulgated to implement this title, the agency may terminate the eligibility of the provider to receive funds described in subsection (a) for such program or take such other action as the agency determines to be appropriate.

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

(4) APPEAL.—The Governor shall establish a procedure for a 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.

(e) ON-THE-JOB TRAINING EXCEPTION.—

(1) IN GENERAL.—Providers of on-the-job training shall not be subject to the requirements of subsections (a) through (c).

(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop customer service center operator in a local area shall collect such performance information from on-the-job training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate such information through the one-stop customer service system.

(f) ADMINISTRATION.—The Governor shall designate a State agency to collect and disseminate the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) and carry out other duties described in this section.

SEC. 313. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

The youth partnership is authorized to award grants and contracts on a competitive basis, based on the criteria contained in the State plan and local plan, to providers of youth activities, and conduct oversight with respect to such providers, in the local area.

SEC. 314. STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.

(a) IN GENERAL.—Funds reserved by a Governor for a State—

(1) under section 306(a)(2) shall be used to carry out the statewide rapid response activities described in subsection (b)(1); and

(2) under section 306(a)(1)—

(A) shall be used to carry out the statewide workforce investment activities described in subsection (b)(2); and

(B) may be used to carry out any of the statewide workforce investment activities described in subsection (c),

regardless of whether the funds were allotted to the State under paragraph (1), (2), or (3) of section 302(b).

(b) REQUIRED STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—

(1) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall use funds reserved under section 306(a)(2) to carry out statewide rapid response activities, which shall include—

(A) provision of rapid response activities, carried out in local areas by the State, working in conjunction with the local partnership and the chief elected official in the local area; and

(B) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in the local areas by the State, working in conjunction with the local partnership and the chief elected official in the local areas.

(2) OTHER REQUIRED STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—A State shall use funds reserved under section 306(a)(1) to carry out other statewide workforce investment activities, which shall include—

(A) disseminating the list of eligible providers of training services, including eligible providers of nontraditional training services, and the performance information as described in subsections (b) and (c) of section 312, and a list of eligible providers of youth activities described in section 313;

(B) conducting evaluations, under section 321(e), of activities authorized in this section, section 315, and section 316, in coordination with the activities carried out under section 368;

(C) providing incentive grants to local areas for regional cooperation among local partnerships, for local coordination and nonduplication of activities carried out under this Act, and for comparative performance by local areas on the local performance measures described in section 321(c);

(D) providing technical assistance to local areas that fail to meet local performance measures;

(E) assisting in the establishment and operation of a one-stop customer service system; and

(F) operating a fiscal and management accountability information system under section 321(f).

(c) ALLOWABLE STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—

(1) IN GENERAL.—A State may use funds reserved under section 306(a)(1) to carry out additional statewide workforce investment activities, which may include—

(A) subject to paragraph (2), administration by the State of the workforce investment activities carried out under this subtitle;

(B) identification and implementation of incumbent worker training programs, which may include the establishment and implementation of an employer loan program;

(C) carrying out other activities authorized in section 315 that the State determines to be necessary to assist local areas in carrying out activities described in subsection (c) or (d) of section 315 through the statewide workforce investment system; and

(D) carrying out, on a statewide basis, activities described in section 316.

(2) LIMITATION.—

(A) IN GENERAL.—Of the funds allotted to a State under section 302(b) and reserved under section 306(a)(1) for a fiscal year—

(i) not more than 5 percent of the amount allotted under section 302(b)(1);

(ii) not more than 5 percent of the amount allotted under section 302(b)(2); and

(iii) not more than 5 percent of the amount allotted under section 302(b)(3),

may be used by the State for the administration of statewide workforce investment activities carried out under this section.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the statewide workforce investment activities, regardless of whether the funds were allotted to the State under paragraph (1), (2), or (3) of section 302(b).

(d) PROHIBITION.—No funds described in subsection (a) shall be used to develop or implement education curricula for school systems in the State.

SEC. 315. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.

(a) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B)—

(1) shall be used to carry out employment and training activities described in subsection (c) for adults or dislocated workers, as appropriate; and

(2) may be used to carry out employment and training activities described in subsection (d) for adults or dislocated workers, as appropriate.

(b) ESTABLISHMENT OF ONE-STOP CUSTOMER SERVICE SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section 302 a one-stop customer service system, which—

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

(B) shall provide access to training services as described in subsection (c)(3);

(C) shall provide access to the activities (if any) carried out under subsection (d); and

(D) shall provide access to the information described in section 15 of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop customer service system—

(A) shall make each of the services described in paragraph (1) accessible at not less than 1 physical customer service center in each local area of the State; and

(B) may also make services described in paragraph (1) available—

(i) through a network of customer service centers that can provide 1 or more of the services described in paragraph (1) to such individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides 1 or more of the services to such individuals and is accessible at a customer service center that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subclause (I).

(c) REQUIRED LOCAL ACTIVITIES.—

(1) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B), shall be used—

(A) to establish a one-stop customer service center described in subsection (b);

(B) to provide the core services described in paragraph (2) to participants described in such paragraph through the one-stop customer service system; and

(C) to provide training services described in paragraph (3) to participants described in such paragraph.

(2) CORE SERVICES.—Funds received by a local area as described in paragraph (1) shall be used to provide core services, which shall be available to all individuals seeking assistance through a one-stop customer service system and shall, at a minimum, include—

(A) determinations of whether the individuals are eligible to receive activities under this subtitle;

(B) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop customer service system;

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

(D) case management assistance, as appropriate;

(E) job search and placement assistance;

(F) provision of information regarding—

(i) local, State, and, if appropriate, regional or national, employment opportunities; and

(ii) job skills necessary to obtain the employment opportunities;

(G) provision of performance information on eligible providers of training services as described in section 312, provided by program, and eligible providers of youth activities as described in section 313, eligible providers of adult education as described in title II, eligible providers of postsecondary vocational education activities and vocational education activities available to school dropouts as described in title I, and eligible providers of vocational rehabilitation program activities as described in title I of the Rehabilitation Act of 1973;

(H) provision of performance information on the activities carried out by one-stop partners, as appropriate;

(I) provision of information regarding how the local area is performing on the local performance measures described in section 321(c), and any additional performance information provided to the one-stop customer service center by the local partnership;

(J) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;

(K) provision of information regarding filing claims for unemployment compensation;

(L) assistance in establishing eligibility for—

(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by section 5001 of the Balanced Budget Act of 1997) available in the local area; and

(ii) programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(M) followup services, including counseling regarding the workplace, for participants in workforce investment activities who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

(3) REQUIRED TRAINING SERVICES.—

(A) ELIGIBLE PARTICIPANTS.—Funds received by a local area as described in paragraph (1) shall be used to provide training services to individuals—

(i) who are adults (including dislocated workers);

(ii) who seek the services;

(iii)(I) who are unable to obtain employment through the core services; or

(II) who are employed and who are determined by a one-stop customer service center operator to be in need of such training services in order to gain or retain employment that allows for self-sufficiency;

(iv) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop customer service center operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications, to successfully participate in the selected program of training services;

(v) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults receiving such services are willing to relocate;

(vi) who meet the requirements of subparagraph (B); and

(vii) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (D).

(B) QUALIFICATION.—

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

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

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

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

(C) TRAINING SERVICES.—Training services may include—

(i) employment skill training;

(ii) on-the-job training;

(iii) job readiness training; and

(iv) adult education services when provided in combination with services described in clause (i), (ii), or (iii).

(D) PRIORITY.—In the event that funds are limited within a local area for adult employment and training activities, priority shall be given to disadvantaged adults for receipt of training services provided under this paragraph. The appropriate local partnership and the Governor shall direct the one-stop customer service center operator in the local area with regard to making determinations related to such priority.

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

(i) except as provided in section 312(e), through eligible providers of such services identified in accordance with section 312; and

(ii) in accordance with subparagraph (F).

(F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local partnership, through one-stop customer service centers, shall make available—

(I) the list of eligible providers required under subsection (b)(3) or (c)(2) of section 312, with a description of the programs through which the providers may offer the training services, and a list of the names of on-the-job training providers; and

(II) the performance information on eligible providers of training services as described in section 312.

(iii) EMPLOYMENT INFORMATION.—Each local partnership, through one-stop customer service centers, shall make available—

(I) information regarding local, State, and, if appropriate, regional or national, employment opportunities; and

(II) information regarding the job skills necessary to obtain the employment opportunities.

(iv) INDIVIDUAL TRAINING ACCOUNTS.—An individual who is eligible pursuant to subparagraph (A) and seeks training services may select, in consultation with a case manager, 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 customer service center shall, to the extent practicable, refer such individual to the eligible provider of training services, and arrange for payment for such services through an individual training account.

(d) PERMISSIBLE LOCAL ACTIVITIES.—

(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B) may be used to provide, through one-stop delivery described in subsection (b)(2)—

(A) intensive employment-related services for adults;

(B) customized screening and referral of qualified participants in training services to employment; and

(C) customized employment-related services to employers.

(2) SUPPORTIVE SERVICES.—Funds received by the local area as described in paragraph (1) may be used to provide supportive services to participants—

(A) who are participating in activities described in this section; and

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

(3) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds received by the local area under section 306(b)(3)(B) may be used to provide needs-related payments to dislocated workers who do not qualify for, or have exhausted, 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 13th week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

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

(C) LEVEL OF PAYMENTS.—The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

SEC. 316. LOCAL YOUTH ACTIVITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to provide, to youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers;

(2) to ensure continuous contact for youth with committed adults;

(3) to provide opportunities for training to youth;

(4) to provide continued support services for youth;

(5) to provide incentives for recognition and achievement to youth; and

(6) to provide opportunities for youth in activities related to leadership, development, decisionmaking, citizenship, and community service.

(b) REQUIRED ELEMENTS.—Funds received by a local area under paragraph (3)(C) or (4)(B) of section 306(b) shall be used to carry out, for youth who seek the activities, activities that—

(1) consist of the provision of—

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

(B) alternative secondary school services;

(C) summer employment opportunities and other paid and unpaid work experiences, including internships and job shadowing;

(D) employment skill training, as appropriate;

(E) community service and leadership development opportunities;

(F) services described in section 315(c)(2);

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months; and

(I) followup services for not less than 12 months after the completion of participation, as appropriate;

(2) provide—

(A) preparation for postsecondary educational opportunities, in appropriate cases;

(B) strong linkages between academic and occupational learning;

(C) preparation for unsubsidized employment opportunities, in appropriate cases; and

(D) effective connections to intermediaries with strong links to—

(i) the job market; and

(ii) local and regional employers; and

(3) involve parents, participants, and other members of the community with experience relating to youth in the design and implementation of the activities.

(c) PRIORITY.—

(1) IN GENERAL.—At a minimum, 50 percent of the funds described in subsection (b) shall be used to provide youth activities to out-of-school youth.

(2) EXCEPTION.—A State that receives a minimum allotment under paragraph (1) or (3) of section 302(b) in accordance with section 302(b)(1)(B)(iv)(II) may reduce the percentage described in paragraph (1) for a local area in the State, if—

(A) after an analysis of the youth population in the local area, the State determines that the local area will be unable to meet the percentage described in paragraph (1) due to a low number of out-of-school youth; and

(B)(i) the State submits to the Secretary, for the local area, a request including a proposed reduced percentage for purposes of paragraph (1), and the summary of the youth population analysis; and

(ii) the request is approved by the Secretary.

(d) PROHIBITIONS.—

(1) NO LOCAL EDUCATION CURRICULUM.—No funds described in subsection (b) shall be used to develop or implement local school system education curricula.

(2) NONDUPLICATION.—No funds described in subsection (b) shall be used to carry out activities that duplicate federally funded activities available to youth in the local area.

(3) NONINTERFERENCE AND NONREPLACEMENT OF REGULAR ACADEMIC REQUIREMENTS.—No funds described in subsection (b) shall be used to provide an activity for youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

CHAPTER 4—GENERAL PROVISIONS

SEC. 321. ACCOUNTABILITY.

(a) PURPOSE.—The purpose of this section is to establish comprehensive performance measures to assess the effectiveness of States and local areas in achieving continuous improvement of workforce investment activities funded under this subtitle, in order to maximize the return on investment of Federal funds in State and local workforce development activities.

(b) STATE PERFORMANCE MEASURES.—

(1) IN GENERAL.—To be eligible to receive an allotment under section 302, a State shall establish, and identify in the State plan, State performance measures. Each State performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) and a level of performance referred to in paragraph (4).

(2) CORE INDICATORS OF PERFORMANCE.—

(A) IN GENERAL.—The State performance measures shall include indicators of performance for workforce investment activities provided under this subtitle (except for self-service and informational activities) for each of the population groups described in subparagraph (B). Such indicators, at a minimum, shall consist of—

(i) entry into unsubsidized employment;

(ii) retention in unsubsidized employment 6 months after entry into the employment;

(iii) earnings received in unsubsidized employment 6 months after entry into the employment; and

(iv) attainment of a recognized credential relating to achievement of educational skills (including basic skills) or occupational skills, by participants who entered unsubsidized employment, or by participants who are in-school youth, taking into account attainment of more than 1 such credential.

(B) POPULATION GROUPS.—The indicators described in subparagraph (A) shall be applicable to each of the following populations:

(i) Dislocated workers.

(ii) Economically disadvantaged adults.

(iii) Youth.

(3) ADDITIONAL INDICATORS OF PERFORMANCE.—

(A) CUSTOMER SATISFACTION INDICATORS.—A State shall identify in the State plan an indicator of performance concerning customer satisfaction of employers and workers with results achieved from the workforce investment activities in which the employers and workers participated under this subtitle. The customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

(B) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators of performance relating to State goals for workforce investment, including goals for the economic success of the citizens of the State or other State goals related to the objectives of this subtitle.

(4) STATE LEVELS OF PERFORMANCE.—

(A) IN GENERAL.—The Secretary and each Governor shall reach agreement on the levels of performance expected to be achieved by the State on the State performance measures established pursuant to this subsection. In reaching the agreement, the Secretary and Governor shall establish a level of performance for each of the indicators of performance described in paragraphs (2) and (3). Such agreement shall take into account—

(i) how the levels compare with the levels established by other States, taking into account factors including differences in economic conditions, the characteristics of participants when the participants entered the program, and the services to be provided;

(ii) the extent to which such levels promote continuous improvement in performance on the performance measures by such State and ensure maximum return on the investment of Federal funds; and

(iii) the extent to which the levels will assist the State in attaining the workforce investment goals of the State.

(B) ADJUSTMENTS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in subparagraph (A)(i), the Governor may request that the levels of performance agreed to under subparagraph (A) be adjusted. The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria and methods for making such adjustments.

(c) LOCAL PERFORMANCE MEASURES.—

(1) IN GENERAL.—Each Governor shall negotiate and reach agreement with the local partnership and the chief elected official in each local area on local performance measures, based on the State performance measures identified in the State plan. Each local performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) of subsection (b) and a level of performance referred to in paragraph (2).

(2) AGREEMENT.—

(A) IN GENERAL.—In reaching the agreement, the Governor, local partnership, and chief elected official shall establish an expected level of performance for each of the indicators of performance.

(B) CONSIDERATIONS.—Such agreement shall take into account at the local level the matters considered at the State level under clauses (i), (ii), and (iii) of subsection (b)(4)(A).

(C) ADJUSTMENTS.—If unanticipated circumstances arise in a local area resulting in a significant change in the factors referred to in subsection (b)(4)(A)(i), the local partnership and chief elected official may request that the levels of performance agreed to under paragraph (1) be adjusted, using criteria and methods referred to in subsection (b)(4)(B).

(d) REPORT.—

(1) IN GENERAL.—Each State that receives an allotment under section 302 shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures. The annual report also shall include information regarding the progress of local areas in achieving local performance measures. The report also shall include information on the status of State evaluations of workforce investment activities described in subsection (e).

(2) ADDITIONAL INFORMATION.—In preparing such report, the State shall include, at a minimum, information on participants in workforce investment activities relating to—

(A) entry by participants who have completed training services provided under section 315(c)(3) into unsubsidized employment related to the training received;

(B) wages at entry into employment for participants in workforce investment activities who entered unsubsidized employment, including the rate of wage replacement for such participants who are dislocated workers;

(C) cost of workforce investment activities relative to the effect of the activities on the performance of participants;

(D) retention and earnings received in unsubsidized employment 12 months after entry into the employment;

(E) performance with respect to the indicators of performance specified in subsection (b)(2) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities); and

(F) performance with respect to the indicators of performance specified in subsection (b)(2) of welfare recipients, out-of-school youth, veterans, and individuals with disabilities.

(3) INFORMATION DISSEMINATION.—The Secretary shall make the information contained in such reports available to Congress, the Library of Congress, and the public through publication and other appropriate methods. The Secretary shall disseminate State-by-State comparisons of the information after adjusting the information to take account of differences in specific circumstances, including economic circumstances, of the States and after consulting with each Governor as to the accuracy of the information after adjustment.

(e) EVALUATION OF STATE PROGRAMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the State, in coordination with local partnerships in the State, shall conduct ongoing evaluation studies of workforce investment activities carried out in the State under this subtitle in order to promote, establish, implement, and utilize methods for continuously improving the activities in order to achieve high-level performance within, and high-level outcomes from, the statewide workforce investment system. To the maximum extent practicable, the State shall coordinate the evaluations with the evaluations provided for by the Secretary under section 368.

(2) DESIGN.—The evaluation studies conducted under this subsection shall be designed in conjunction with the statewide partnership and local partnerships and shall include analysis of customer feedback and outcome and process measures in the statewide workforce investment system.

(3) RESULTS.—The State shall periodically prepare and submit to the statewide partnership and local partnerships in the State reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers.

(f) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the Governor, in coordination with local partnerships and chief elected officials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary after consultation with the Governors, local elected officials, and officers of agencies that administer workforce investment activities in local areas. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available under this subtitle and for preparing the annual report described in subsection (d).

(2) WAGE RECORDS.—In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage records. The Secretary shall make arrangements to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d).

(3) CONFIDENTIALITY.—In carrying out the requirements of this Act, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974).

(g) SANCTIONS.—

(1) TECHNICAL ASSISTANCE OR REDUCTION OF ALLOTMENTS.—The Secretary shall—

(A) if a State failed to meet ⅓ or more of the State performance measures for any year, provide technical assistance in accordance with section 366(b) to the State to improve the level of performance of the State; and

(B) if a State failed to meet ½ or more of the State performance measures for each of 2 consecutive years, or failed to meet the State performance measures and the extent of the failure with respect to ⅓ of such measures was significant for each of 2 consecutive years—

(i) determine whether the failure involved is attributable to—

(I) adult employment and training activities;

(II) dislocated worker employment and training activities; or

(III) youth activities; and

(ii) reduce, by not more than 5 percent, the allotment of the State under section 302 for 1 year for the category of activities described in clause (i) to which the failure is attributable.

(2) CRITERIA.—The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria for determining cases in which the extent of failure is significant for purposes of paragraph (1)(B).

(3) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (1)(B), to provide technical assistance in accordance with section 366 to such State.

(h) INCENTIVE GRANTS.—The Secretary shall make incentive grants under this title in accordance with section 365 to States that exceed the levels of performance for performance measures established under this Act. In awarding incentive grants under this title, the Secretary shall give special consideration to those States achieving the highest levels of performance on indicators of performance related to employment retention and earnings.

(i) OTHER MEASURES AND TERMINOLOGY.—

(1) RESPONSIBILITIES.—The Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

(A) definitions for information required to be reported under subsection (d)(2);

(B) terms for a menu of additional indicators of performance described in subsection (b)(3)(B) to assist States in assessing their progress toward State workforce investment goals;

(C) objective criteria and methods described in subsection (b)(4)(B) for making adjustments to levels of performance; and

(D) objective criteria described in subsection (g)(2) for determining significant extent of failure on performance measures.

(2) DEFINITIONS FOR CORE INDICATORS.—The Secretary and the representatives described in paragraph (1) shall participate in the activities described in section 502 concerning the issuance of definitions for indicators of performance described in subsection (b)(2).

(3) ASSISTANCE.—The Secretary shall make the services of objective staff available to the representatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 502.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

(a) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(1) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(2) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(c) YOUTH ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(3) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

Subtitle B—Job Corps

SEC. 331. PURPOSES.

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist eligible youth who need and can benefit from an intensive program, operated in a group setting in residential and nonresidential centers, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this subtitle; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

SEC. 332. DEFINITIONS.

In this subtitle:

(1) APPLICABLE LOCAL PARTNERSHIP.—The term ''applicable local partnership'' means a local partnership—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

(2) APPLICABLE ONE-STOP CUSTOMER SERVICE CENTER.—The term ''applicable one-stop customer service center'' means a one-stop customer service center that provides services, such as referral, intake, recruitment, and placement, to a Job Corps center.

(3) ENROLLEE.—The term ''enrollee'' means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

(4) FORMER ENROLLEE.—The term ''former enrollee'' means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program before completing the requirements of a vocational training program, or receiving a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(5) GRADUATE.—The term ''graduate'' means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program and has completed the requirements of a vocational training program, or received a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(6) JOB CORPS.—The term ''Job Corps'' means the Job Corps described in section 333.

(7) JOB CORPS CENTER.—The term ''Job Corps center'' means a center described in section 333.

(8) OPERATOR.—The term ''operator'' means an entity selected under this subtitle to operate a Job Corps center.

(9) REGION.—The term ''region'' means an area served by a regional office of the Employment and Training Administration.

(10) SERVICE PROVIDER.—The term ''service provider'' means an entity selected under this subtitle to provide services described in this subtitle to a Job Corps center.

SEC. 333. ESTABLISHMENT.

There shall be established in the Department of Labor a Job Corps program, to carry out activities described in this subtitle for individuals enrolled in a Job Corps and assigned to a center.

SEC. 334. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability;

(2) a low-income individual; and

(3) an individual who is 1 or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

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

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

SEC. 335. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from the Governors, local partnerships, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and vocational needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants; and

(E) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop customer service centers;

(B) community action agencies, business organizations, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(5) REIMBURSEMENT.—The Secretary is authorized to enter into contracts with and make payments to individuals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

(b) SPECIAL LIMITATIONS ON SELECTION.—

(1) IN GENERAL.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary.

(2) INDIVIDUALS ON PROBATION, PAROLE, OR SUPERVISED RELEASE.—An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system.

(c) ASSIGNMENT PLAN.—

(1) IN GENERAL.—Every 2 years, the Secretary shall develop and implement an assignment plan for assigning enrollees to Job Corps centers. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

(2) ANALYSIS.—In order to develop the plan described in paragraph (1), the Secretary shall, every 2 years, analyze, for the Job Corps center—

(A) the size of the population of individuals eligible to participate in Job Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions; and

(C) the capacity and utilization of the Job Corps center, including services provided through the center.

(d) ASSIGNMENT OF INDIVIDUAL ENROLLEES.—

(1) IN GENERAL.—After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the Job Corps center that is closest to the home of the enrollee, except that the Secretary may waive this requirement if—

(A) the enrollee chooses a vocational training program, or requires an English as a second language program, that is not available at such center;

(B) the enrollee is an individual with a disability and may be better served at another center;

(C) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(D) the parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps program.

(2) ENROLLEES WHO ARE YOUNGER THAN 18.—An enrollee who is younger than 18 shall not be assigned to a Job Corps center other than the center closest to the home of the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment.

SEC. 336. ENROLLMENT.

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 338(b) would require an individual to participate in the Job Corps for not more than 1 additional year; or

(2) as the Secretary may authorize in a special case.

SEC. 337. JOB CORPS CENTERS.

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—

(A) OPERATORS.—The Secretary shall enter into an agreement with a Federal, State, or local agency, such as individuals participating in a statewide partnership or in a local partnership or an 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.

(B) PROVIDERS.—The Secretary may enter into an agreement with a local entity to provide activities described in this subtitle to the Job Corps center.

(2) SELECTION PROCESS.—

(A) COMPETITIVE BASIS.—Except as provided in subsections (c) and (d) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary shall select on a competitive basis an entity to operate a Job Corps center and entities to provide activities described in this subtitle to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the industry council for the Job Corps center (if established), and the applicable local partnership regarding the contents of such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

(B) RECOMMENDATIONS AND CONSIDERATIONS.—

(i) OPERATORS.—In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the degree to which the vocational training that the entity proposes for the center reflects local employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) the degree to which the entity is familiar with the surrounding communities, applicable one-stop centers, and the State and region in which the center is located; and

(IV) the past performance of the entity, if any, relating to operating or providing activities described in this subtitle to a Job Corps center.

(ii) PROVIDERS.—In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in subclauses (I) through (IV) of clause (i), as appropriate.

(b) CHARACTER AND ACTIVITIES.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in this subtitle. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) CIVILIAN CONSERVATION CENTERS.—

(1) IN GENERAL.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture or the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other vocational training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) SELECTION PROCESS.—The Secretary may select an entity to operate a Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) INDIAN TRIBES.—

(1) GENERAL AUTHORITY.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) DEFINITIONS.—In this subsection, the terms ''Indian'' and ''Indian tribe'', have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 338. PROGRAM ACTIVITIES.

(a) ACTIVITIES PROVIDED BY JOB CORPS CENTERS.—

(1) IN GENERAL.—Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, vocational training, work experience, recreational activities, and counseling. Each Job Corps center shall provide enrollees assigned to the center with access to core services described in subtitle A.

(2) RELATIONSHIP TO OPPORTUNITIES.—

(A) IN GENERAL.—The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating in secondary education or postsecondary education programs, enrolling in other suitable vocational training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(B) LINK TO EMPLOYMENT OPPORTUNITIES.—The vocational training provided shall be linked to the employment opportunities in the local area in which the enrollee intends to seek employment after graduation.

(b) ADVANCED CAREER TRAINING PROGRAMS.—

(1) IN GENERAL.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified by the State involved under section 312.

(2) BENEFITS.—

(A) IN GENERAL.—During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) CALCULATION.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(3) DEMONSTRATION.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a reasonable rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

(c) CONTINUED SERVICES.—The Secretary shall also provide continued services to graduates, including providing counseling regarding the workplace for 12 months after the date of graduation of the graduates. In selecting a provider for such services, the Secretary shall give priority to one-stop partners.

SEC. 339. COUNSELING AND JOB PLACEMENT.

(a) COUNSELING AND TESTING.—The Secretary shall arrange for counseling and testing for each enrollee at regular intervals to measure progress in the education and vocational training programs carried out through the Job Corps.

(b) PLACEMENT.—The Secretary shall arrange for counseling and testing for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall make every effort to arrange to place the enrollees in jobs in the vocations for which the enrollees are trained or to assist the enrollees in obtaining further activities described in this subtitle. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop customer service system to the fullest extent possible.

(c) STATUS AND PROGRESS.—The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this subtitle are met.

SEC. 340. SUPPORT.

(a) PERSONAL ALLOWANCES.—The Secretary shall provide enrollees assigned to Job Corps

centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

(b) READJUSTMENT ALLOWANCES.—The Secretary shall arrange for a readjustment allowance to be paid to eligible former enrollees and graduates. The Secretary shall arrange for the allowance to be paid at the one-stop customer service center nearest to the home of such a former enrollee or graduate who is returning home, or at the one-stop customer service center nearest to the location where the former enrollee or graduate has indicated an intent to seek employment. If the Secretary uses any organization, in lieu of a one-stop customer service center, to provide placement services under this Act, the Secretary shall arrange for that organization to pay the readjustment allowance.

SEC. 341. OPERATING PLAN.

(a) IN GENERAL.—The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

(b) ADDITIONAL INFORMATION.—The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

(c) AVAILABILITY.—The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

SEC. 342. STANDARDS OF CONDUCT.

(a) PROVISION AND ENFORCEMENT.—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) DISCIPLINARY MEASURES.—

(1) IN GENERAL.—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(2) ZERO TOLERANCE POLICY AND DRUG TESTING.—

(A) GUIDELINES.—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) DRUG TESTING.—The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 335(a).

(C) DEFINITIONS.—In this paragraph:

(i) CONTROLLED SUBSTANCE.—The term ''controlled substance'' has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) ZERO TOLERANCE POLICY.—The term ''zero tolerance policy'' means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) APPEAL.—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

SEC. 343. COMMUNITY PARTICIPATION.

(a) BUSINESS AND COMMUNITY LIAISON.—Each Job Corps center shall have a Business and Community Liaison (referred to in this Act as a ''Liaison''), designated by the director of the center.

(b) RESPONSIBILITIES.—The responsibilities of the Liaison shall include—

(1) establishing and developing relationships and networks with—

(A) local and distant employers; and

(B) applicable one-stop customer service centers and applicable local partnerships,

for the purpose of providing job opportunities for Job Corps graduates; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules, procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

(c) NEW CENTERS.—The Liaison for a Job Corps center that is not yet operating shall establish and develop the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 344. INDUSTRY COUNCILS.

(a) IN GENERAL.—Each Job Corps center shall have an industry council, appointed by the director of the center after consultation with the Liaison, in accordance with procedures established by the Secretary.

(b) INDUSTRY COUNCIL COMPOSITION.—

(1) IN GENERAL.—An industry council shall be comprised of—

(A) a majority of members who shall be local and distant owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local area; and

(B) representatives of labor organizations (where present) and representatives of employees.

(2) LOCAL PARTNERSHIP.—The industry council may include members of the applicable local partnerships who meet the requirements described in paragraph (1).

(c) RESPONSIBILITIES.—The responsibilities of the industry council shall be—

(1) to work closely with all applicable local partnerships in order to determine, and recommend to the Secretary, appropriate vocational training for the center;

(2) to review all the relevant labor market information to—

(A) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(B) determine the skills and education that are necessary to obtain the employment opportunities; and

(C) recommend to the Secretary the type of vocational training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to reevaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the vocational training provided at the center.

(d) NEW CENTERS.—The industry council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 345. ADVISORY COMMITTEES.

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

SEC. 346. EXPERIMENTAL, RESEARCH, AND DEMONSTRATION PROJECTS.

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program and may waive any provisions of this subtitle that the Secretary finds would prevent the Secretary from carrying out the projects.

SEC. 347. 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. 348. SPECIAL PROVISIONS.

(a) ENROLLMENT.—The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 335.

(b) STUDIES, EVALUATIONS, PROPOSALS, AND DATA.—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

(c) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act or under any other Act.

(2) PROPERTY.—The property described in this paragraph is real and personal property under

the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

(d) GROSS RECEIPTS.—Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

(e) MANAGEMENT FEE.—The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 337.

(f) DONATIONS.—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

(g) SALE OF PROPERTY.—Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

SEC. 349. MANAGEMENT INFORMATION.

(a) FINANCIAL MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

(2) ACCOUNTS.—Each operator and service provider shall maintain funds received under this subtitle in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

(3) FISCAL RESPONSIBILITY.—Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

(b) AUDIT.—

(1) ACCESS.—The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

(2) SURVEYS, AUDITS, AND EVALUATIONS.—The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operators and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

(c) INFORMATION ON CORE PERFORMANCE MEASURES.—

(1) ESTABLISHMENT.—The Secretary shall, with continuity and consistency from year to year, establish core performance measures, and expected performance levels on the performance measures, for Job Corps centers and the Job Corps program, relating to—

(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

(C) the average wage received by graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

(i) on the first day of the employment;

(ii) 6 months after the first day of the employment; and

(iii) 12 months after the first day of the employment,

analyzed by type of vocational training received through the Job Corps program;

(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

(i) 6 months after the first day of the employment; and

(ii) 12 months after the first day of the employment;

(F) the number of graduates who entered unsubsidized employment—

(i) for 32 hours per week or more;

(ii) for not less than 20 but less than 32 hours per week; and

(iii) for less than 20 hours per week;

(G) the number of graduates who entered postsecondary education or advanced training programs, including registered apprenticeship programs, as appropriate; and

(H) the number of graduates who attained job readiness and employment skills.

(2) PERFORMANCE OF RECRUITERS.—The Secretary shall also establish performance measures, and expected performance levels on the performance measures, for local and national recruitment service providers serving the Job Corps program. The performance measures shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) REPORT.—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing, information on the performance of each Job Corps center, and the Job Corps program, on the core performance measures, as compared to the expected performance level for each performance measure. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance measures established under such paragraph, as compared to the expected performance levels for the performance measures.

(d) ADDITIONAL INFORMATION.—The Secretary shall also collect, and submit in the report described in subsection (c), information on the performance of each Job Corps center, and the Job Corps program, regarding—

(1) the number of enrollees served;

(2) the average level of learning gains for graduates and former enrollees;

(3) the number of former enrollees and graduates who entered the Armed Forces;

(4) the number of former enrollees who entered postsecondary education;

(5) the number of former enrollees who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received;

(6) the number of former enrollees and graduates who obtained a secondary school diploma or its recognized equivalent;

(7) the number and percentage of dropouts from the Job Corps program including the number dismissed under the zero tolerance policy described in section 342(b); and

(8) any additional information required by the Secretary.

(e) METHODS.—The Secretary may, to collect the information described in subsections (c) and (d), use methods described in subtitle A.

(f) PERFORMANCE ASSESSMENTS AND IMPROVEMENTS.—

(1) ASSESSMENTS.—The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

(2) PERFORMANCE IMPROVEMENT PLANS.—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the core performance measures specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

(A) providing technical assistance to the center;

(B) changing the vocational training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

(3) ADDITIONAL PERFORMANCE IMPROVEMENT PLANS.—In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in paragraph (2), for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in paragraph (2).

SEC. 350. GENERAL PROVISIONS.

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 347(b), collect or compromise all obligations to or held by the Secretary and exercise all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this subtitle—

(A) for printing and binding, in accordance with applicable law (including regulation); and

(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper

administration of this subtitle, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

SEC. 351. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2004.

Subtitle C—National Programs

SEC. 361. NATIVE AMERICAN PROGRAMS.

(a) PURPOSE AND POLICY.—

(1) PURPOSE.—The purpose of this section is to support workforce investment activities and supplemental services 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.—In this section:

(1) 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).

(2) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms ''Native Hawaiian'' and ''Native Hawaiian organization'' have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(c) PROGRAMS AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) EXCEPTION.—The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirements for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under subsection (c) shall be used for—

(i) building a comprehensive facility to be utilized by American Samoans residing in Hawaii for the co-location of federally funded and State funded workforce investment activities;

(ii) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(iii) 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).

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 2-year strategy for meeting the needs of Indian or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

(1) be consistent with the purpose of this section;

(2) identify the population to be served;

(3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;

(4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and

(5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) REGULATIONS.—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) WAIVERS.—

(A) IN GENERAL.—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under paragraph (2), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of participants, grievance procedures, and judicial review.

(B) REQUEST AND APPROVAL.—An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 379(i)(4)(B).

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) COMPOSITION.—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) DUTIES.—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) PERSONNEL MATTERS.—

(i) COMPENSATION OF MEMBERS.—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under subsection (c) to enable such entities to improve the activities authorized under this section that are provided by such entities.

SEC. 362. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) IN GENERAL.—Every 2 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce investment activities (including youth activities) and related assistance for eligible migrant and seasonal farmworkers.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

(2) ADMINISTRATION.—Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and

competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

(3) COMPETITION.—

(A) IN GENERAL.—The competition for grants made and contracts entered into under this section shall be conducted every 2 years.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a recipient of such a grant or contract has performed satisfactorily under the terms of the grant agreement or contract, the Secretary may waive the requirement for such competition for such recipient upon receipt from the recipient of a satisfactory 2-year plan described in paragraph (1) for the succeeding 2-year grant or contract period.

(4) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the eligible migrant and seasonal farmworkers to be served and the manner in which the workforce investment activities (including youth activities) to be carried out will strengthen the ability of the eligible migrant and seasonal farmworkers to obtain or retain unsubsidized employment or stabilize their unsubsidized employment;

(B) describe the related assistance, including supportive services, to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services; and

(C) describe, after consultation with the Secretary, the performance measures 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 workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, supportive services, dropout prevention activities, follow-up services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to capacity enhancement in such areas as management information technology.

(e) CONSULTATION WITH GOVERNORS AND LOCAL PARTNERSHIPS.—In making grants and entering into contracts under this section, the Secretary shall consult with the Governors and local partnerships of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to carry out this section, including performance measures for eligible entities that take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

(g) DEFINITIONS.—In this section:

(1) DISADVANTAGED.—The term ''disadvantaged'', used with respect to a farmworker, means a farmworker whose income, for 12 consecutive months out of the 24 months prior to application for the program involved, does not exceed the higher of—

(A) the poverty line (as defined in section 334(a)(2)(B)) for an equivalent period; or

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

(2) ELIGIBLE MIGRANT AND SEASONAL FARMWORKERS.—The term ''eligible migrant and seasonal farmworkers'' means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

(3) ELIGIBLE MIGRANT FARMWORKER.—The term ''eligible migrant farmworker'' means—

(A) an eligible seasonal farmworker described in paragraph (4)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

(4) ELIGIBLE SEASONAL FARMWORKER.—The term ''eligible seasonal farmworker'' means—

(A) a disadvantaged person who, for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment; and

(B) a dependent of the person described in subparagraph (A).

SEC. 363. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall conduct, directly or through grants or contracts, programs to meet the needs for workforce investment activities of veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans.

(2) CONDUCT OF PROGRAMS.—Programs supported under this section may be conducted through grants and contracts with public agencies and private nonprofit organizations, including recipients of Federal assistance under other provisions of this title, that the Secretary determines have an understanding of the unemployment problems of veterans described in paragraph (1), familiarity with the area to be served, and the capability to administer effectively a program of workforce investment activities for such veterans.

(3) REQUIRED ACTIVITIES.—Programs supported under this section shall include—

(A) activities to enhance services provided to veterans by other providers of workforce investment activities funded by Federal, State, or local government;

(B) activities to provide workforce investment activities to such veterans that are not adequately provided by other public providers of workforce investment activities; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop customer service centers.

(b) ADMINISTRATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall administer programs supported under this section through the Assistant Secretary for Veterans' Employment and Training.

(2) ADDITIONAL RESPONSIBILITIES.—In carrying out responsibilities under this section, the Assistant Secretary for Veterans' Employment and Training shall—

(A) be responsible for the awarding of grants and contracts and the distribution of funds under this section and for the establishment of appropriate fiscal controls, accountability, and program performance measures for recipients of grants and contracts under this section; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this section are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter II of chapter 77 of such title, chapters 30, 31, 32, and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

SEC. 364. YOUTH OPPORTUNITY GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Using funds made available under section 302(b)(3)(A), the Secretary shall make grants to eligible local partnerships and eligible entities described in subsection (d) to provide activities described in subsection (b) for youth to increase the long-term employment of eligible youth who live in empowerment zones, enterprise communities, and high poverty areas and who seek assistance.

(2) GRANT PERIOD.—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

(3) GRANT AWARDS.—In making grants under this section, the Secretary shall ensure that grants are distributed equitably among local partnerships and entities serving urban areas and local partnerships and entities serving rural areas, taking into consideration the poverty rate in such urban and rural areas, as described in subsection (c)(3)(B).

(b) USE OF FUNDS.—

(1) IN GENERAL.—A local partnership or entity that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 316, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

(2) INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.—In providing activities under this section, a local partnership or entity shall provide—

(A) intensive placement services; and

(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

(c) ELIGIBLE LOCAL PARTNERSHIPS.—To be eligible to receive a grant under this section, a local partnership shall serve a community that—

(1) has been designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986;

(2)(A) is a State without a zone or community described in paragraph (1); and

(B) has been designated as a high poverty area by the Governor of the State; or

(3) is 1 of 2 areas in a State that—

(A) have been designated by the Governor as areas for which a local partnership may apply for a grant under this section; and

(B) meet the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity (other than a local partnership) shall—

(1) be a recipient of financial assistance under section 361; and

(2) serve a community that—

(A) meets the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986; and

(B) is located on an Indian reservation.

(e) APPLICATION.—To be eligible to receive a grant under this section, a local partnership or entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the local partnership or entity will provide under this section to youth in the community described in subsection (c);

(2) a description of the performance measures negotiated under subsection (f), and the manner in which the local partnerships or entities will carry out the activities to meet the performance measures;

(3) a description of the manner in which the activities will be linked to activities described in section 316; and

(4) a description of the community support, including financial support through leveraging

additional public and private resources, for the activities.

(f) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local partnership or entity on performance measures for the indicators of performance referred to in paragraphs (2) and (3) of section 321(b) that will be used to evaluate the performance of the local partnership or entity in carrying out the activities described in subsection (b). Each local performance measure shall consist of such a indicator of performance, and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local partnership or entity regarding the levels of performance expected to be achieved by the local partnership or entity on the indicators of performance.

(g) ROLE MODEL ACADEMY PROJECT.—

(1) IN GENERAL.—Using the funds made available pursuant to section 302(b)(3)(A)(iv) for fiscal year 1999, the Secretary shall provide assistance to an entity to carry out a project establishing a role model academy for out-of-school youth.

(2) RESIDENTIAL CENTER.—The entity shall use the assistance to establish an academy that consists of a residential center located on the site of a military installation closed or realigned pursuant to a law providing for closures and realignments of such installations.

(3) SERVICES.—The academy established pursuant to this subsection shall provide services that—

(A) utilize a military style model that emphasizes leadership skills and discipline, or another model of demonstrated effectiveness; and

(B) include vocational training, secondary school course work leading to a secondary school diploma or recognized equivalent, and the use of mentors who serve as role models and who provide academic training and career counseling to the youth.

SEC. 365. INCENTIVE GRANTS.

(a) IN GENERAL.—Effective July 1, 2000, the Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment activity programs, as determined by the State.

(c) INCENTIVE GRANT REGULATIONS.—The Secretary of Labor and the Secretary of Education shall jointly promulgate 1 set of regulations for incentive grants under sections 116 and 243 and this section.

SEC. 366. TECHNICAL ASSISTANCE.

(a) TRANSITION ASSISTANCE.—The Secretary shall provide technical assistance to assist States in making transitions from carrying out activities under provisions described in section 391 to carrying out activities under this title.

(b) PERFORMANCE IMPROVEMENT.—

(1) GENERAL ASSISTANCE.—

(A) AUTHORITY.—The Secretary—

(i) shall provide technical assistance to States who fail to meet ⅓ or more of the State performance measures for a program year; and

(ii) may provide technical assistance to other States, local areas, and recipients of financial assistance under any of sections 361 through 364 to promote the continuous improvement of the programs and activities authorized under this title.

(B) FORM OF ASSISTANCE.—In carrying out this paragraph on behalf of a State, or recipient of financial assistance under any of sections 361 through 364, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements.

(C) LIMITATION.—Grants or contracts awarded under this paragraph that are for amounts in excess of $50,000 shall only be awarded on a competitive basis.

(2) DISLOCATED WORKER TECHNICAL ASSISTANCE.—

(A) AUTHORITY.—Of the amounts available pursuant to section 302(a)(2), the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do not meet the State performance measures described in section 321(b) with respect to employment and training activities for dislocated workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, business and labor organizations, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this title.

(B) TRAINING.—Amounts reserved under this paragraph may be used to provide for the training of staff, including specialists, who provide rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. Such projects shall be administered through the dislocated worker office described in section 369(b).

SEC. 367. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the demonstration and pilot (including dislocated worker demonstration and pilot), multiservice, research, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. Copies of the plan shall be transmitted to the appropriate committees of Congress.

(2) LIMITATION.—With respect to a plan published under paragraph (1), the Secretary shall ensure that research projects (referred to in subsection (d)) are considered for incorporation into the plan only after projects referred to in subsections (b), (c), and (e) have been considered and incorporated into the plan, and are funded only as funds remain to permit the funding of such research projects.

(3) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(b) DEMONSTRATION AND PILOT PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

(i) entities with recognized expertise in—

(I) conducting national demonstration projects;

(II) utilizing state-of-the-art demonstration methods; and

(III) conducting evaluations of employment and training projects; or

(ii) State and local entities with expertise in operating or overseeing employment and training programs.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

(c) MULTISERVICE PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out multiservice projects—

(A) that will test an array of approaches to the provision of employment and training services to a variety of targeted populations;

(B) in which the entity carrying out the project, in conjunction with employers, organized labor, and other groups such as the disability community, will design, develop, and test various training approaches in order to determine effective practices; and

(C) that will assist in the development and replication of effective service delivery strategies for targeted populations for the national employment and training system as a whole.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out multiservice projects under this subsection shall be awarded only on a competitive basis.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(d) RESEARCH.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States.

(2) FORMULA IMPROVEMENT STUDY AND REPORT.—

(A) STUDY.—The Secretary shall conduct a 2-year study concerning improvements in the formulas described in section 302(b)(1)(B) and paragraphs (3)(A) and (4)(A) of section 306(b) (regarding distributing funds under subtitle A to States and local areas for adult employment and training activities). In conducting the study, the Secretary shall examine means of improving the formulas by—

(i) developing formulas based on statistically reliable data;

(ii) developing formulas that are consistent with the goals and objectives of this title; and

(iii) developing formulas based on organizational and financial stability of statewide partnerships and local partnerships.

(B) REPORT.—The Secretary shall prepare and submit to Congress a report containing the results of the study, including recommendations for improved formulas.

(3) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out research projects under this subsection in amounts that exceed $50,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts shall be awarded under this subsection only to entities with nationally recognized expertise in the methods, techniques, and knowledge of the social sciences.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for the duration of research projects funded under this subsection.

(e) MULTISTATE PROJECTS.—

(1) IN GENERAL.—

(A) AUTHORITY.—Under a plan published under subsection (a), the Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industrywide skill shortages.

(B) DESIGN OF GRANTS.—Grants or contracts awarded under this subsection shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out multistate projects under this subsection shall be awarded only on a competitive basis.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(f) DISLOCATED WORKER PROJECTS.—Of the amount made available pursuant to section 302(a)(2)(A) for any program year, the Secretary shall use not more than 10 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects, relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (g). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered through the dislocated worker office described in section 369(b).

(g) PEER REVIEW.—The Secretary shall utilize a peer review process to—

(1) review and evaluate all applications for grants and contracts in amounts that exceed $100,000 that are submitted under this section; and

(2) review and designate exemplary and promising programs under this section.

SEC. 368. EVALUATIONS.

(a) PROGRAMS AND ACTIVITIES CARRIED OUT UNDER THIS TITLE.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title, the Secretary shall provide for the continuing evaluation of the programs and activities. Such evaluations shall address—

(1) the general effectiveness of such programs and activities in relation to their cost;

(2) the effectiveness of the performance measures relating to such programs and activities;

(3) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities;

(4) the impact of the programs and activities on the community and participants involved;

(5) the impact of such programs and activities on related programs and activities;

(6) the extent to which such programs and activities meet the needs of various demographic groups; and

(7) such other factors as may be appropriate.

(b) OTHER PROGRAMS AND ACTIVITIES.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities, including programs and activities administered under—

(1) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(2) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

(3) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

(4) State unemployment compensation laws (in accordance with applicable Federal law).

(c) TECHNIQUES.—Evaluations conducted under this section shall utilize appropriate methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct as least 1 multisite control group evaluation under this section by the end of fiscal year 2004.

(d) REPORTS.—The entity carrying out an evaluation described in subsection (a) or (b) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(e) REPORTS TO CONGRESS.—Not later than 30 days after the completion of such a draft report, the Secretary shall transmit the draft report to the appropriate committees of Congress. Not later than 60 days after the completion of such a final report, the Secretary shall transmit the final report to the appropriate committees of Congress.

(f) COORDINATION.—The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 321(e) with the evaluations carried out under this section.

SEC. 369. NATIONAL EMERGENCY GRANTS.

(a) IN GENERAL.—The Secretary is authorized to award national emergency grants in a timely manner—

(1) to an entity described in subsection (c) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)) (referred to in this section as the ''disaster area'') to provide disaster relief employment in the area; and

(3) to provide additional assistance to a State or local partnership for eligible dislocated workers in a case in which the State or local partnership has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary.

(b) ADMINISTRATION.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants.

(c) EMPLOYMENT AND TRAINING ASSISTANCE REQUIREMENTS.—

(1) GRANT RECIPIENT ELIGIBILITY.—

(A) APPLICATION.—To be eligible to receive a grant under subsection (a)(1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) ELIGIBLE ENTITY.—In this paragraph, the term ''entity'' means a State, a local partnership, an entity described in section 361(c), an employer or employer association, a labor organization, and an entity determined to be eligible by the Governor of the State involved.

(2) PARTICIPANT ELIGIBILITY.—

(A) IN GENERAL.—In order to be eligible to receive employment and training assistance under a national emergency grant awarded pursuant to subsection (a)(1), an individual shall be—

(i) a dislocated worker;

(ii) a civilian employee of the Department of Defense employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;

(iii) an individual who is employed in a nonmanagerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at-risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to nondefense applications in order to prevent worker layoffs; or

(iv) a member of the Armed Forces who—

(I) was on active duty or full-time National Guard duty;

(II)(aa) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

(bb) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title;

(III) is not entitled to retired or retained pay incident to the separation described in subclause (II); and

(IV) applies for such employment and training assistance before the end of the 180-day period beginning on the date of that separation.

(B) RETRAINING ASSISTANCE.—The individuals described in subparagraph (A)(iii) shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion described in subparagraph (A)(iii).

(C) ADDITIONAL REQUIREMENTS.—The Secretary shall establish and publish additional requirements related to eligibility for employment and training assistance under the national emergency grants to ensure effective use of the funds available for this purpose.

(D) DEFINITIONS.—In this paragraph, the terms 'military institution' and 'realignment' have the meanings given the terms in section 2910 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 10 U.S.C. 2687 note).

(d) DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—

(1) IN GENERAL.—Funds made available under subsection (a)(2)—

(A) shall be used to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide the services authorized under section 315(c).

(2) ELIGIBILITY.—An individual shall be eligible to be offered disaster relief employment under subsection (a)(2) if such individual is a dislocated worker, is a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster.

(3) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under subsection (a)(2) for more than 6 months for work related to recovery from a single natural disaster.

SEC. 370. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Subject to subsection (b)(1), there are authorized to be appropriated to carry out sections 361 through 363 such sums as may be necessary for each of the fiscal years 1999 through 2004.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Subject to subsection (b)(2), there are authorized to be appropriated to carry out sections 365 through 368, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) RESERVATIONS.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Of the amount appropriated under subsection (a)(1) for a fiscal year, the Secretary shall—

(A) reserve not less than $55,000,000 for carrying out section 361;

(B) reserve not less than $70,000,000 for carrying out section 362; and

(C) reserve not less than $7,300,000 for carrying out section 363.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Of the amount appropriated under subsection (a)(2) for a fiscal year, the Secretary shall—

(A)(i) for fiscal year 1999, reserve no funds for carrying out section 365; and

(ii) for each of fiscal years 2000 through 2004, reserve 36.8 percent for carrying out section 365;

(B)(i) for fiscal year 1999, reserve 61.8 percent for carrying out section 366 (other than section 366(b)(2)); and

(ii) for each of fiscal years 2000 through 2004, reserve 25 percent for carrying out section 366 (other than section 366(b)(2));

(C) reserve 24.2 percent of a carrying out section 367 (other than 367(f)); and

(D) reserve 14 percent for carrying out section 368.

Subtitle D—Administration

SEC. 371. REQUIREMENTS AND RESTRICTIONS.

(a) BENEFITS.—

(1) WAGES.—

(A) IN GENERAL.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar skills. Such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(B) CONSTRUCTION.—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938—

(i) shall be deemed to be a reference to section 6(c) of that Act (29 U.S.C. 206(c)) for individuals in the Commonwealth of Puerto Rico;

(ii) shall be deemed to be a reference to section 6(a)(3) (29 U.S.C. 206(a)(3)) of that Act for individuals in American Samoa; and

(iii) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) does not apply.

(2) TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.—Allowances, earnings, and payments to individuals participating in programs and activities carried out 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) LABOR STANDARDS.—

(1) DISPLACEMENT.—

(A) PROHIBITION.—A participant in a program or activity authorized under this title (referred to in this subsection 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.

(2) OTHER PROHIBITIONS.—A participant in a specified activity shall not be employed in a job—

(A) when any other individual is on layoff from the same or any substantially equivalent job with the participating employer;

(B) 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; or

(C) that is created in a promotional line that will infringe in any way on the promotional opportunities of currently employed individuals (as of the date of the participation).

(3) 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.

(4) EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(5) OPPORTUNITY TO SUBMIT COMMENTS.—Interested members of the public, including representatives of labor organizations and businesses, shall be provided an opportunity to submit comments to the Secretary with respect to programs and activities proposed to be funded under subtitle A.

(6) NO IMPACT ON UNION ORGANIZING.—Each recipient of funds under this title shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(c) GRIEVANCE PROCEDURE.—

(1) IN GENERAL.—Each State receiving an allotment under section 302 and each recipient of financial assistance under section 361 or 362 shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the date of the filing of the grievance or complaint.

(2) INVESTIGATION.—

(A) IN GENERAL.—The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals the decision to the Secretary; or

(ii) a decision relating to such violation has been reached within 60 days after the date of the filing and the party to which such decision is adverse appeals the decision to the Secretary.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after the date of such appeal.

(3) REMEDIES.—Remedies that may be imposed under this subsection for a violation of any requirement of this title shall be limited—

(A) to suspension or termination of payments under this title to a person that has violated any requirement of this title;

(B) to prohibition of placement of a participant with an employer that has violated any requirement of this title;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) CONSTRUCTION.—Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this title.

(d) RELOCATION.—

(1) PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION.—No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

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

(3) REPAYMENT.—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) LIMITATION ON USE OF FUNDS.—No funds available under this title shall be used for employment generating activities, economic development activities, activities for the capitalization of businesses, investment in contract bidding resource centers, or similar activities. No funds available under subtitle A shall be used for foreign travel.

(f) 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 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 shall administer a drug test—

(A) on a random basis, to individuals who apply to participate in training services; and

(B) to a participant in 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 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 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 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 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 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 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, training services. The individual shall not be eligible to reapply for participation in 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 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 training services are selected for drug testing on a random basis, using nondiscriminatory and impartial methods.

(8) NONLIABILITY OF LOCAL PARTNERSHIPS.—A local partnership, and the individual members of a local partnership, 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 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.

(D) TRAINING SERVICES.—The term ''training services'' means services described in section 315(c)(3).

SEC. 372. PROMPT ALLOCATION OF FUNDS.

(a) ALLOTMENTS BASED ON LATEST AVAILABLE DATA.—All allotments under section 302 shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults, disadvantaged youth, and low-income individuals shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) PUBLICATION IN FEDERAL REGISTER RELATING TO FORMULA FUNDS.—Whenever the Secretary allots funds required to be allotted under section 302, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient of the funds.

(c) REQUIREMENT FOR FUNDS DISTRIBUTED BY FORMULA.—All funds required to be allotted or allocated under section 302 or 306 shall be allotted or allocated within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 379(g), such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) AVAILABILITY OF FUNDS.—Funds shall be made available under section 306 to the chief elected official for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 302, or 7 days after the date the local plan for the area is approved, whichever is later.

SEC. 373. MONITORING.

(a) IN GENERAL.—The Secretary is authorized to monitor all recipients of financial assistance under this title to determine whether the recipients are complying with the provisions of this title, including the regulations issued under this title.

(b) INVESTIGATIONS.—The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this title, including the regulations issued under this title. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

(c) ADDITIONAL REQUIREMENT.—For the purpose of any investigation or hearing conducted under this title by the Secretary, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

SEC. 374. FISCAL CONTROLS; SANCTIONS.

(a) ESTABLISHMENT OF FISCAL CONTROLS BY STATES.—

(1) IN GENERAL.—Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds allocated to local areas under subtitle A. Such procedures shall ensure that all financial transactions carried out under subtitle A are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

(2) COST PRINCIPLES.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the applicable uniform cost principles included in the appropriate circulars of the Office of Management and Budget for the type of entity receiving the funds.

(B) EXCEPTION.—The funds made available to a State for administration of statewide workforce investment activities in accordance with section 314(c)(2) shall be allocable to the overall administration of workforce investment activities, but need not be specifically allocable to—

(i) the administration of adult employment and training activities;

(ii) the administration of dislocated worker employment and training activities; or

(iii) the administration of youth activities.

(3) UNIFORM ADMINISTRATIVE REQUIREMENTS.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget.

(B) ADDITIONAL REQUIREMENT.—Procurement transactions under this title between local partnerships and units of State or local governments shall be conducted only on a cost-reimbursable basis.

(4) MONITORING.—Each Governor of a State shall conduct onsite monitoring of each local area within the State to ensure compliance with the uniform administrative requirements referred to in paragraph (3).

(5) ACTION BY GOVERNOR.—If the Governor determines that a local area is not in compliance

with the uniform administrative requirements referred to in paragraph (3), the Governor shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

(6) CERTIFICATION.—The Governor shall, every 3 years, certify to the Secretary that—

(A) the State has implemented the uniform administrative requirements referred to in paragraph (3);

(B) the State has monitored local areas to ensure compliance with the uniform administrative requirements as required under paragraph (4); and

(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

(7) ACTION BY THE SECRETARY.—If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required appropriate action to secure compliance.

(b) SUBSTANTIAL VIOLATION.—

(1) ACTION BY GOVERNOR.—If, as a result of a financial or compliance audit or otherwise, the Governor determines that there is a substantial violation of a specific provision of this title, including regulations issued under this title, and corrective action has not been taken, the Governor shall impose a reorganization plan, which may include—

(A) decertifying the local partnership involved in accordance with section 308(c)(3);

(B) prohibiting the use of providers who have been identified as eligible providers of workforce investment activities under chapter 3 of subtitle A;

(C) selecting an alternative entity to administer a program or activity for the local area involved;

(D) merging the local area into 1 or more other local areas; or

(E) making such other changes as the Secretary or Governor determines to be necessary to secure compliance.

(2) APPEAL.—The action taken by the Governor pursuant to paragraph (1) may be appealed to the Secretary, who shall make a final decision on the appeal not later than 60 days after the receipt of the appeal.

(3) ACTION BY SECRETARY.—If the Governor fails to take promptly the action required under paragraph (1), the Secretary shall take such action.

(c) ACCESS BY COMPTROLLER GENERAL.—For the purpose of evaluating and reviewing programs and activities established or provided for by this title, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs and activities that are in the possession, custody, or control of a State, a local partnership, any recipient of funds under this title, or any subgrantee or contractor of such a recipient.

(d) REPAYMENT OF CERTAIN AMOUNTS TO THE UNITED STATES.—

(1) IN GENERAL.—Every recipient of funds under this title shall repay to the United States amounts found not to have been expended in accordance with this title.

(2) OFFSET OF REPAYMENT.—If the Secretary determines that a State has expended funds made available under this title in a manner contrary to the requirements of this title, the Secretary may offset repayment of such expenditures against any other amount to which the State is or may be entitled, except as provided under subsection (e)(1).

(3) REPAYMENT FROM DEDUCTION BY STATE.—If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds contrary to the requirements of this title, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e)(1).

(4) DEDUCTION BY STATE.—The Governor may deduct an amount equal to the misexpenditure described in paragraph (3) from subsequent program year allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

(5) LIMITATIONS.—A deduction made by a State as described in paragraph (4) shall not be made until such time as the Governor has taken appropriate corrective action to ensure full compliance within such local area with regard to appropriate expenditures of funds under this title.

(e) REPAYMENT OF AMOUNTS.—

(1) IN GENERAL.—Each recipient of funds under this title shall be liable to repay the amounts described in subsection (d)(1), from funds other than funds received under this title, upon a determination by the Secretary that the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure as described in paragraphs (2) and (3) of subsection (d). No such determination shall be made under this subsection or subsection (d) until notice and opportunity for a fair hearing has been given to the recipient.

(2) FACTORS IN IMPOSING SANCTIONS.—In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee or contractor of such recipient under this title (including the regulations issued under this title), the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contractors that contains acceptable standards for ensuring accountability;

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this title, including regulations issued under this title, by such subgrantee or contractor.

(3) WAIVER.—If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this title and any applicable Federal or State law directly against any subgrantee or contractor for violation of this title, including regulations issued under this title.

(f) IMMEDIATE TERMINATION OR SUSPENSION OF ASSISTANCE IN EMERGENCY SITUATIONS.—In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(g) DISCRIMINATION AGAINST PARTICIPANTS.—If the Secretary determines that any recipient of funds under this title has discharged or in any other manner discriminated in violation of section 378 against, a participant or any other individual in connection with the administration of the program or activity involved, or any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title, or has testified or is about to testify in any such proceeding or investigation under or related to this title, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this title, including regulations issued under this title, the Secretary shall, within 30 days after the date of the determination, take such action or order such corrective measures, as may be necessary, with respect to the recipient or the aggrieved individual.

(h) REMEDIES.—The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

SEC. 375. REPORTS; RECORDKEEPING; INVESTIGATIONS.

(a) REPORTS.—

(1) IN GENERAL.—Recipients of funds under this title shall keep records that are sufficient to permit the preparation of reports required by this title and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) SUBMISSION TO THE SECRETARY.—Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress.

(3) MAINTENANCE OF STANDARDIZED RECORDS.—In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

(4) AVAILABILITY TO THE PUBLIC.—

(A) IN GENERAL.—Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) EXCEPTION.—Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) FEES TO RECOVER COSTS.—Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

(b) INVESTIGATIONS OF USE OF FUNDS.—

(1) IN GENERAL.—

(A) SECRETARY.—In order to evaluate compliance with the provisions of this title, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this title.

(B) COMPTROLLER GENERAL OF THE UNITED STATES.—In order to ensure compliance with the provisions of this title, the Comptroller General of the United States may conduct investigations of the use of funds received under this title by any recipient.

(2) PROHIBITION.—In conducting any investigation under this title, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to

compile and that is not readily available to such recipient.

(3) AUDITS.—

(A) IN GENERAL.—In carrying out any audit under this title (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable), prior to the commencement of the audit.

(B) NOTIFICATION REQUIREMENT.—If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) ADDITIONAL REQUIREMENT.—The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) RULE OF CONSTRUCTION.—Nothing contained in this title shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) ACCESSIBILITY OF REPORTS.—Each State, each local partnership, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title shall—

(1) make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 378; and

(3) monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title.

(d) INFORMATION TO BE INCLUDED IN REPORTS.—

(1) IN GENERAL.—The reports required in subsection (c) shall include information regarding programs and activities carried out under this title pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 378.

(2) ADDITIONAL REQUIREMENT.—The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) RETENTION OF RECORDS.—The Governor of a State that receives funds under this title shall ensure that requirements are established for retention of all records of the State pertinent to all grants awarded, and contracts and agreements entered into, under this title, including financial, statistical, property, and participant records and supporting documentation. For funds allotted to a State under this title for any program year, the State shall retain the records for 2 subsequent program years. The State shall retain records for nonexpendable property that is used to carry out this title for a period of 3 years after final disposition of the property.

(f) QUARTERLY FINANCIAL REPORTS.—

(1) IN GENERAL.—Each local partnership in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this title. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) ADDITIONAL REQUIREMENT.—Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(g) MAINTENANCE OF ADDITIONAL RECORDS.—Each State and local partnership shall maintain records with respect to programs and activities carried out under this title that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(h) COST CATEGORIES.—In requiring entities to maintain records of costs by category under this title, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

SEC. 376. ADMINISTRATIVE ADJUDICATION.

(a) IN GENERAL.—Whenever any applicant for financial assistance under this title is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 374. Except to the extent provided for in section 371(c) or 378, all other disputes arising under this title relating to the manner in which the recipient carries out a program or activity under this title shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this title.

(b) APPEAL.—The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) TIME LIMIT.—Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) ADDITIONAL REQUIREMENT.—The provisions of section 377 shall apply to any final action of the Secretary under this section.

SEC. 377. JUDICIAL REVIEW.

(a) REVIEW.—

(1) PETITION.—With respect to any final order by the Secretary under section 376 by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under this title, or any final order of the Secretary under section 376 with respect to a corrective action or sanction imposed under section 374, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) ACTION ON PETITION.—The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28, United States Code. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) STANDARD AND SCOPE OF REVIEW.—No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) JUDGMENT.—The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28, United States Code.

SEC. 378. NONDISCRIMINATION.

(a) PROHIBITED DISCRIMINATION.—

(1) PROHIBITION ON DISCRIMINATION IN FEDERAL PROGRAMS AND ACTIVITIES.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or on the basis of religion under any applicable provision of Federal law, programs and activities funded or otherwise financially assisted in whole or in part under this title shall be considered to be programs and activities receiving Federal financial assistance, and education programs and activities receiving Federal financial assistance.

(2) PROHIBITION OF DISCRIMINATION REGARDING PARTICIPATION, BENEFITS, AND EMPLOYMENT.—Except as otherwise permitted under title IX of the Education Amendments of 1972, no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

(3) PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP.—Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.—No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant, in carrying out any endeavor that involves—

(A) participants in programs and activities that receive funding under this title; and

(B) persons who receive no assistance under this title.

(5) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS.—Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, other aliens lawfully present in the United States, and other individuals authorized by the Attorney General to work in the United States.

(b) ACTION OF SECRETARY.—Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided to the head of a Federal department or agency under the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

(3) take such other action as may be provided by law.

(c) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) JOB CORPS MEMBERS.—For purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of a program or activity receiving Federal financial assistance and an education program or activity receiving Federal financial assistance.

SEC. 379. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe rules and regulations to carry out this title to the extent necessary to implement, administer, and ensure compliance with the requirements of this title. Such rules and regulations may include provisions making adjustments authorized by section 6504 of title 31, United States Code. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

(b) ACQUISITION OF CERTAIN PROPERTY AND SERVICES.—The Secretary is authorized, in carrying out this title, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

(c) AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS AND TO MAKE CERTAIN EXPENDITURES.—The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this title, as may be necessary to carry out this title, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of overpayments or underpayments.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) UTILIZATION OF SERVICES AND FACILITIES.—The Secretary is authorized, in carrying out this title, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this title, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this title, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

(f) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this title except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) PROGRAM YEAR.—

(1) IN GENERAL.—

(A) PROGRAM YEAR.—Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(B) YOUTH ACTIVITIES.—The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth activities under subtitle A.

(2) AVAILABILITY.—Funds obligated for any program year for a program or activity carried out under this title may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 367 or 368 shall remain available until expended. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 341, or a plan, grant agreement, contract, application, or other agreement described in subtitle C, as appropriate.

(h) ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT.—The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

(i) WAIVERS AND SPECIAL RULES.—

(1) EXISTING WAIVERS.—With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–234), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subtitle A and this subtitle, for the duration of the initial waiver.

(2) SPECIAL RULE REGARDING DESIGNATED AREAS.—A State that enacts, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this title, notwithstanding section 307(a).

(3) SPECIAL RULE REGARDING SANCTIONS.—A State that enacts, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance measures under this title.

(4) GENERAL WAIVERS OF STATUTORY OR REGULATORY REQUIREMENTS.—

(A) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subtitle A or this subtitle (except for requirements relating to wage and labor standards, worker rights, participation and protection of workers, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local partnerships, and procedures for review and approval of plans); and

(ii) any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(B) REQUESTS.—A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the organizations identified in section 308(c)(2).

(C) CONDITIONS.—Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this paragraph if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

SEC. 380. STATE LEGISLATIVE AUTHORITY.

(a) AUTHORITY OF STATE LEGISLATURE.—Nothing in this title shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities assisted under this title. Any funds received by a State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this title.

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

SEC. 381. WORKFORCE FLEXIBILITY PARTNERSHIP PLANS.

(a) PLANS.—A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility partnership plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this title to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this title, wage and labor standards, grievance procedures and judicial review, nondiscrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local partnerships, review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) to the State, except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to jobseekers; and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to State agencies on aging with respect to activities carried out using funds allotted under section 506(a)(3) of such Act (42 U.S.C. 3056d(a)(3)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for agreements.

(b) CONTENT OF PLANS.—A workforce flexibility partnership plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this title; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 8 through 10 of the Wagner-Peyser Act that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(c) PERIODS.—The Secretary may approve a workforce flexibility partnership plan for a period of not more than 5 years.

(d) OPPORTUNITY FOR PUBLIC COMMENTS.—Prior to submitting a workforce flexibility partnership plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

SEC. 382. USE OF CERTAIN REAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law, pursuant to a plan submitted by a Governor of a State and approved by the Secretary, the Governor may authorize a public agency to use, for any of the functions of a one-stop customer service system within the State, real property in which, as of the effective date of this Act, the Federal Government has acquired equity through use of funds provided under title III of the Social Security Act (42 U.S.C. 501 et seq.), section 903(c) of such Act (42 U.S.C. 1103(c)), or the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(b) USE OF FUNDS.—Subsequent to the commencement of the use of the property described in subsection (a) for the functions of a one-stop customer service system, funds provided under the provisions of law described in subsection (a) may only be used to acquire further equity in such property, or to pay operating and maintenance expenses relating to such property in proportion to the extent of the use of such property attributable to the activities authorized under such provisions of law.

SEC. 383. CONTINUATION OF STATE ACTIVITIES AND POLICIES.

(a) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may not deny approval of a State plan for a covered State, or an application of a covered State for financial assistance, under this title or find a covered State (including a statewide partnership or Governor), or a local area (including a local partnership or chief elected official) in a covered State, in violation of a provision of this title, on the basis that—

(1)(A) the State proposes to allocate or disburse, allocates, or disburses, within the State, funds made available to the State under section 302 in accordance with the allocation formula for the type of activities involved, or in accordance with a disbursal procedure or process, used by the State under prior consistent State law; or

(B) a local partnership in the State proposes to disburse, or disburses, within the local area, funds made available to a State under section 302 in accordance with a disbursal procedure or process used by a private industry council under prior consistent State law;

(2) the State proposes to carry out or carries out a State procedure through which local areas use, as fiscal agents for funds made available to the State under section 302 and allocated within the State, fiscal agents selected in accordance with a process established under prior consistent State law;

(3) the State proposes to carry out or carries out a State procedure through which the local partnerships in the State (or the local partnerships, the chief elected officials in the State, and the Governor) designate or select the one-stop partners and one-stop customer service center operators of the statewide system in the State under prior consistent State law, in lieu of making the appointment, designation, or certification described in section 311 (regardless of the date the one-stop customer service systems involved have been established);

(4) the State proposes to carry out or carries out a State procedure through which the persons responsible for selecting eligible providers for purposes of subtitle A are permitted to determine that a provider shall not be selected to provide both intake services under section 315(c)(2) and training services under section 315(c)(3), under prior consistent State law;

(5) the State proposes to designate or designates a statewide partnership, or proposes to assign or assigns functions and roles of the statewide partnership (including determining the time periods for development and submission of a State plan required under section 304), for purposes of subtitle A in accordance with prior consistent State law; or

(6) a local partnership in the State proposes to use or carry out, uses, or carries out a local plan (including assigning functions and roles of the local partnership) for purposes of subtitle A in accordance with the authorities and requirements applicable to local plans and private industry councils under prior consistent State law.

(b) DEFINITION.—In this section:

(1) COVERED STATE.—The term ''covered State'' means a State that enacted a State law described in paragraph (2).

(2) PRIOR CONSISTENT STATE LAW.—The term ''prior consistent State law'' means a State law, not inconsistent with the Job Training Partnership Act or any other applicable Federal law, that took effect on September 1, 1993, September 1, 1995, or September 1, 1997.

Subtitle E—Repeals and Conforming Amendments

SEC. 391. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(4) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

(6) Subchapter I of chapter 421 of title 49, United States Code.

(b) SUBSEQUENT REPEALS.—The following provisions are repealed:

(1) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(2) 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).

SEC. 392. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress the recommended legislation referred to under subsection (a).

SEC. 393. EFFECTIVE DATES.

(a) IMMEDIATE REPEALS.—The repeals made by section 391(a) shall take effect on the date of enactment of this Act.

(b) SUBSEQUENT REPEALS.—The repeals made by section 391(b) shall take effect on July 1, 1999.

TITLE IV—WORKFORCE INVESTMENT-RELATED ACTIVITIES

Subtitle A—Wagner-Peyser Act

SEC. 401. DEFINITIONS.

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1)—

(A) by striking ''or officials''; and

(B) by striking ''Job Training Partnership Act'' and inserting ''Workforce Investment Partnership Act of 1998'';

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraphs (3) and (5) as paragraphs (5) and (6), respectively;

(4) by inserting after paragraph (1) the following:

''(2) the term 'local workforce investment area' means a local workforce investment area designated under section 307 of the Workforce Investment Partnership Act of 1998;

''(3) the term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1998;

''(4) the term 'one-stop customer service system' means a one-stop customer service system established under section 315(b) of the Workforce Investment Partnership Act of 1998;''; and

(5) in paragraph (5) (as redesignated in paragraph (3)), by striking the semicolon and inserting ''; and''.

SEC. 402. FUNCTIONS.

(a) IN GENERAL.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended—

(1) in subsection (a), by striking ''United States Employment Service'' and inserting ''Secretary''; and

(2) by adding at the end the following:

''(c) The Secretary shall—

''(1) assist in the coordination and development of a nationwide system of public labor exchange services, provided as part of the one-stop customer service systems of the States;

''(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of jobseekers relating to the system; and

''(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the provision of reemployment services and other activities in which the individuals are required to participate to receive the compensation.''.

(b) CONFORMING AMENDMENTS.—Section 508(b)(1) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)(1)) is amended—

(1) by striking ''the third sentence of section 3(a)'' and inserting ''section 3(b)''; and

(2) by striking ''49b(a)'' and inserting ''49b(b))''.

SEC. 403. DESIGNATION OF STATE AGENCIES.

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

(1) by striking '', through its legislature,'' and inserting '', pursuant to State statute,'';

(2) by inserting after ''the provisions of this Act and'' the following: '', in accordance with such State statute, the Governor shall''; and

(3) by striking ''United States Employment Service'' and inserting ''Secretary''.

SEC. 404. APPROPRIATIONS.

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

SEC. 405. DISPOSITION OF ALLOTTED FUNDS.

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) in subsection (b)(2), by striking ''private industry council'' and inserting ''local workforce investment partnership'';

(2) in subsection (c)(2), by striking ''any program under'' and all that follows and inserting ''any workforce investment activity carried out under the Workforce Investment Partnership Act of 1998.'';

(3) in subsection (d)—

(A) by striking ''United States Employment Service'' and inserting ''Secretary''; and

(B) by striking ''Job Training Partnership Act'' and inserting ''Workforce Investment Partnership Act of 1998''; 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, consistent with the other requirements of this Act, as part of the one-stop customer service system established by the State.''.

SEC. 406. 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 304 of the Workforce Investment Partnership Act of 1998, detailed plans for carrying out the provisions of this Act within such State.'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b);

(4) by inserting after subsection (b) the following:

''(c) The part of the State plan described in subsection (a) shall include the information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.'';

(5) by redesignating subsection (e) as subsection (d); and

(6) in subsection (d) (as redesignated in paragraph (5)), by striking ''such plans'' and inserting ''such detailed plans''.

SEC. 407. REPEAL OF FEDERAL ADVISORY COUNCIL.

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is amended by striking ''11.'' and all that follows through ''(b) In'' and inserting ''11. In''.

SEC. 408. 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. 409. LABOR MARKET INFORMATION.

The Wagner-Peyser Act is amended—

(1) by redesignating section 15 (29 U.S.C. 49 note) as section 16; and

(2) by inserting after section 14 (29 U.S.C. 49l–1) the following:

''SEC. 15. LABOR MARKET INFORMATION.

''(a) SYSTEM CONTENT.—

''(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a system of labor market information that includes—

''(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project the employment opportunities at the national, State, and local levels in a timely manner, including data on—

''(i) employment and unemployment status of the national, State, and local populations, as such data are developed by the Bureau of Labor Statistics and other sources;

''(ii) industrial distribution of occupations, as well as current and projected employment opportunities and skill trends by occupation and industry, with particular attention paid to State and local employment opportunities;

''(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

''(iv) employee information maintained in a longitudinal manner and collected (as of the date of enactment of the Workforce Investment Partnership Act of 1998) by States;

''(B) State and local employment information, and other appropriate statistical data related to labor market dynamics (compiled for States and localities with technical assistance provided by the Secretary), which shall—

''(i) be current and comprehensive, as of the date used;

''(ii) assist individuals to make informed choices relating to employment and training; and

''(iii) assist employers to locate, identify skill traits of, and train individuals who are seeking employment and training;

''(C) technical standards (which the Secretary shall make publicly available) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

''(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

''(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

''(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as State and local policymaking;

''(G) 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

''(H) 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 any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes for which the submission is furnished;

''(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

''(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

''(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

''(C) CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.

''(b) SYSTEM RESPONSIBILITIES.—

''(1) IN GENERAL.—The labor market information system shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

''(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor market information for the system, shall carry out the following duties:

''(A) Assign responsibilities within the Department of Labor for elements of the system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

''(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

''(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

''(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the 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).

''(E) Establish procedures for the system to ensure that—

''(i) such data and information are timely;

''(ii) administrative records for the system are consistent in order to facilitate aggregation of such data and information;

''(iii) paperwork and reporting for the system 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) ANNUAL PLAN.—The Secretary, with the assistance of the States and the Bureau of Labor Statistics, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative management of the nationwide labor market information system described in subsection (a) and the statewide labor market information systems that comprise the nationwide system. The plan shall—

''(1)(A) describe the elements of the system described in subsection (a), including standards, definitions, formats, collection methodologies, and other necessary system elements, for use in collecting data and information described in subparagraphs (A) and (B) of subsection (a)(1); and

''(B) include assurances that—

''(i) the data will be timely and detailed;

''(ii) administrative records will be standardized to facilitate the aggregation of the data from local areas to State and national levels and to support the creation of new statistical series from program records; and

''(iii) paperwork and reporting requirements for employers and individuals will be reduced;

''(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other consumers;

''(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention paid to the improvements needed at the State and local levels;

''(4) describe annual priorities, and priorities over 5 years, for the system;

''(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

''(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local partnerships, pursuant to a process established by the Secretary in cooperation with the States.

''(d) COORDINATION WITH THE STATES.—The Secretary and the Bureau of Labor Statistics, in cooperation with the States, shall—

''(1) develop the annual plan described in subsection (c) by holding formal consultations, at least once each quarter, on the products and administration of the nationwide labor market information system; and

''(2) hold the consultations with representatives from each of the 10 Federal regions of the Employment and Training Administration, elected (pursuant to a process established by the Secretary) by and from the State labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

''(e) STATE RESPONSIBILITIES.—

''(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State—

''(A)(i) except as provided in clause (ii), shall designate a single State agency 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

''(ii) may assign the State occupational information coordinating committee established under section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (as in effect on the day before the date of enactment of the Workforce Investment Partnership Act of 1998), the responsibility to carry out the functions of the system relating to labor market information that such committee carried out on the day prior to such date of enactment; and

''(B) shall establish a process for the oversight of such system.

''(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency shall—

''(A) consult with State and local employers, participants, and local partnerships about the labor market relevance of the data to be collected and disseminated through the statewide labor market information system;

''(B) consult with State educational agencies and local educational agencies concerning providing labor market information in order to meet the needs of secondary school and postsecondary school students who seek such information;

''(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

''(D) maintain and continuously improve the statewide labor market information system in accordance with this section;

''(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

''(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide labor market information system;

''(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data;

''(H) participate in the development of the annual plan described in subsection (c); and

''(I) utilize the quarterly records described in sections 321(f)(2) and 312 of the Workforce Investment Partnership Act of 1998 to assist the State and other States in measuring State progress on State performance measures.

''(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2004.

''(g) DEFINITIONS.—In this section, the terms 'local area' and 'local partnership' have the meanings given the terms in section 2 of the Workforce Investment Partnership Act of 1998.''.

SEC. 410. TECHNICAL AMENDMENTS.

Sections 3(b), 6(b)(1), and 7(d) of the Wagner-Peyser Act (29 U.S.C. 49b(b), 49e(b)(1), and 49f(d)) are amended by striking ''Secretary of Labor'' and inserting ''Secretary''.

Subtitle B—Linkages With Other Programs

SEC. 421. TRADE ACT OF 1974.

Section 241 of the Trade Act of 1974 (19 U.S.C. 2313) is amended by adding at the end the following:

''(d) To be eligible to receive funds under this section, a State shall submit to the Secretary an application that includes the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.''.

SEC. 422. VETERANS' EMPLOYMENT PROGRAMS.

Chapter 41 of title 38, United States Code, is amended by adding at the end the following:

''§4110B. Coordination and nonduplication

''In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.''.

SEC. 423. OLDER AMERICANS ACT OF 1965.

Section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) is amended—

(1) in subparagraph (O), by striking ''; and'' and inserting a semicolon;

(2) in subparagraph (P), by striking the period and inserting ''; and''; and

(3) by adding at the end the following subparagraph:

''(Q) will provide to the Secretary the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.''.

Subtitle C—Twenty-First Century Workforce Commission

SEC. 431. SHORT TITLE.

This subtitle may be cited as the ''Twenty-First Century Workforce Commission Act''.

SEC. 432. FINDINGS.

Congress finds that—

(1) information technology is one of the fastest growing areas in the United States economy;

(2) the United States is a world leader in the information technology industry;

(3) the continued growth and prosperity of the information technology industry is important to the continued prosperity of the United States economy;

(4) highly skilled employees are essential for the success of business entities in the information technology industry and other business entities that use information technology;

(5) employees in information technology jobs are highly paid;

(6) as of the date of enactment of this Act, these employees are in high demand in all industries and all regions of the United States; and

(7) through a concerted effort by business entities, the Federal Government, the governments of States and political subdivisions of States, and educational institutions, more individuals will gain the skills necessary to enter into a technology-based job market, ensuring that the United States remains the world leader in the information technology industry.

SEC. 433. DEFINITIONS.

In this subtitle:

(1) BUSINESS ENTITY.—The term ''business entity'' means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) COMMISSION.—The term ''Commission'' means the Twenty-First Century Workforce Commission established under section 434.

(3) INFORMATION TECHNOLOGY.—The term ''information technology'' has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(4) STATE.—The term ''State'' means each of the several States of the United States and the District of Columbia.

SEC. 434. ESTABLISHMENT OF TWENTY-FIRST CENTURY WORKFORCE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Twenty-First Century Workforce Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—

(A) IN GENERAL.—The Commission shall be composed of 21 members, of which—

(i) 7 members shall be appointed by the President;

(ii) 7 members shall be appointed by the Majority Leader of the Senate; and

(iii) 7 members shall be appointed by the Speaker of the House of Representatives.

(B) GOVERNMENTAL REPRESENTATIVES.—Of the members appointed under this subsection—

(i) 1 member shall be an officer or employee of the Department of Labor, who shall be appointed by the President;

(ii) 1 member shall be an officer or employee of the Department of Education, who shall be appointed by the President; and

(iii) 2 members shall be representatives of the governments of States and political subdivisions of States, 1 of whom shall be appointed by the Majority Leader of the Senate and 1 of whom shall be appointed by the Speaker of the House of Representatives.

(C) EDUCATORS.—Of the members appointed under this subsection, 6 shall be educators who are selected from among elementary, secondary, vocational, and postsecondary educators—

(i) 2 of whom shall be appointed by the President;

(ii) 2 of whom shall be appointed by the Majority Leader of the Senate; and

(iii) 2 of whom shall be appointed by the Speaker of the House of Representatives.

(D) BUSINESS REPRESENTATIVES.—

(i) IN GENERAL.—Of the members appointed under this subsection, at least 4 shall be individuals who are employed by non-information technology business entities.

(ii) SIZE.—Members appointed under this subsection in accordance with clause (i) shall, to the extent practicable, include individuals from business entities of a size that is small or average for a non-information technology business entity.

(2) DATE.—The appointments of the members of the Commission shall be made by the later of—

(A) October 31, 1998; or

(B) the date that is 45 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among its members.

SEC. 435. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the information technology workforce in the United States.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include an examination of—

(A) the skills necessary to enter the information technology workforce;

(B) ways to expand the number of skilled information technology workers; and

(C) the relative efficacy of programs in the United States and foreign countries to train information technology workers, with special emphasis on programs that provide for secondary education or postsecondary education in a program other than a 4-year baccalaureate program (including associate degree programs and graduate degree programs).

(3) PUBLIC HEARINGS.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(4) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(5) CONSULTATION WITH CHIEF INFORMATION OFFICERS COUNCIL.—In carrying out the study under this subsection, the Commission shall consult with the Chief Information Officers Council established under Executive Order No. 13011.

(b) REPORT.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and the Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations for such legislation and administrative actions as the Commission considers to be appropriate.

(c) FACILITATION OF EXCHANGE OF INFORMATION.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government and the governments of States and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

SEC. 436. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 437. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 438. TERMINATION OF THE COMMISSION.

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 435(b).

SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 to the Commission to carry out the purposes of this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE UNIFIED PLAN.

(a) DEFINITION OF APPROPRIATE SECRETARY.—In this section, the term ''appropriate Secretary'' means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b).

(b) STATE UNIFIED PLAN.—

(1) IN GENERAL.—A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the activities or programs set forth in paragraph (2). The State unified plan shall cover 1 or more of the activities set forth in subparagraphs (A) through (C) of paragraph (2) and may cover 1 or more of the activities set forth in subparagraphs (D) through (M) of paragraph (2).

(2) ACTIVITIES.—The activities and programs referred to in paragraph (1) are as follows:

(A) Activities authorized under title I.

(B) Activities authorized under title II.

(C) Activities authorized under title III.

(D) Programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)).

(E) Work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)).

(F) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(G) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(H) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(I) Activities authorized under chapter 41 of title 38, United States Code.

(J) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(K) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(L) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(M) Training activities carried out by the Department of Housing and Urban Development.

(c) REQUIREMENTS.—

(1) IN GENERAL.—The portion of a State unified plan covering an activity or program described in subsection (b) shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) ADDITIONAL SUBMISSION NOT REQUIRED.—A State that submits a State unified plan covering an activity or program described in subsection (b) that is approved under subsection (d) shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) COORDINATION.—A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) APPROVAL BY THE APPROPRIATE SECRETARIES.—

(1) JURISDICTION.—The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) APPROVAL.—

(A) IN GENERAL.—A portion of the State unified plan covering an activity or program described in subsection (b) that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3).

(B) SPECIAL RULE.—In subparagraph (A), the term ''criteria for approval of a State plan'', relating to activities carried out under title I, II, or III, includes a requirement for agreement between the State and the appropriate Secretary regarding State performance measures, including levels of performance.

SEC. 502. DEFINITIONS FOR CORE INDICATORS OF PERFORMANCE.

(a) IN GENERAL.—In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b), shall issue definitions for performance measures established under titles I and II and definitions for core indicators of performance for performance measures established under title III.

(b) REPRESENTATIVES.—The representatives referred to in subsection (a) are representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 2(13)(B)), educators, participants in activities carried out under this Act, State Directors of vocational education, State Directors of adult education, providers of vocational education, providers of adult education, providers of literacy services, individuals with expertise in serving the employment and training needs of disadvantaged youth (as defined in section 302(b)(3)(C)), parents, and other interested parties, with expertise regarding activities authorized under this Act.

SEC. 503. TRANSITION PROVISIONS.

The Secretary of Education or the Secretary of Labor, as appropriate, shall take such steps as such Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under provisions of law to be repealed under subtitle E of title I, subtitle B of title II, or subtitle E of title III, or any related authority.

SEC. 504. PRIVACY.

Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93–380; 88 Stat. 571).

SEC. 505. LIMITATION.

None of the funds made available under this Act may be used to carry out activities authorized under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

SEC. 506. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act takes effect on July 1, 1999.

(b) EARLY IMPLEMENTATION.—At the option of a State, the Governor of the State and the chief official of the eligible agencies in the State may use funds made available under a provision of law described in section 503, or any related authority to implement this Act at any time prior to July 1, 1999.

(c) EARLY IMPLEMENTATION AND TRANSITION PROVISIONS.—Section 503 and this section take effect on the date of enactment of this Act.

(d) TWENTY-FIRST CENTURY WORKFORCE COMMISSION.—Subtitle C of title IV takes effect on the date of enactment of this Act.

TITLE VI—REHABILITATION ACT AMENDMENTS OF 1998

SEC. 601. SHORT TITLE.

This title may be cited as the ''Rehabilitation Act Amendments of 1998''.

SEC. 602. TITLE.

The title of the Rehabilitation Act of 1973 is amended by striking ''to establish special responsibilities'' and all that follows and inserting the following: ''to create linkage between State vocational rehabilitation programs and workforce investment activities carried out under the Workforce Investment Partnership Act of 1998, to establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the Federal Government, and for other purposes.''.

SEC. 603. GENERAL PROVISIONS.

The Rehabilitation Act of 1973 is amended by striking the matter preceding title I and inserting the following:

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

''(a) SHORT TITLE.—This Act may be cited as the 'Rehabilitation Act of 1973'.

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

''FINDINGS; PURPOSE; POLICY

''SEC. 2. (a) FINDINGS.—Congress finds that—

''(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

''(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

''(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

''(A) live independently;

''(B) enjoy self-determination;

''(C) make choices;

''(D) contribute to society;

''(E) pursue meaningful careers; and

''(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

''(4) increased employment of individuals with disabilities can be achieved through implementation of statewide activities carried out under the Workforce Investment Partnership Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

''(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

''(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

''(A) make informed choices and decisions; and

''(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

''(b) PURPOSE.—The purposes of this Act are—

''(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

''(A) statewide activities carried out in accordance with the Workforce Investment Partnership Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

''(B) independent living centers and services;

''(C) research;

''(D) training;

''(E) demonstration projects; and

''(F) the guarantee of equal opportunity; and

''(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

''(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

''(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

''(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

''(3) inclusion, integration, and full participation of the individuals;

''(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

''(5) support for individual and systemic advocacy and community involvement.

''REHABILITATION SERVICES ADMINISTRATION

''SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and part A of title VI and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.

''(b) The Secretary shall take whatever action is necessary to ensure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

''(c) The Secretary shall take such action as necessary to ensure that—

''(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

''(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.

''ADVANCE FUNDING

''SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

''(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

''JOINT FUNDING

''SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

''SEC. 7. DEFINITIONS.

''For the purposes of this Act:

''(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' means expenditures incurred by the designated State unit in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including—

''(A) expenses for—

''(i) quality assurance;

''(ii) budgeting, accounting, financial management, information systems, and related data processing;

''(iii) provision of information about the program to the public;

''(iv) technical assistance and related support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 103(b)(5);

''(v) the State Rehabilitation Council and other entities that advise the designated State unit with regard to the provision of vocational rehabilitation services;

''(vi) removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

''(vii) operation and maintenance of designated State unit facilities, equipment, and grounds;

''(viii) supplies; and

''(ix)(I) administration of the comprehensive system of personnel development described in section 101(a)(7), including personnel administration, and administration of affirmative action plans;

''(II) training and staff development; and

''(III) administrative salaries, including clerical and other support staff salaries, in support of the administrative functions;

''(B) travel costs related to carrying out the program, other than travel costs related to the provision of services;

''(C) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations; and

''(D) legal expenses required in the administration of the program.

''(2) ASSESSMENT FOR DETERMINING ELIGIBILITY AND VOCATIONAL REHABILITATION NEEDS.—The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

''(A)(i) a review of existing data—

''(I) to determine whether an individual is eligible for vocational rehabilitation services; and

''(II) to assign priority for an order of selection described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

''(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

''(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the objectives, nature, and scope of vocational rehabilitation services, to be included in the individualized rehabilitation employment plan of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

''(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized rehabilitation employment plan of the eligible individual;

''(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

''(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 101(a)(5)(A) for the individual; and

''(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

''(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

''(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

''(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

''(D) an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, including experiences in which the individual is provided appropriate supports and training.

''(3) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

''(4) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3)), except that the reference in such section—

''(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

''(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

''(5) COMMUNITY REHABILITATION PROGRAM.—The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

''(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

''(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

''(C) recreational therapy;

''(D) physical and occupational therapy;

''(E) speech, language, and hearing therapy;

''(F) psychiatric, psychological, and social services, including positive behavior management;

''(G) assessment for determining eligibility and vocational rehabilitation needs;

''(H) rehabilitation technology;

''(I) job development, placement, and retention services;

''(J) evaluation or control of specific disabilities;

''(K) orientation and mobility services for individuals who are blind;

''(L) extended employment;

''(M) psychosocial rehabilitation services;

''(N) supported employment services and extended services;

''(O) services to family members when necessary to the vocational rehabilitation of the individual;

''(P) personal assistance services; or

''(Q) services similar to the services described in one of subparagraphs (A) through (P).

''(6) CRIMINAL ACT.—The term 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

''(7) DESIGNATED STATE AGENCY.—The term 'designated State agency' means an agency designated under section 101(a)(2)(A).

''(8) DESIGNATED STATE UNIT.—The term 'designated State unit' means—

''(A) any State agency unit required under section 101(a)(2)(B)(ii); or

''(B) in cases in which no such unit is so required, the State agency described in section 101(a)(2)(B)(i).

''(9) DISABILITY.—The term 'disability' means—

''(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

''(B) for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII, a physical or mental impairment that substantially limits one or more major life activities.

''(10) DRUG AND ILLEGAL USE OF DRUGS.—

''(A) DRUG.—The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

''(B) ILLEGAL USE OF DRUGS.—The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

''(11) EMPLOYMENT OUTCOME.—The term 'employment outcome' means, with respect to an individual—

''(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

''(B) satisfying the vocational outcome of supported employment; or

''(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment or business ownership),
in a manner consistent with this Act.

''(12) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—The term 'establishment of a community rehabilitation program' includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

''(13) EXTENDED SERVICES.—The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

''(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

''(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

''(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

''(14) FEDERAL SHARE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'Federal share' means 78.7 percent.

''(B) RELATIONSHIP TO EXPENDITURES BY A POLITICAL SUBDIVISION.—For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

''(15) GOVERNOR.—The term 'Governor' means—

''(A) a chief executive officer of a State; or

''(B) in the case of a State that, under State law, vests authority for the administration of the activities carried out under this Act in an entity other than the Governor, such as 1 or more houses of the State legislature or an independent board, the chief officer of that entity.

''(16) IMPARTIAL HEARING OFFICER.—

''(A) IN GENERAL.—The term 'impartial hearing officer' means an individual—

''(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

''(ii) who is not a member of the State Rehabilitation Council described in section 105;

''(iii) who has not been involved previously in the vocational rehabilitation of the applicant or client;

''(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

''(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

''(B) CONSTRUCTION.—An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

''(17) INDEPENDENT LIVING CORE SERVICES.—The term 'independent living core services' means—

''(A) information and referral services;

''(B) independent living skills training;

''(C) peer counseling (including cross-disability peer counseling); and

''(D) individual and systems advocacy.

''(18) INDEPENDENT LIVING SERVICES.—The term 'independent living services' includes—

''(A) independent living core services; and

''(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

''(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

''(iii) rehabilitation technology;

''(iv) mobility training;

''(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

''(vi) personal assistance services, including attendant care and the training of personnel providing such services;

''(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

''(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

''(ix) education and training necessary for living in a community and participating in community activities;

''(x) supported living;

''(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

''(xii) physical rehabilitation;

''(xiii) therapeutic treatment;

''(xiv) provision of needed prostheses and other appliances and devices;

''(xv) individual and group social and recreational services;

''(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

''(xvii) services for children;

''(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

''(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

''(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

''(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

''(19) INDIAN; AMERICAN INDIAN; INDIAN AMERICAN; INDIAN TRIBE.—

''(A) IN GENERAL.—The terms 'Indian', 'American Indian', and 'Indian American' mean an individual who is a member of an Indian tribe.

''(B) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

''(20) INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term 'individual with a disability' means any individual who—

''(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

''(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, III, or VI.

''(B) CERTAIN PROGRAMS; LIMITATIONS ON MAJOR LIFE ACTIVITIES.—Subject to subparagraphs (C), (D), (E), and (F), the term 'individual with a disability' means, for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII of this Act, any person who—

''(i) has a physical or mental impairment which substantially limits one or more of such person's major life activities;

''(ii) has a record of such an impairment; or

''(iii) is regarded as having such an impairment.

''(C) RIGHTS AND ADVOCACY PROVISIONS.—

''(i) IN GENERAL; EXCLUSION OF INDIVIDUALS ENGAGING IN DRUG USE.—For purposes of title V, the term 'individual with a disability' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

''(ii) EXCEPTION FOR INDIVIDUALS NO LONGER ENGAGING IN DRUG USE.—Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

''(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

''(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

''(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

''(iii) EXCLUSION FOR CERTAIN SERVICES.—Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II, and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

''(iv) DISCIPLINARY ACTION.—For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

''(v) EMPLOYMENT; EXCLUSION OF ALCOHOLICS.—For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with a disability' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

''(D) EMPLOYMENT; EXCLUSION OF INDIVIDUALS WITH CERTAIN DISEASES OR INFECTIONS.—For the purposes of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

''(E) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF HOMOSEXUALITY OR BISEXUALITY.—For the purposes of sections 501, 503, and 504—

''(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

''(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

''(F) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF CERTAIN DISORDERS.—For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

''(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

''(ii) compulsive gambling, kleptomania, or pyromania; or

''(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

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

''(21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'individual with a significant disability' means an individual with a disability—

''(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

''(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

''(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

''(B) INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.—For purposes of title VII, the term 'individual with a significant disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

''(C) RESEARCH AND TRAINING.—For purposes of title II, the term 'individual with a significant disability' includes an individual described in subparagraph (A) or (B).

''(D) INDIVIDUALS WITH SIGNIFICANT DISABILITIES.—The term 'individuals with significant disabilities' means more than one individual with a significant disability.

''(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

''(i) IN GENERAL.—The term 'individual with a most significant disability', used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 101(a)(5)(C).

''(ii) INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES.—The term 'individuals with the most significant disabilities' means more than one individual with a most significant disability.

''(22) INDIVIDUAL'S REPRESENTATIVE; APPLICANT'S REPRESENTATIVE.—

''(A) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' used with respect to an eligible individual or other individual with a disability, means—

''(i) any representative chosen by the eligible individual or other individual with a disability, including a parent, guardian, other family member, or advocate; or

''(ii) if a representative or legal guardian has been appointed by a court to represent the eligible individual or other individual with a disability, the court-appointed representative or legal guardian.

''(B) APPLICANT'S REPRESENTATIVE.—The term 'applicant's representative' means—

''(i) any representative described in subparagraph (A)(i) chosen by the applicant; or

''(ii) if a representative or legal guardian has been appointed by a court to represent the applicant, the court-appointed representative or legal guardian.

''(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

''(24) LOCAL AGENCY.—The term 'local agency' means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

''(25) LOCAL WORKFORCE INVESTMENT PARTNERSHIP.—The term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1998.

''(26) NONPROFIT.—The term 'nonprofit', when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

''(27) ONGOING SUPPORT SERVICES.—The term 'ongoing support services' means services—

''(A) provided to individuals with the most significant disabilities;

''(B) provided, at a minimum, twice monthly—

''(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

''(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

''(C) consisting of—

''(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

''(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

''(iii) job development, job retention, and placement services;

''(iv) social skills training;

''(v) regular observation or supervision of the individual;

''(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

''(vii) facilitation of natural supports at the worksite;

''(viii) any other service identified in section 103; or

''(ix) a service similar to another service described in this subparagraph.

''(28) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

''(29) PUBLIC OR NONPROFIT.—The term 'public or nonprofit', used with respect to an agency or organization, includes an Indian tribe.

''(30) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

''(31) REQUIRES VOCATIONAL REHABILITATION SERVICES.—The term 'requires vocational rehabilitation services', used with respect to an individual with a disability as defined in paragraph (20)(A), means that the individual is unable to prepare for, secure, retain, or regain employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual without vocational rehabilitation services, because the individual—

''(A) has never been employed;

''(B) has lost employment;

''(C) is underemployed;

''(D) is at immediate risk of losing employment; or

''(E) receives benefits on the basis of disability or blindness pursuant to title II or XVI of the Social Security Act (42 U.S.C. 401 et seq. or 1381 et seq.), in a case in which the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

''(32) SECRETARY.—The term 'Secretary', except when the context otherwise requires, means the Secretary of Education.

''(33) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(34) STATEWIDE WORKFORCE INVESTMENT PARTNERSHIP.—The term 'statewide workforce investment partnership' means a partnership established under section 303 of the Workforce Investment Partnership Act of 1998.

''(35) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term 'statewide workforce investment system' means a system described in section 301 of the Workforce Investment Partnership Act of 1998.

''(36) SUPPORTED EMPLOYMENT.—

''(A) IN GENERAL.—The term 'supported employment' means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

''(i)(I) for whom competitive employment has not traditionally occurred; or

''(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

''(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (37)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

''(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

''(37) SUPPORTED EMPLOYMENT SERVICES.—The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

''(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

''(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

''(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the

time in order to achieve the rehabilitation objectives identified in the individualized rehabilitation employment plan.

''(38) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

''(39) UNDEREMPLOYED.—The term 'underemployed', used with respect to an individual with a disability, as defined in paragraph (20)(A), means a situation in which the individual is employed in a job that is not consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

''(40) VOCATIONAL REHABILITATION SERVICES.—The term 'vocational rehabilitation services' means those services identified in section 103 which are provided to individuals with disabilities under this Act.

''(41) WORKFORCE INVESTMENT ACTIVITIES.—The term 'workforce investment activities' has the meaning given the term in section 2 of the Workforce Investment Partnership Act of 1998 carried out under that Act.

''ALLOTMENT PERCENTAGE

''SEC. 8. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

''(A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum; and

''(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

''(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

''(3) The term 'United States' means (but only for purposes of this subsection) the fifty States and the District of Columbia.

''(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

''NONDUPLICATION

''SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

''APPLICATION OF OTHER LAWS

''SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93–510) and of title V of the Act of October 15, 1977 (Public Law 95–134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

''ADMINISTRATION OF THE ACT

''SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

''(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

''(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

''(3) conduct special projects and demonstrations;

''(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

''(5) provide monitoring and conduct evaluations.

''(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

''(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

''(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this Act.

''(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

''(e) Not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998.

''(f) In promulgating regulations to carry out this Act, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this Act.

''(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

''REPORTS

''SEC. 13. (a) Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

''(b) The Commissioner shall collect information to determine whether the purposes of this Act are being met and to assess the performance of programs carried out under this Act. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

''(c) In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 101(a)(10). The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 321(d) of the Workforce Investment Partnership Act of 1998 and that pertains to the employment of individuals with disabilities.

''EVALUATION

''SEC. 14. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

''(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

''(c) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this Act shall become the property of the United States.

''(d) Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

''(e)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

''(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

''(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

''(f)(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.

''(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention, providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from nonintegrated to integrated employment, and providing caseload management.

''(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

''INFORMATION CLEARINGHOUSE

''SEC. 15. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

''(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by statewide partnerships established under section 303 of the Workforce Investment Partnership Act of 1998 regarding such services and programs authorized under such Act;

''(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

''(3) the current numbers of individuals with disabilities and their needs.

The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

''(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

''(c) The office established to carry out the provisions of this section shall be known as the 'Office of Information and Resources for Individuals with Disabilities'.

''(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

''TRANSFER OF FUNDS

''SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any program or activity may be used for any purpose other than that for which the funds were specifically authorized.

''(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

''STATE ADMINISTRATION

''SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

''REVIEW OF APPLICATIONS

''SEC. 18. Applications for grants in excess of $100,000 in the aggregate authorized to be funded under this Act, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

''SEC. 19. CARRYOVER.

''(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

''(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, section 509 (except as provided in section 509(b)), part C of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

''(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

''(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

''SEC. 20. CLIENT ASSISTANCE INFORMATION.

''All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals who are applicants for or recipients of the services, or the applicants' representatives or individuals' representatives, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

''SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.

''(a) FINDINGS.—With respect to the programs authorized in titles II through VII, the Congress finds as follows:

''(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

''(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

''(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

''(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

''(b) OUTREACH TO MINORITIES.—

''(1) IN GENERAL.—For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the 'Director') shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under titles II, III, VI, and VII to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out 1 or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

''(2) ACTIVITIES.—The activities carried out by the Commissioner and the Director shall include 1 or more of the following:

''(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under titles II, III, VI, and VII.

''(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this Act, especially services provided to individuals from minority backgrounds.

''(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this Act, including assistance to enhance their capacity to carry out such activities.

''(3) ELIGIBILITY.—To be eligible to receive an award under paragraph (2)(C), an entity shall be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

''(4) REPORT.—In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

''(5) DEFINITIONS.—In this subsection:

''(A) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

''(B) MINORITY ENTITY.—The term 'minority entity' means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

''(c) DEMONSTRATION.—In awarding grants, or entering into contracts or cooperative agreements under titles I, II, III, VI, and VII, and section 509, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.''.

SEC. 604. VOCATIONAL REHABILITATION SERVICES.

Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) is amended to read as follows:

''TITLE I—VOCATIONAL REHABILITATION SERVICES

''PART A—GENERAL PROVISIONS

''SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

''(a) FINDINGS; PURPOSE; POLICY.—

''(1) FINDINGS.—Congress finds that—

''(A) work—

''(i) is a valued activity, both for individuals and society; and

''(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

''(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

''(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

''(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

''(i) discrimination;

''(ii) lack of accessible and available transportation;

''(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

''(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

''(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

''(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

''(G) linkages between the vocational rehabilitation programs established under this title and other components of the statewide workforce investment system are critical to ensure effective and meaningful participation by individuals with disabilities in workforce investment activities.

''(2) PURPOSE.—The purpose of this title is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

''(A) an integral part of a statewide workforce investment system; and

''(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

''(3) POLICY.—It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

''(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

''(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

''(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners, in collaboration with qualified vocational rehabilitation professionals, in the vocational rehabilitation process, making meaningful and informed choices—

''(i) during assessments for determining eligibility and vocational rehabilitation needs; and

''(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

''(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

''(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 101(a)(7)(A)(iii) (referred to individually in this title as a 'qualified vocational rehabilitation counselor'), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

''(F) Individuals with disabilities and the individuals' representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

''(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

''(2) REFERENCE.—The reference in paragraph (1) to grants to States under part B shall not be considered to refer to grants under section 112.

''(c) CONSUMER PRICE INDEX.—

''(1) PERCENTAGE CHANGE.—No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

''(2) APPLICATION.—

''(A) INCREASE.—If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

''(B) NO INCREASE OR DECREASE.—If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1).

''(3) DEFINITION.—For purposes of this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

''(d) EXTENSION.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION OR DURATION OF PROGRAM.—Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

''(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

''(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this title.

''(B) CALCULATION.—The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2004, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year, if the percentage change indicates an increase.

''(2) CONSTRUCTION.—

''(A) PASSAGE OF LEGISLATION.—For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

''(B) ACTS OR DETERMINATIONS OF COMMISSIONER.—In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

''SEC. 101. STATE PLANS.

''(a) PLAN REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) SUBMISSION.—To be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 304 of the Workforce Investment Partnership Act of 1998.

''(B) NONDUPLICATION.—The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, procedures, or descriptions required under this title that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this title, including any policies, procedures, or descriptions submitted under this title as in effect on the day before the effective date of the Rehabilitation Act Amendments of 1998.

''(C) DURATION.—The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this Act by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this Act, until the State submits and receives approval of a new State plan.

''(2) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

''(A) DESIGNATED STATE AGENCY.—The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

''(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

''(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

''(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

''(B) DESIGNATED STATE UNIT.—The State agency designated under subparagraph (A) shall be—

''(i) a State agency primarily concerned with vocational rehabilitation, or vocational and

other rehabilitation, of individuals with disabilities; or

''(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

''(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

''(II) has a full-time director;

''(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

''(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

''(C) RESPONSIBILITY FOR SERVICES FOR THE BLIND.—If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

''(3) NON-FEDERAL SHARE.—The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

''(4) STATEWIDENESS.—The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner. The Commissioner may waive compliance with the requirement only if the non-Federal share of the cost of the vocational rehabilitation services is provided from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual).

''(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

''(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

''(B) provide the justification for the order of selection;

''(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

''(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

''(6) METHODS FOR ADMINISTRATION.—

''(A) IN GENERAL.—The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

''(B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

''(C) PERSONNEL AND PROGRAM STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS.—The State plan shall provide that the designated State unit shall establish, maintain, and implement minimum standards for community rehabilitation programs providing services to individuals under this title, including—

''(i) standards—

''(I) governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services through such programs; and

''(II) providing, to the extent that providers of vocational rehabilitation services utilize personnel who do not meet the highest requirements in the State applicable to a particular profession or discipline, that the providers shall take steps to ensure the retraining or hiring of personnel so that such personnel meet appropriate professional standards in the State; and

''(ii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an individual receiving services through such programs.

''(D) FACILITIES.—The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved on August 12, 1968 (commonly known as the 'Architectural Barriers Act of 1968'), with section 504, and with the Americans with Disabilities Act of 1990.

''(7) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State plan shall include—

''(A) a description, consistent with the purposes of this Act, of a comprehensive system of personnel development for personnel employed by the designated State unit and involved in carrying out this title, which, at a minimum, shall consist of—

''(i) a description of the procedures and activities the designated State agency will implement and undertake to address the current and projected needs for personnel, and training needs of such personnel, in the designated State unit to ensure that the personnel are adequately trained and prepared;

''(ii) a plan to coordinate and facilitate efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare, and retain qualified personnel, including personnel from culturally or linguistically diverse backgrounds, and personnel that include individuals with disabilities;

''(iii) a description of policies and procedures on the establishment and maintenance of reasonable standards to ensure that personnel, including professionals and paraprofessionals, are adequately trained and prepared, including—

''(I) standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

''(II) to the extent that such standards are not based on the highest requirements in the State applicable to a particular profession or discipline, the steps the State will take to ensure the retraining or hiring of personnel within the designated State unit so that such personnel meet appropriate professional standards in the State;

''(iv) a description of a system for evaluating the performance of vocational rehabilitation counselors, coordinators, and other personnel used in the State, including a description of how the system facilitates the accomplishment of the purpose and policy of this title, including the policy of serving individuals with the most significant disabilities;

''(v) a description of standards to ensure the availability of personnel within the designated State unit who are, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual; and

''(vi) a detailed description, including a budget, of how the funds reserved under subparagraph (B) will be expended to carry out the comprehensive system for personnel development, including the provision of in-service training for personnel of the designated State unit;

''(B) assurances that—

''(i) at a minimum, the State will reserve from the allotment made to the State under section 110 an amount to carry out the comprehensive system of personnel development, including the provision of in-service training for personnel of the designated State unit;

''(ii) for fiscal year 1999, the amount reserved will be equal to the amount of the funds the State received for fiscal year 1998 to provide in-service training under section 302, or for any State that did not receive those funds for fiscal year 1998, an amount determined by the Commissioner; and

''(iii) for each subsequent year, the amount reserved under this subparagraph will be equal to the amount reserved under this subparagraph for the previous fiscal year, increased by the percentage change in the Consumer Price Index published under section 100(c) in such previous fiscal year, if the percentage change indicates an increase; and

''(C) an assurance that the standards adopted by a State in accordance with subparagraph (A)(iii) shall not permit discrimination on the basis of disability with regard to training and hiring.

''(8) COMPARABLE SERVICES AND BENEFITS.—

''(A) DETERMINATION OF AVAILABILITY.—

''(i) IN GENERAL.—The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a), the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title) unless such a determination would interrupt or delay—

''(I) the progress of the individual toward achieving the employment outcome identified in the individualized rehabilitation employment plan of the individual in accordance with section 102(b); or

''(II) the provision of such service to any individual at extreme medical risk.

''(ii) AWARDS AND SCHOLARSHIPS.—For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

''(B) INTERAGENCY AGREEMENT.—The State plan shall include an assurance that the Governor of the State or the designee of the Governor will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 103(a)), that are included in the individualized rehabilitation employment plan of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

''(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating that the financial responsibility of such public entity for providing such services, including the financial responsibility of the State agency responsible for administering the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), other public agencies, and public institutions of higher education, shall precede the financial responsibility of the designated State unit especially with regard to the provision of auxiliary aids and services to the maximum extent allowed by law.

''(ii) CONDITIONS, TERMS, AND PROCEDURES OF REIMBURSEMENT.—Information specifying the conditions, terms, and procedures under which a designated State unit shall pursue and obtain reimbursement by other public agencies for providing such services.

''(iii) INTERAGENCY DISPUTES.—Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism).

''(iv) COORDINATION OF SERVICES PROCEDURES.—Information specifying policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)).

''(C) RESPONSIBILITIES OF OTHER AGENCIES.—

''(i) RESPONSIBILITIES UNDER OTHER LAW.—Notwithstanding subparagraph (B), if any public agency other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)), such public agency shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

''(ii) REIMBURSEMENT.—In a case in which a public agency other than the designated State unit fails to fulfill the financial responsibility of the agency described in this paragraph to provide services described in clause (i), the designated State unit may claim reimbursement from such public agency for such services. Such public agency shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism in effect under this paragraph according to the procedures established pursuant to subparagraph (B)(ii).

''(D) METHODS.—The Governor of a State may meet the requirements of subparagraph (B) through—

''(i) a State statute or regulation;

''(ii) a signed agreement between the respective agency officials that clearly identifies the responsibilities of each agency relating to the provision of services; or

''(iii) another appropriate method, as determined by the designated State unit.

''(9) INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

''(A) DEVELOPMENT AND IMPLEMENTATION.—The State plan shall include an assurance that an individualized rehabilitation employment plan meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

''(B) PROVISION OF SERVICES.—The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized rehabilitation employment plan.

''(10) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this title.

''(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 321(d)(2) of the Workforce Investment Partnership Act of 1998 that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

''(C) ADDITIONAL DATA.—In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

''(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this title, including—

''(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 102(a); and

''(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

''(ii) the number of individuals who received vocational rehabilitation services through the program, including—

''(I) the number who received services under paragraph (5)(D), but not assistance under an individualized rehabilitation employment plan; and

''(II) the number who received assistance under an individualized rehabilitation employment plan consistent with section 102(b);

''(iii) the number of individuals receiving public assistance and the amount of the public assistance on the date of application and on the last date of participation in the program carried out under this title;

''(iv) the number of individuals with disabilities who ended their participation in the program and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

''(v) the number of individuals who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

''(I) the number of such individuals who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment;

''(II) the number of such individuals who received employment benefits from an employer during such employment; and

''(III) the number of such individuals whose public assistance was terminated or reduced after such participation.

''(D) COSTS AND RESULTS.—The Commissioner shall also require that the designated State agency include in the reports information on—

''(i) the costs under this title of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized rehabilitation employment plans, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, and providing other services to groups; and

''(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

''(E) ADDITIONAL INFORMATION.—The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

''(i) information on—

''(I) age, gender, race, ethnicity, education, type of impairment, severity of disability, and whether the individuals are students described in clause (i) or (ii)(II) of paragraph (11)(D);

''(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized rehabilitation employment plan, and termination of participation in the program;

''(III) earnings at the time of application for the program and termination of participation in the program;

''(IV) work status and occupation;

''(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

''(VI) types of public or private programs or agencies that furnished services under the program; and

''(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

''(ii) information necessary to determine the success of the State in meeting—

''(I) the State performance measures established under section 321(b) of the Workforce Investment Partnership Act of 1998 to the extent the measures are applicable to individuals with disabilities; and

''(II) the standards and indicators established pursuant to section 106.

''(F) COMPLETENESS AND CONFIDENTIALITY.—The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

''(11) COOPERATION, COLLABORATION, AND COORDINATION.—

''(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

''(i) provision of intercomponent staff training and technical assistance with regard to—

''(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

''(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

''(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks,

and that relate to such subjects as labor market information, and information on job vacancies, career planning, and workforce investment activities;

''(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

''(iv) establishment of cooperative efforts with employers to—

''(I) facilitate job placement; and

''(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

''(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

''(vi) specification of procedures for resolving disputes among such components.

''(B) REPLICATION OF COOPERATIVE AGREEMENTS.—The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

''(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, the Federal, State, and local agencies and programs that are not carrying out activities through the statewide workforce investment system.

''(D) COORDINATION WITH EDUCATION OFFICIALS.—The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials that are designed to facilitate the transition of students who are individuals with disabilities described in section 7(20)(B) from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

''(i) consultation and technical assistance to assist educational agencies in planning for the transition of students who are individuals with disabilities described in section 7(20)(B) from school to post-school activities, including vocational rehabilitation services;

''(ii)(I) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities described in clause (i) that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (as added by section 101 of Public Law 105–17); and

''(II) transition planning and services for students who are eligible to receive services under this title and who will be exiting school in the school year in which the planning and services are provided;

''(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for the transition services described in clause (ii)(II); and

''(iv) procedures for outreach to and identification of students with disabilities described in clause (ii)(II) who need the transition services.

''(E) COORDINATION WITH STATEWIDE INDEPENDENT LIVING COUNCILS AND INDEPENDENT LIVING CENTERS.—The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 705, and the independent living centers described in part C of title VII within the State have developed working relationships and coordinate their activities.

''(F) COOPERATIVE AGREEMENT WITH RECIPIENTS OF GRANTS FOR SERVICES TO AMERICAN INDIANS.—In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

''(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized rehabilitation employment plans;

''(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal service area are provided vocational rehabilitation services; and

''(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

''(12) RESIDENCY.—The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

''(13) SERVICES TO AMERICAN INDIANS.—The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

''(14) ANNUAL REVIEW OF INDIVIDUALS IN EXTENDED EMPLOYMENT OR OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.—The State plan shall provide for—

''(A) an annual review and reevaluation of the status of each individual with a disability served under this title who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and annually thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

''(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; and

''(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

''(15) ANNUAL STATE GOALS AND REPORTS OF PROGRESS.—

''(A) ASSESSMENTS AND ESTIMATES.—The State plan shall—

''(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

''(I) individuals with the most significant disabilities, including their need for supported employment services;

''(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this title; and

''(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

''(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

''(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

''(B) ANNUAL ESTIMATES.—The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

''(i) the number of individuals in the State who are eligible for services under this title;

''(ii) the number of such individuals who will receive services provided with funds provided under part B and under part C of title VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

''(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

''(C) GOALS AND PRIORITIES.—

''(i) IN GENERAL.—The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

''(ii) BASIS.—The State goals and priorities shall be based on an analysis of—

''(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

''(II) the performance of the State on the standards and indicators established under section 106; and

''(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 105(c) and the findings and recommendations from monitoring activities conducted under section 107.

''(iii) SERVICE AND OUTCOME GOALS FOR CATEGORIES IN ORDER OF SELECTION.—If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

''(D) STRATEGIES.—The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

''(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

''(ii) outreach procedures to identify and serve individuals with disabilities who are minorities

and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

''(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

''(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106; and

''(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

''(E) EVALUATION AND REPORTS OF PROGRESS.—The State plan shall—

''(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

''(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

''(II) a description of strategies that contributed to achieving the goals;

''(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

''(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 106; and

''(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

''(16) PUBLIC COMMENT.—The State plan shall—

''(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 112, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

''(B) provide that the designated State agency (or each designated State agency if 2 agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

''(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

''(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

''(iii) providers of vocational rehabilitation services to individuals with disabilities;

''(iv) the director of the client assistance program; and

''(v) the State Rehabilitation Council, if the State has such a Council.

''(17) PROHIBITION ON USE OF FUNDS FOR CONSTRUCTION OF FACILITIES.—The State plan shall contain an assurance that the State will not use any funds made available under this title for the construction of facilities.

''(18) INNOVATION AND EXPANSION ACTIVITIES.—The State plan shall—

''(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

''(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this title, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

''(ii) to support the funding of—

''(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 105(d)(1); and

''(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1);

''(B) include a description of how the reserved funds will be utilized; and

''(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

''(19) CHOICE.—The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d).

''(20) INFORMATION AND REFERRAL SERVICES.—

''(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the State.

''(B) SERVICES.—In providing activities through the system established under subparagraph (A), the State may include services consisting of the provision of individualized counseling and guidance, individualized vocational exploration, supervised job placement referrals, and assistance in securing reasonable accommodations for eligible individuals who do not meet the order of selection criteria used by the State, to the extent that such services are not purchased by the designated State unit.

''(21) STATE INDEPENDENT CONSUMER-CONTROLLED COMMISSION; STATE REHABILITATION COUNCIL.—

''(A) COMMISSION OR COUNCIL.—The State plan shall provide that either—

''(i) the designated State agency is an independent commission that—

''(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

''(II) is consumer-controlled by persons who—

''(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

''(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

''(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

''(IV) undertakes the functions set forth in section 105(c)(4); or

''(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 105 and the designated State unit—

''(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

''(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

''(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 105(c)(5), the review and analysis of consumer satisfaction described in section 105(c)(4), and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

''(IV) transmits to the Council—

''(aa) all plans, reports, and other information required under this title to be submitted to the Secretary;

''(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this title; and

''(cc) copies of due process hearing decisions issued under this title, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

''(B) MORE THAN 1 DESIGNATED STATE AGENCY.—In the case of a State that, under section 101(a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the 2 agencies that does not meet the requirements in subparagraph (A)(i), or establish 1 State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

''(22) SUPPORTED EMPLOYMENT STATE PLAN SUPPLEMENT.—The State plan shall include an assurance that the State has an acceptable plan for carrying out part C of title VI, including the use of funds under that part to supplement funds made available under part B of this title to pay for the cost of services leading to supported employment.

''(23) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—The State plan shall include an assurance that the State, and any recipient or subrecipient of funds made available to the State under this title—

''(A) will comply with the requirements of section 508, including the regulations established under that section; and

''(B) will designate an employee to coordinate efforts to comply with section 508 and will adopt grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints concerning such requirements.

''(24) ANNUAL UPDATES.—The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

''(b) APPROVAL; DISAPPROVAL OF THE STATE PLAN.—

''(1) APPROVAL.—The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

''(2) DISAPPROVAL.—Prior to disapproval of the State plan, the Commissioner shall notify

the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

"SEC. 102. ELIGIBILITY AND INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.

''(a) ELIGIBILITY.—

''(1) CRITERION FOR ELIGIBILITY.—An individual is eligible for assistance under this title if the individual—

''(A) is an individual with a disability under section 7(20)(A); and

''(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

''(2) PRESUMPTION OF BENEFIT.—

''(A) DEMONSTRATION.—For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

''(B) METHODS.—In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual can not take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

''(3) PRESUMPTION OF ELIGIBILITY.—For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

''(A) considered to be an individual with a significant disability under section 7(21)(A); and

''(B) presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

''(4) USE OF EXISTING INFORMATION.—

''(A) IN GENERAL.—To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and developing the individualized rehabilitation employment plan described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized rehabilitation employment plan), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

''(B) DETERMINATIONS BY OFFICIALS OF OTHER AGENCIES.—Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies 1 or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

''(C) BASIS.—The determination of eligibility for vocational rehabilitation services shall be based on—

''(i) the review of existing data described in section 7(2)(A)(i); and

''(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

''(5) DETERMINATION OF INELIGIBILITY.—If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized rehabilitation employment plan is determined to be no longer eligible for the services—

''(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

''(B) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

''(i) the reasons for the determination; and

''(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

''(C) the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

''(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

''(i) within 12 months; and

''(ii) annually thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

''(6) TIMEFRAME FOR MAKING AN ELIGIBILITY DETERMINATION.—The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

''(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

''(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

''(b) DEVELOPMENT OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

''(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized rehabilitation employment plan, including—

''(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized rehabilitation employment plan for the individual, and the availability of technical assistance in developing all or part of the individualized rehabilitation employment plan for the individual;

''(B) a description of the full range of components that shall be included in an individualized rehabilitation employment plan;

''(C) as appropriate—

''(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized rehabilitation employment plan;

''(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

''(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized rehabilitation employment plan; and

''(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

''(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

''(2) MANDATORY PROCEDURES.—

''(A) WRITTEN DOCUMENT.—An individualized rehabilitation employment plan shall be a written document prepared on forms provided by the designated State unit.

''(B) INFORMED CHOICE.—An individualized rehabilitation employment plan shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

''(C) SIGNATORIES.—An individualized rehabilitation employment plan shall be—

''(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

''(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

''(D) COPY.—A copy of the individualized rehabilitation employment plan for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

''(E) REVIEW AND AMENDMENT.—The individualized rehabilitation employment plan shall be—

''(i) reviewed at least annually by—

''(I) a qualified vocational rehabilitation counselor; and

''(II) the eligible individual or, as appropriate, the individual's representative; and

''(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor employed by the designated State unit, if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit).

''(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—Regardless of the approach selected by an eligible individual to develop an individualized rehabilitation employment plan, an individualized

rehabilitation employment plan shall, at a minimum, contain mandatory components consisting of—

''(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

''(B)(i) a description of the specific vocational rehabilitation services that are—

''(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

''(II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

''(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

''(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

''(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

''(E) the terms and conditions of the individualized rehabilitation employment plan, including, as appropriate, information describing—

''(i) the responsibilities of the designated State unit;

''(ii) the responsibilities of the eligible individual, including—

''(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

''(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

''(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and

''(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);

''(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

''(i) the extended services needed by the eligible individual; and

''(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized rehabilitation employment plan, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

''(G) as determined to be necessary, a statement of projected need for post-employment services.

''(c) PROCEDURES.—

''(1) IN GENERAL.—Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

''(2) NOTIFICATION.—

''(A) RIGHTS AND ASSISTANCE.—The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

''(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

''(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

''(iii) the availability of assistance from the client assistance program under section 112.

''(B) TIMING.—Such notification shall be provided in writing—

''(i) at the time an individual applies for vocational rehabilitation services provided under this title;

''(ii) at the time the individualized rehabilitation employment plan for the individual is developed; and

''(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

''(3) EVIDENCE AND REPRESENTATION.—The procedures required under this subsection shall, at a minimum—

''(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

''(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing by a person selected by the applicant or eligible individual.

''(4) MEDIATION.—

''(A) PROCEDURES.—Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

''(B) REQUIREMENTS.—Such procedures shall ensure that the mediation process—

''(i) is voluntary on the part of the parties;

''(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and

''(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

''(C) LIST OF MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title, from which the mediators described in subparagraph (B) shall be selected.

''(D) COST.—The State shall bear the cost of the mediation process.

''(E) SCHEDULING.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

''(F) AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

''(G) CONFIDENTIALITY.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

''(H) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this title.

''(5) HEARINGS.—

''(A) OFFICER.—A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this Act (including regulations implementing this Act), and State regulations and policies that are consistent with the Federal requirements specified in this title. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit.

''(B) LIST.—The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

''(i) the designated State unit; and

''(ii) members of the Council or commission, as appropriate, described in section 101(a)(21).

''(C) SELECTION.—Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

''(i) on a random basis; or

''(ii) by agreement between—

''(I) the Director of the designated State unit and the individual with a disability; or

''(II) in appropriate cases, the Director and the individual's representative.

''(D) PROCEDURES FOR SEEKING REVIEW.—A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

''(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 101(a)(2); or

''(ii) an official from the office of the Governor.

''(E) REVIEW REQUEST.—If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

''(F) REVIEWING OFFICIAL.—The reviewing official described in subparagraph (D) shall—

''(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

''(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this Act (including regulations implementing this Act) or any State regulation or policy that is consistent with the Federal requirements specified in this title; and

''(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision.

''(G) FINALITY OF HEARING DECISION.—A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

''(H) FINALITY OF REVIEW.—A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

''(I) IMPLEMENTATION.—If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph

(F), the final decision involved shall be implemented pending review by the court.

''(J) CIVIL ACTION.—

''(i) IN GENERAL.—Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

''(ii) PROCEDURE.—In any action brought under this subparagraph, the court—

''(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

''(II) shall hear additional evidence at the request of a party to the action; and

''(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

''(6) HEARING BOARD.—

''(A) IN GENERAL.—A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this Act, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

''(B) APPLICATION.—The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

''(7) IMPACT ON PROVISION OF SERVICES.—Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

''(8) INFORMATION COLLECTION AND REPORT.—

''(A) IN GENERAL.—The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

''(B) INFORMATION.—The information required to be collected under this subsection includes—

''(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

''(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

''(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

''(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

''(I) sustained in favor of an applicant or eligible individual;

''(II) sustained in favor of the designated State unit;

''(III) reversed in whole or in part in favor of the applicant or eligible individual; and

''(IV) reversed in whole or in part in favor of the designated State unit.

''(C) CONFIDENTIALITY.—The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

''(d) POLICIES AND PROCEDURES.—Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 100(a)(3)(C), develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency—

''(1) to inform each such applicant and eligible individual (including students with disabilities described in section 101(a)(11)(D)(ii)(II) who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

''(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title;

''(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this title;

''(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of—

''(A) the employment outcome;

''(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

''(C) the entity that will provide the services;

''(D) the employment setting and the settings in which the services will be provided; and

''(E) the methods available for procuring the services; and

''(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this title.

''SEC. 103. VOCATIONAL REHABILITATION SERVICES.

''(a) VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS.—Vocational rehabilitation services provided under this title are any services described in an individualized rehabilitation employment plan necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

''(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

''(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

''(3) referral and other services to secure needed services from other agencies through agreements developed under section 101(b)(11), if such services are not available under this title;

''(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

''(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

''(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

''(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

''(B) necessary hospitalization in connection with surgery or treatment;

''(C) prosthetic and orthotic devices;

''(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

''(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

''(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

''(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized rehabilitation employment plan;

''(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

''(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

''(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

''(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

''(12) occupational licenses, tools, equipment, and initial stocks and supplies;

''(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided under the statewide workforce investment system, to eligible individuals who are pursuing self-employment or establishing a small business operation as an employment outcome;

''(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

''(15) transition services for students with disabilities described in section 101(a)(11)(D)(ii)(II), that facilitate the achievement of the employment outcome identified in the individualized rehabilitation employment plan;

''(16) supported employment services;

''(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

''(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

''(b) VOCATIONAL REHABILITATION SERVICES FOR GROUPS OF INDIVIDUALS.—Vocational rehabilitation services provided for the benefit of

groups of individuals with disabilities may also include the following:

''(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

''(2) The establishment, development, or improvement of community rehabilitation programs, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized rehabilitation employment plan of any 1 individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment.

''(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

''(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

''(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

''(C) Tactile materials for individuals who are deaf-blind.

''(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

''(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

''(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities described in section 101(a)(11)(D)(i) from school to post-school activities, including employment.

''SEC. 104. NON-FEDERAL SHARE FOR ESTABLISHMENT OF PROGRAM.

''For the purpose of determining the amount of payments to States for carrying out part B of this title (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program.

''SEC. 105. STATE REHABILITATION COUNCIL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Except as provided in section 101(a)(21)(A)(i), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the 'Council') in accordance with this section.

''(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

''(b) COMPOSITION AND APPOINTMENT.—

''(1) COMPOSITION.—

''(A) IN GENERAL.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

''(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

''(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17);

''(iii) at least one representative of the client assistance program established under section 112;

''(iv) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

''(v) at least one representative of community rehabilitation program service providers;

''(vi) four representatives of business, industry, and labor;

''(vii) representatives of disability advocacy groups representing a cross section of—

''(I) individuals with physical, cognitive, sensory, and mental disabilities; and

''(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

''(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

''(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

''(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

''(xi) at least one representative of the statewide workforce investment partnership.

''(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

''(i) at least one representative described in subparagraph (A)(i);

''(ii) at least one representative described in subparagraph (A)(ii);

''(iii) at least one representative described in subparagraph (A)(iii);

''(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

''(v) at least one representative described in subparagraph (A)(v);

''(vi) four representatives described in subparagraph (A)(vi);

''(vii) at least one representative of a disability advocacy group representing individuals who are blind;

''(viii) at least one individual's representative, of an individual who—

''(I) is an individual who is blind and has multiple disabilities; and

''(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

''(ix) applicants or recipients described in subparagraph (A)(viii);

''(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

''(xi) at least one representative described in subparagraph (A)(x); and

''(xii) at least one representative described in subparagraph (A)(xi).

''(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

''(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

''(ii) includes at least—

''(I) one representative described in subparagraph (B)(vi); and

''(II) one applicant or recipient described in subparagraph (B)(ix).

''(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

''(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

''(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

''(A) individuals with disabilities described in section 7(20)(A); and

''(B) not employed by the designated State unit.

''(5) CHAIRPERSON.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

''(B) DESIGNATION BY GOVERNOR.—In States in which the chief executive officer does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

''(6) TERMS OF APPOINTMENT.—

''(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

''(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

''(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(B) NUMBER OF TERMS.—No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

''(7) VACANCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

''(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

''(c) FUNCTIONS OF COUNCIL.—The Council shall, after consulting with the statewide workforce investment partnership—

''(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

''(A) eligibility (including order of selection);

''(B) the extent, scope, and effectiveness of services provided; and

''(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

''(2) in partnership with the designated State unit—

''(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

''(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports

of progress to the Commissioner in accordance with section 101(a)(15)(E);

''(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

''(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

''(A) the functions performed by the designated State agency;

''(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

''(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

''(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

''(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17), the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x–4(a)), and the statewide workforce investment partnership;

''(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

''(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

''(d) RESOURCES.—

''(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

''(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

''(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

''(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

''(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

''(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

''(g) COMPENSATION AND EXPENSES.—The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

''(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

''SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—The Commissioner shall, not later than September 30, 1998, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this title.

''(B) REVIEW AND REVISION.—Effective September 30, 1998, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

''(C) BASES.—Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 321(b) of the Workforce Investment Partnership Act of 1998.

''(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this title.

''(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

''(b) COMPLIANCE.—

''(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

''(2) PROGRAM IMPROVEMENT.—

''(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

''(B) REVIEW.—The Commissioner shall—

''(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

''(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

''(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

''(d) REPORT TO CONGRESS.—Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

''SEC. 107. MONITORING AND REVIEW.

''(a) IN GENERAL.—

''(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

''(A) provide for the annual review and periodic onsite monitoring of programs under this title; and

''(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

''(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

''(A) State policies and procedures;

''(B) guidance materials;

''(C) decisions resulting from hearings conducted in accordance with due process;

''(D) State goals established under section 101(a)(15) and the extent to which the State has achieved such goals;

''(E) plans and reports prepared under section 106(b);

''(F) consumer satisfaction reviews and analyses described in section 105(c)(4);

''(G) information provided by the State Rehabilitation Council established under section 105, if the State has such a Council, or by the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

''(H) reports; and

''(I) budget and financial management data.

''(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

''(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

''(B) public hearings and other strategies for collecting information from the public;

''(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

''(D) reviews of individual case files, including individualized rehabilitation employment plans and ineligibility determinations; and

''(E) meetings with rehabilitation counselors and other personnel.

''(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

''(A) the eligibility process;

''(B) the provision of services, including, if applicable, the order of selection;

''(C) whether the personnel evaluation system described in section 101(a)(7)(A)(iv) facilitates the accomplishments of the program;

''(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission; and

''(E) such other areas of inquiry as the Commissioner may consider appropriate.

''(5) REPORTS.—If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council.

''(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

''(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

''(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

''(c) FAILURE TO COMPLY WITH PLAN.—

''(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

''(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

''(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

''(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

''(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

''(d) REVIEW.—

''(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

''(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

''(3) STANDARDS OF REVIEW.—

''(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

''(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

''(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

''(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

''SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.

''(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

''(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

''SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

''A State may expend payments received under section 111—

''(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

''(2) to inform employers of the existence of the program and the availability of the services of the program.

''PART B—BASIC VOCATIONAL REHABILITATION SERVICES

''STATE ALLOTMENTS

''SEC. 110. (a)(1) Subject to the provisions of subsection (c), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

''(A) the population of the State; and

''(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all the States.

''(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

''(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

''(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

''(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

''(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

''(b)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

''(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

''(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

''(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

''(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1998; and

''(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 1999 through 2004.

''PAYMENTS TO STATES

''SEC. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

''(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year.

''(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

''(C) The Commissioner may waive or modify any requirement or limitation under paragraphs (A) and (B) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

''(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

''(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

''(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

''CLIENT ASSISTANCE PROGRAM

''SEC. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

''(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

''(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

''(2) meets the requirements of designation under subsection (c).

''(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

''(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

''(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

''(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

''(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

''(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998—

''(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the merger of the designated State agency with 1 or more other State agencies or departments; and

''(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

''(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

''(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

''(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

''(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $50,000.

''(B) The Secretary shall allot $30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(C) For the purpose of this paragraph, the term 'State' does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $100,000 for States and $45,000 for territories.

''(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

''(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any such amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

''(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

''(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

''(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

''(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

''(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

''(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

''(B) In subparagraph (A), the term 'alternative means of dispute resolution' means any

procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

''(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

''(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004 to carry out the provisions of this section.

''PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

''VOCATIONAL REHABILITATION SERVICES GRANTS

''SEC. 121. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

''(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

''(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

''(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

''(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

''(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

''(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

''(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

''(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

''(c) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

''PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

''SEC. 131. DATA SHARING.

''(a) IN GENERAL.—

''(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

''(A) that concern clients of designated State agencies; and

''(B) that are data maintained either by—

''(i) the Rehabilitation Services Administration, as required by section 13; or

''(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

''(2) LABOR MARKET INFORMATION.—The Secretary of Labor shall provide the Commissioner with labor market information that facilitates evaluation by the Commissioner of the program carried out under part B, and allows the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title III of the Workforce Investment Partnership Act of 1998.

''(b) TREATMENT OF INFORMATION.—For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.''.

SEC. 605. RESEARCH AND TRAINING.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760 et seq.) is amended to read as follows:

''TITLE II—RESEARCH AND TRAINING

''DECLARATION OF PURPOSE

''SEC. 200. The purpose of this title is to—

''(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

''(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 202(h);

''(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

''(A) the procurement process for the purchase of rehabilitation technology;

''(B) the utilization of rehabilitation technology on a national basis;

''(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

''(D) the development or transfer of assistive technology;

''(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

''(A) generated by research, demonstration projects, training, and related activities; and

''(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

''(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

''(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 201. (a) There are authorized to be appropriated—

''(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004; and

''(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004.

''(b) Funds appropriated under this title shall remain available until expended.

''NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

''SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'), in order to—

''(A) promote, coordinate, and provide for—

''(i) research;

''(ii) demonstration projects and training; and

''(iii) related activities,

with respect to individuals with disabilities;

''(B) more effectively carry out activities through the programs under section 204 and activities under this section;

''(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

''(D) provide leadership in advancing the quality of life of individuals with disabilities.

''(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

''(b) The Director, through the Institute, shall be responsible for—

''(1) administering the programs described in section 204 and activities under this section;

''(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this title as 'covered activities') funded by the Institute, to—

''(A) other Federal, State, tribal, and local public agencies;

''(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

''(C) rehabilitation practitioners; and

''(D) individuals with disabilities and the individuals' representatives;

''(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

''(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

''(A) public and private entities, including—

''(i) elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965; and

''(ii) institutions of higher education;

''(B) rehabilitation practitioners;

''(C) individuals with disabilities (especially such individuals who are members of minority

groups or of populations that are unserved or underserved by programs under this Act); and

''(D) the individuals' representatives for the individuals described in subparagraph (C);

''(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

''(i) family care;

''(ii) self-care; and

''(iii) assistive technology devices and assistive technology services; and

''(B) as part of the program, disseminating engineering information about assistive technology devices;

''(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

''(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

''(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals' representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

''(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

''(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment; and

''(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

''(c)(1) The Director, acting through the Institute or 1 or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

''(2) The development and dissemination of models may include—

''(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

''(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

''(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

''(D) disseminating through 1 or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

''(d)(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall not delegate any of his functions to any officer who is not directly responsible to the Director.

''(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration. The Deputy Director shall be compensated at the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, and shall act for the Director during the absence of the Director or the inability of the Director to perform the essential functions of the job, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be a Senior Executive Service position, as defined in section 3132 of title 5, United States Code.

''(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

''(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

''(e) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

''(f)(1) The Director shall, pursuant to regulations that the Secretary shall prescribe, provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The Director shall provide for the review by utilizing, to the maximum extent possible, appropriate peer review panels established within the Institute. The panels shall be standing panels if the grant period involved or the duration of the program involved is not more than 3 years. The panels shall be composed of individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals' representatives, and who are competent to review applications for the financial assistance.

''(2) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panels.

''(3) The Director shall solicit nominations for such panels from the public and shall publish the names of the individuals selected. Individuals comprising each panel shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

''(4) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

''(g) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

''(h)(1) The Director shall—

''(A) by October 1, 1998 and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

''(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

''(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

''(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

''(2) Such plan shall—

''(A) identify any covered activity that should be conducted under this section and section 204 respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

''(B) determine the funding priorities for covered activities to be conducted under this section and section 204;

''(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 204;

''(D) be developed by the Director—

''(i) after consultation with the Rehabilitation Research Advisory Council established under section 205;

''(ii) in coordination with the Commissioner;

''(iii) after consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Interagency Committee on Disability Research established under section 203; and

''(iv) after full consideration of the input of individuals with disabilities and the individuals' representatives, organizations representing individuals with disabilities, providers of services furnished under this Act, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

''(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals' representatives; and

''(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this Act.

''(i) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult

with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

''(j)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

''(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

''(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.

''INTERAGENCY COMMITTEE

''SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

''(2) The Committee shall meet not less than four times each year.

''(b) After receiving input from individuals with disabilities and the individuals' representatives, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

''(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.

''RESEARCH AND OTHER COVERED ACTIVITIES

''SEC. 204. (a)(1) To the extent consistent with priorities established in the 5-year plan described in section 202(h), the Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this Act.

''(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, V, VI, and VII, including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies.

''(B) Such projects, as described in the State plans submitted by State agencies, may include—

''(i) medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

''(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

''(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

''(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

''(v) studies, analyses, and other activities related to supported employment;

''(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this Act; and

''(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

''(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 202(h).

''(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

''(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

''(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the individuals' representatives.

''(B) The Centers shall conduct research and training activities by—

''(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability of the individuals to prepare for, secure, retain, regain, or advance in employment;

''(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

''(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

''(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals' representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

''(C) The research to be carried out at each such Center may include—

''(i) basic or applied medical rehabilitation research;

''(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

''(iii) research related to vocational rehabilitation;

''(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

''(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

''(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

''(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

''(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

''(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

''(G) Grants made under this paragraph may be used to provide faculty support for teaching—

''(i) rehabilitation-related courses of study for credit; and

''(ii) other courses offered by the Centers, either directly or through another entity.

''(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

''(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

''(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

''(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

''(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

''(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

''(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

''(i) the grant is made to a new recipient; or

''(ii) the grant supports new or innovative research.

''(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(N) In conducting scientific peer review under section 202(f) of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals' representatives.

''(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

''(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

''(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

''(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

''(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

''(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

''(ii) demonstrating and disseminating—

''(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

''(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

''(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

''(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

''(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

''(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

''(i) cooperate with programs established under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the individuals' representatives to—

''(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

''(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

''(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

''(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

''(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

''(I) Early childhood services, including early intervention and family support.

''(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

''(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

''(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

''(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals' representatives.

''(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

''(i) the grant is made to a new recipient; or

''(ii) the grant supports new or innovative research.

''(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(G) Each Center established or supported through a grant made available under this paragraph shall—

''(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

''(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

''(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

''(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals' representatives, and organizations receiving financial assistance under this paragraph;

''(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

''(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

''(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

''(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

''(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

''(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

''(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

''(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

''(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

''(A) ensure dissemination of research findings;

''(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

''(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

''(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

''(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other

similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

''(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

''(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.

''(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

''(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programming.

''(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including—

''(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

''(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

''(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

''(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs that—

''(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

''(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

''(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

''(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

''(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

''(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

''(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

''(A) test new concepts and innovative ideas;

''(B) demonstrate research results of high potential benefits;

''(C) purchase prototype aids and devices for evaluation;

''(D) develop unique rehabilitation training curricula; and

''(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed $50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

''(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

''(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

''(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

''(B) Activities carried out under the research program may include—

''(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

''(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

''(iii) identification and dissemination of outcome measurement models for the assessment of rehabilitation technology products and services; and

''(iv) development and testing of research-based tools to enhance consumer decisionmaking about rehabilitation technology products and services.

''(C) The Director shall develop the quality assurance research program after consultation with representatives of all types of organizations interested in rehabilitation technology quality assurance.

''(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

''(A) determine the use of specific alternative or complementary medical practices among individuals with disabilities and the perceived effectiveness of the practices;

''(B) determine the specific information sources, decisionmaking methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

''(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

''(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

''(c)(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

''(2) The Director shall not make a grant under this section that exceeds $499,999 unless the peer review of the grant application has included a site visit.

''REHABILITATION RESEARCH ADVISORY COUNCIL

''SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

''(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 202(h).

''(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives.

''(d) TERMS OF APPOINTMENT.—

''(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

''(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

''(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

''(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

''(f) PAYMENT AND EXPENSES.—

''(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

''(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

''(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

''(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

''(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.''.

SEC. 606. PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS.

Title III of the Rehabilitation Act of 1973 (29 U.S.C. 770 et seq.) is amended to read as follows:

''TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

''SEC. 301. DECLARATION OF PURPOSE AND COMPETITIVE BASIS OF GRANTS AND CONTRACTS.

''(a) PURPOSE.—It is the purpose of this title to authorize grants and contracts to—

''(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through independent living services programs, and through client assistance programs; and

''(B) provide training to maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery and rehabilitation technology services;

''(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services authorized under this Act, or that otherwise further the purposes of this Act, including related research and evaluation;

''(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

''(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

''(5) provide training and information to individuals with disabilities and the individuals' representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and workforce investment system and to become active decisionmakers in the rehabilitation process.

''(b) COMPETITIVE BASIS OF GRANTS AND CONTRACTS.—The Secretary shall ensure that all grants and contracts are awarded under this title on a competitive basis.

''SEC. 302. TRAINING.

''(a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

''(1) AUTHORITY.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this Act, to individuals with disabilities, and who may include—

''(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

''(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with disabilities, including needs for rehabilitation technology;

''(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

''(D) personnel specifically trained to deliver services in the client assistance programs;

''(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability;

''(F) personnel providing vocational rehabilitation services specifically trained in the use of braille, the importance of braille literacy, and in methods of teaching braille; and

''(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act.

''(2) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

''(3) RELATED FEDERAL STATUTES.—In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding related Federal statutes (other than this Act).

''(4) TRAINING FOR STATEWIDE WORKFORCE SYSTEMS PERSONNEL.—The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under the Workforce Investment Partnership Act of 1998. Under this paragraph, personnel may be trained—

''(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of the statewide workforce investment system; or

''(B) to assist individuals with disabilities seeking assistance through one-stop customer service centers established under section 315 of the Workforce Investment Partnership Act of 1998.

''(5) JOINT FUNDING.—Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title III of the Workforce Investment Partnership Act of 1998.

''(b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate. In making such grants or entering into such contracts, the Commissioner shall target funds to areas determined under subsection (e) to have shortages of qualified personnel.

''(B) TYPES OF PROJECTS.—Academic training projects described in this subsection may include—

''(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

''(ii) projects to train personnel to provide—

''(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

''(II) job development and job placement services to individuals with disabilities;

''(III) supported employment services, including services of employment specialists for individuals with disabilities;

''(IV) specialized services for individuals with significant disabilities; or

''(V) recreation for individuals with disabilities;

''(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

''(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

''(2) APPLICATION.—No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

''(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

''(B) the identification of potential employers that would meet the requirements of paragraph (4)(A)(i); and

''(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no grant or contract under this subsection may be used to provide any one course of study to an individual for a period of more than 4 years.

''(B) EXCEPTION.—If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

''(4) REQUIRED AGREEMENTS.—

''(A) IN GENERAL.—A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for the first academic year after the date of enactment of the Rehabilitation Act Amendments of 1998, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

''(i) maintain employment—

''(I) with an employer that is a State rehabilitation or other agency or organization (including a professional corporation or practice group) that provides services to individuals with disabilities under this Act, or with an institution of higher education or other organization that conducts rehabilitation education, training, or research under this Act;

''(II) on a full- or part-time basis; and

''(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this subsection was received by the individual, within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in this subclause and 2 additional years;

''(ii) directly provide or administer services, conduct research, or furnish training, funded under this Act; and

''(iii) repay all or part of the amount of any scholarship received under the grant or contract, plus interest, if the individual does not fulfill the requirements of clauses (i) and (ii), except that the Commissioner may by regulation provide for repayment exceptions and deferrals.

''(B) ENFORCEMENT.—The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon the completion of the training involved with respect to such agreement.

''(c) GRANTS TO HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—The Commissioner, in

carrying out this section, shall make grants to historically Black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

''(d) APPLICATION.—A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including a detailed description of strategies that will be utilized to recruit and train individuals so as to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

''(e) EVALUATION AND COLLECTION OF DATA.—The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities.

''(f) GRANTS FOR THE TRAINING OF INTERPRETERS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

''(i) for the establishment of interpreter training programs; or

''(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

''(B) GEOGRAPHIC AREAS.—The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

''(C) PRIORITY.—In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

''(D) FUNDING.—The Commissioner may award grants under this subsection through the use of—

''(i) amounts appropriated to carry out this section; or

''(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 603 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17))), amounts appropriated under section 686 of the Individuals with Disabilities Education Act.

''(2) APPLICATION.—A grant may not be awarded to an agency or organization under paragraph (1) unless the agency or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

''(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

''(B) a demonstration of the applicant's capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

''(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

''(D) such other information as the Commissioner may require.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

''(h) PROVISION OF INFORMATION.—The Commissioner, subject to the provisions of section 306, may require that recipients of grants or contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

''SEC. 303. SPECIAL DEMONSTRATION PROGRAM.

''(a) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may award grants or contracts to eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this Act or that further the purposes of the Act, including related research and evaluation activities.

''(b) ELIGIBLE ENTITIES AND TERMS AND CONDITIONS.—

''(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant or contract under subsection (a), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to 1 or more types of organizations described in this paragraph.

''(2) TERMS AND CONDITIONS.—Awards under this section shall contain such terms and conditions as the Commissioner may require.

''(c) APPLICATION.—An eligible entity that desires to receive an award under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

''(1) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

''(2) is of national significance.

''(d) TYPES OF PROJECTS.—The programs that may be funded under this section include—

''(1) special projects and demonstrations of service delivery;

''(2) model demonstration projects;

''(3) technical assistance projects;

''(4) systems change projects;

''(5) special studies and evaluations; and

''(6) dissemination and utilization activities.

''(e) PRIORITY FOR COMPETITIONS.—

''(1) IN GENERAL.—In announcing competitions for grants and contracts under this section, the Commissioner shall give priority consideration to—

''(A) projects to provide training, information, and technical assistance that will enable individuals with disabilities and the individuals' representatives, to participate more effectively in meeting the vocational, independent living, and rehabilitation needs of the individuals with disabilities;

''(B) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

''(C) innovative methods of promoting consumer choice in the rehabilitation process;

''(D) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

''(E) model transitional planning services for youths with disabilities.

''(2) ELIGIBILITY AND COORDINATION.—

''(A) ELIGIBILITY.—Eligible applicants for grants and contracts under this section for projects described in paragraph (1)(A) include—

''(i) Parent Training and Information Centers funded under section 682 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17));

''(ii) organizations that meet the definition of a parent organization in section 682 of such Act; and

''(iii) private nonprofit organizations assisting parent training and information centers.

''(B) COORDINATION.—Recipients of grants and contracts under this section for projects described in paragraph (1)(A) shall, to the extent practicable, coordinate training and information activities with Centers for Independent Living.

''(3) ADDITIONAL COMPETITIONS.—In announcing competitions for grants and contracts under this section, the Commissioner may require that applicants address 1 or more of the following:

''(A) Age ranges.

''(B) Types of disabilities.

''(C) Types of services.

''(D) Models of service delivery.

''(E) Stage of the rehabilitation process.

''(F) The needs of—

''(i) underserved populations;

''(ii) unserved and underserved areas;

''(iii) individuals with significant disabilities;

''(iv) low-incidence disability populations; and

''(v) individuals residing in federally designated empowerment zones and enterprise communities.

''(G) Expansion of employment opportunities for individuals with disabilities.

''(H) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under the Workforce Investment Partnership Act of 1998 and under other Federal laws.

''(I) Innovative methods of promoting the achievement of high-quality employment outcomes.

''(J) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

''(K) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

''(f) USE OF FUNDS FOR CONTINUATION AWARDS.—The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 12 and 311 (as such sections were in effect on the day prior to the date of the enactment of the Rehabilitation Act Amendments of 1998).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

''SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.

''(a) GRANTS.—

''(1) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals

(whether or not such family members are individuals with disabilities).

''(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1), an entity shall be—

''(A) a State designated agency;

''(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

''(C) a local agency working in collaboration with a State agency described in subparagraph (A).

''(3) MAINTENANCE AND TRANSPORTATION.—

''(A) IN GENERAL.—Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

''(B) REQUIREMENT.—Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this Act.

''(4) ASSURANCE OF COOPERATION.—To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

''(5) COORDINATION WITH OTHER PROGRAMS.—The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Partnership Act of 1998.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the fiscal years 1998 through 2004.

''SEC. 305. RECREATIONAL PROGRAMS.

''(a) GRANTS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

''(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4–H activities, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

''(C) DESIGN OF PROGRAM.—Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

''(2) MAXIMUM TERM OF GRANT.—A grant under this section shall be made for a period of not more than 3 years.

''(3) AVAILABILITY OF NONGRANT RESOURCES.—

''(A) IN GENERAL.—A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

''(B) FEDERAL SHARE.—The Federal share of the costs of the recreation programs carried out under this section shall be—

''(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

''(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

''(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

''(4) APPLICATION.—To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

''(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

''(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

''(5) LEVEL OF SERVICES.—Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

''(6) REPORTS BY GRANTEES.—

''(A) REQUIREMENT.—The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

''(B) LIMITATION.—The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1998 through 2004.

''SEC. 306. MEASURING OF PROJECT OUTCOMES AND PERFORMANCE.

''The Commissioner may require that recipients of grants under this title submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.''.

SEC. 607. NATIONAL COUNCIL ON DISABILITY.

Title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) is amended to read as follows:

''TITLE IV—NATIONAL COUNCIL ON DISABILITY

''ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

''SEC. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

''(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

''(i) organizations representing a broad range of individuals with disabilities; and

''(ii) organizations interested in individuals with disabilities.

''(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

''(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

''(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

''(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

''(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

''(B) As used in this paragraph, the term 'full term' means a term of 3 years.

''(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

''(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

''(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

''DUTIES OF NATIONAL COUNCIL

''SEC. 401. (a) The National Council shall—

''(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

''(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

''(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

''(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

''(5) review and evaluate on a continuing basis—

''(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or

assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

''(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

''(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

''(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

''(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

''(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the international, Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

''(b)(1) Not later than July 26, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

''(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

''(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

''COMPENSATION OF NATIONAL COUNCIL MEMBERS

''SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

''(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

''(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

''STAFF OF NATIONAL COUNCIL

''SEC. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5, United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

''(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

''(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

''(2) The National Council may—

''(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

''(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

''(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

''(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

''(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

''(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

''(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

''ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

''SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

''(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

''(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

''(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

''(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1998 through 2004.''.

SEC. 608. RIGHTS AND ADVOCACY.

(a) CONFORMING AMENDMENTS TO RIGHTS AND ADVOCACY PROVISIONS.—

(1) EMPLOYMENT.—Section 501 (29 U.S.C. 791) is amended—

(A) in the third sentence of subsection (a), by striking ''President's Committees on Employment of the Handicapped'' and inserting ''President's Committees on Employment of People With Disabilities''; and

(B) in subsection (e), by striking ''individualized written rehabilitation program'' and inserting ''individualized rehabilitation employment plan''.

(2) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(A) in subsection (a)(1), in the sentence following subparagraph (B), by striking ''Chairperson'' and inserting ''chairperson'';

(B) in subsection (b)—

(i) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(ii) in paragraph (10), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(11) carry out the responsibilities specified for the Access Board in section 508'';

(C) in subsection (d)(2)(A), by inserting before the semicolon the following: ''and section 508(d)(2)(C)'';

(D) in subsection (g)(2), by striking ''Committee on Education and Labor'' and inserting ''Committee on Education and the Workforce''; and

(E) in subsection (i), by striking ''fiscal years 1993 through 1997'' and inserting ''fiscal years 1998 through 2004''.

(3) FEDERAL GRANTS AND CONTRACTS.—Section 504(a) (29 U.S.C. 794(a)) is amended in the first sentence by striking ''section 7(8)'' and inserting ''section 7(20)''.

(4) SECRETARIAL RESPONSIBILITIES.—Section 506(a) (29 U.S.C. 794b(a)) is amended—

(A) by striking the second sentence and inserting the following: ''Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States.''; and

(B) in the second sentence of subsection (c), by striking ''provided under this paragraph'' and inserting ''provided under this subsection''.

(b) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

''SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY.

''(a) REQUIREMENTS FOR FEDERAL DEPARTMENTS AND AGENCIES.—

''(1) ACCESSIBILITY.—Each Federal department or agency shall procure, maintain, and use (unless such procurement, maintenance, or use is not practicable) electronic and information technology that allows, regardless of the type of medium of the technology, individuals with disabilities to have access to and use information and data that is comparable to the information and data that is accessible to and used by individuals who are not individuals with disabilities.

''(2) ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the 'Access Board'), after consultation with the Secretary of Education, the Administrator of General Services, the Director of the Office of Management and

Budget, the Secretary of Commerce, the Chairman of the Federal Communications Commission, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, shall issue and publish standards setting forth—

''(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology in section 5002 of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679); and

''(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

''(B) REVIEW AND AMENDMENT.—The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

''(3) INCORPORATION OF STANDARDS.—Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards.

''(b) TECHNICAL ASSISTANCE.—The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

''(c) AGENCY EVALUATIONS.—Not later than 6 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

''(d) REPORTS.—

''(1) INTERIM REPORT.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the state of electronic and information technology accessibility in the Federal Government for individuals with disabilities.

''(2) BIENNIAL REPORTS.—Not later than 3 years after the date of enactment of the Rehabilitation Act Amendments of 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

''(e) COOPERATION.—Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide the Attorney General with such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

''(f) ENFORCEMENT.—

''(1) GENERAL.—Any individual with a disability, including a Federal employee or a person served by a Federal agency, may file a complaint alleging that a procurement action initiated after the date described in paragraph (4) fails to comply with subsection (a)(1).

''(2) ADMINISTRATIVE COMPLAINTS.—Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 504 for resolving allegations of discrimination in a federally conducted program or activity.

''(3) CIVIL ACTIONS.—The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) shall be the remedies, procedures, and rights available to any individual alleging that a procurement action initiated after the date described in paragraph (4) fails to comply with subsection (a)(1).

''(4) APPLICATION.—This subsection shall apply to Federal departments and agencies on the date of publication of the standards issued pursuant to subsection (a)(2)(A).

''(g) RELATIONSHIP TO OTHER FEDERAL LAWS.—This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 501 through 505) that provides greater or equal protection for the rights of individuals with disabilities than this section.''.

(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 509 (29 U.S.C. 794e) is amended to read as follows:

''SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

''(a) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

''(1) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and

''(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) because the individuals do not have a developmental disability, as defined in section 102 of such Act (42 U.S.C. 6002) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

''(b) APPROPRIATIONS LESS THAN $5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

''(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

''(1) RESERVATIONS.—

''(A) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

''(B) GRANT FOR THE ELIGIBLE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than $50,000 for the fiscal year.

''(2) ALLOTMENTS.—For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

''(3) SYSTEMS WITHIN STATES.—

''(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

''(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

''(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

''(A) IN GENERAL.—For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than $50,000 for the fiscal year for which the allotment is made.

''(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

''(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

''(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

''(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

''(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

''(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental

Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

''(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a);

''(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

''(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

''(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

''(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

''(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system;

''(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided; and

''(8) not use allotments or grants provided under this section in a manner inconsistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997.

''(g) CARRYOVER AND DIRECT PAYMENT.—

''(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

''(2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

''(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

''(i) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

''(j) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

''(k) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

''(m) DEFINITIONS.—As used in this section:

''(1) ELIGIBLE SYSTEM.—The term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

''(2) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian consortium' means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).''.

SEC. 609. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

Title VI of the Rehabilitation Act of 1973 (29 U.S.C. 795 et seq.) is amended to read as follows:

''TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

''SEC. 601. SHORT TITLE.

''This title may be cited as the 'Employment Opportunities for Individuals With Disabilities Act'.

''PART A—PROJECTS IN TELECOMMUTING AND SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES

''SEC. 611. FINDINGS, POLICIES, AND PURPOSES.

''(a) FINDINGS.—Congress makes the following findings:

''(1) It is in the best interest of the United States to identify and promote increased employment opportunities for individuals with disabilities.

''(2) Telecommuting is one of the most rapidly expanding forms of employment. In 1990 there were 4,000,000 telecommuters and that number has risen to 11,100,000 in 1997.

''(3) It is in the best interest of the United States to ensure that individuals with disabilities have access to telecommuting employment opportunities. It has been estimated that 10 percent of individuals with disabilities, who are unemployed, could benefit from telecommuting opportunities.

''(4) It is in the interest of employers to recognize that individuals with disabilities are excellent candidates for telecommuting employment opportunities.

''(5) Individuals with disabilities, especially those living in rural areas, often do not have access to accessible transportation, and in such cases telecommuting presents an excellent opportunity for the employment of such individuals.

''(6) It is in the best interests of economic development agencies, venture capitalists, and financial institutions for the Federal Government to demonstrate that individuals with disabilities, who wish to become or who are self-employed, can meet the criteria for assistance, investment of capital, and business that other entrepreneurs meet.

''(b) POLICIES.—It is the policy of the United States to—

''(1) promote opportunities for individuals with disabilities to—

''(A) secure, retain, regain, or advance in employment involving telecommuting;

''(B) gain access to employment opportunities; and

''(C) demonstrate their abilities, capabilities, interests, and preferences regarding employment in positions that are increasingly being offered to individuals in the workplace; and

''(2) promote opportunities for individuals with disabilities to engage in self-employment enterprises that permit these individuals to achieve significant levels of independence, participate in and contribute to the life of their communities, and offer employment opportunities to others.

''(c) PURPOSES.—It is the purpose of this part to—

''(1) through the awarding of 1-time, time-limited grants, contracts, or cooperative agreements to public and private entities—

''(A) provide funds, in accordance with section 612, to enable individuals with disabilities to identify and secure employment opportunities involving telecommuting; and

''(B) encourage employers to become partners in providing telecommuting placements for individuals with disabilities through the involvement of such employers in telecommuting projects that continue and expand opportunities for the provision of telecommuting placements to individuals with disabilities beyond those opportunities that are currently facilitated by the telecommuting projects; and

''(2) through the awarding of 1-time, time-limited grants, contracts, cooperative agreements, or other appropriate mechanisms of providing assistance to public or private entities—

''(A) assist individuals with disabilities to engage in self-employment enterprises in accordance with section 613; and

''(B) encourage entities to assist more individuals with disabilities to engage in self-employment enterprises.

''SEC. 612. PROJECTS IN TELECOMMUTING FOR INDIVIDUALS WITH DISABILITIES.

''(a) IN GENERAL.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in telecommuting for individuals with disabilities.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

''(1) be—

''(A) an entity carrying out a Project With Industry described in part B;

''(B) a designated State agency;

''(C) a statewide workforce investment partnership or local workforce investment partnership;

''(D) a public educational agency;

''(E) a training institution, which may include an institution of higher education;

''(F) a private organization, with priority given to organizations of or for individuals with disabilities;

''(G) a public or private employer;

''(H) any other entity that the Commissioner determines to be appropriate; or

''(I) a combination or consortium of the entities described in subparagraphs (A) through (H);

''(2) have 3 or more years of experience in assisting individuals with disabilities in securing, retaining, regaining, or advancing in employment;

''(3) demonstrate that such entity has the capacity to secure full- and part-time employment involving telecommuting for individuals with disabilities; and

''(4) submit an application that meets the requirements of subsection (c).

''(c) APPLICATION REQUIREMENTS.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the telecommuting project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

''(1) a description of how and the extent to which the applicant meets the requirement of subsection (b)(2);

''(2) with respect to any partners who will participate in the implementation of activities under the telecommuting project, a description of—

''(A) the identity of such partners; and

''(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the telecommuting project;

''(3) a description of the geographic region that will be the focus of activity under the telecommuting project;

''(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of individuals with disabilities who will be employed as the result of the assistance provided by the telecommuting project;

''(5) with respect to any employers that have indicated an interest in offering telecommuting employment opportunities to individuals with disabilities, a description of—

''(A) the identity of such employers; and

''(B) the manner in which additional employers would be recruited under the telecommuting project;

''(6) a description of the manner in which individuals with disabilities will be identified and selected to participate in the telecommuting project;

''(7) a description of the jobs that will be targeted by the telecommuting project;

''(8) a description of the process by which individuals with disabilities will be matched with employers for telecommuting placements;

''(9) a description of the manner in which the project will become self-sustaining in the third year of the telecommuting project; and

''(10) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used by the telecommuting project.

''(d) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used for—

''(1) the recruitment of individuals with disabilities for telecommuting placements;

''(2) the conduct of marketing activities with respect to employers;

''(3) the purchase of training services for an individual with a disability who is going to assume a telecommuting placement;

''(4) the purchase of equipment, materials, telephone lines, auxiliary aids, and services related to telecommuting placements;

''(5) the provision of orientation services and training to the supervisors of employers participating in the project and to co-workers of individuals with disabilities who are selected for telecommuting placements;

''(6) the provision of technical assistance to employers, including technical assistance regarding reasonable accommodations with regard to individuals with disabilities participating in telecommuting placements; and

''(7) other uses determined appropriate by the Commissioner.

''(e) PROJECT REQUIREMENTS.—Telecommuting projects funded under this section shall—

''(1) establish criteria for safety with regard to the telecommuting work space, which at a minimum meet guidelines established by the Occupational Safety and Health Administration for a work space of comparable size and function;

''(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will place in telecommuting positions;

''(3) establish procedures for ensuring that prospective employers and individuals with disabilities, who are to assume telecommuting placements, have a clear understanding of how the individual's work performance will be monitored and evaluated by the employer;

''(4) identify and make available support services for individuals with disabilities in telecommuting placements;

''(5) develop procedures that allow the telecommuting project, the employer, and the individual with a disability to reach agreement on their respective responsibilities with regard to establishing and maintaining the telecommuting placement; and

''(6) for each year of a telecommuting project, submit an annual report to the Commissioner concerning—

''(A) the number of individuals with disabilities placed in telecommuting positions and whether the goal described in the agreement entered into under paragraph (2) was met;

''(B) the number of individuals with disabilities employed as salaried employees and their annual salaries;

''(C) the number of individuals with disabilities employed as independent contractors and their annual incomes;

''(D) the number of individuals with disabilities that received benefits from their employers;

''(E) the number of individuals with disabilities in telecommuting placements still working after—

''(i) 6 months; and

''(ii) 12 months; and

''(F) any reports filed with the Occupational Safety and Health Administration.

''(f) LIMITATIONS.—

''(1) PERIOD OF AWARD.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

''(2) AMOUNT.—The amount of a grant, contract, or cooperative agreement under subsection (a) shall not be less than $250,000 nor more than $1,000,000.

''SEC. 613. PROJECTS IN SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.

''(a) IN GENERAL.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in self-employment for individuals with disabilities.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

''(1) be—

''(A) a financial institution;

''(B) an economic development agency;

''(C) a venture capitalist;

''(D) an entity carrying out a Project With Industry described in part B;

''(E) a designated State agency, or other public entity;

''(F) a private organization, including employers and organizations related to individuals with disabilities;

''(G) any other entity that the Commissioner determines to be appropriate; or

''(H) a combination or consortium of the entities described in subparagraphs (A) through (G);

''(2) demonstrate that such entity has the capacity to assist clients, including clients with disabilities, to successfully engage in self-employment enterprises; and

''(3) submit an application that meets the requirements of subsection (c).

''(c) APPLICATION REQUIREMENTS.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the self-employment project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

''(1) a description of how and the extent to which the applicant has assisted individuals, including individuals with disabilities, if appropriate, to successfully engage in self-employment enterprises;

''(2) with respect to any partners who will participate in the implementation of activities under the self-employment project, a description of—

''(A) the identity of such partners; and

''(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the self-employment project;

''(3) a description of the geographic region that will be the focus of activity in the self-employment project;

''(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of clients who will be assisted to engage in self-employment enterprises through the self-employment project;

''(5) a description of the manner in which potential clients will be identified and selected to be assisted by the self-employment project;

''(6) a description of the manner in which self-employment enterprises (or market niches) will be identified for the geographic areas to be targeted in the self-employment project;

''(7) a description of the process by which prospective clients will be matched with self-employment opportunities;

''(8) a description of the manner in which the project will become self-sustaining in the third year of the self-employment project; and

''(9) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used during the self-employment project.

''(d) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used—

''(1) for the preparation of marketing analyses to identify self-employment opportunities;

''(2) for the conduct of marketing activities with respect to financial institutions or venture capitalists concerning the benefits of investing in individuals with disabilities who are engaged in self-employment enterprises;

''(3) for the conduct of marketing activities with respect to potential clients who engage in or might engage in self-employment enterprises;

''(4) for the provision of training for clients to be assisted through the project who seek to engage or are engaging in self-employment enterprises;

''(5) to cover the costs of business expenses specifically related to an individual's disability;

''(6) to provide assistance for clients in developing business plans for capital investment;

''(7) to provide assistance for clients in securing capital to engage in a self-employment enterprise;

''(8) to provide technical assistance to clients engaged in self-employment enterprises who seek such assistance in order to sustain or expand their enterprises; and

''(9) for other uses as determined appropriate by the Commissioner.

''(e) PROJECT REQUIREMENTS.—Self-employment projects funded under this section shall—

''(1) establish criteria for and apply such criteria in selecting clients to be assisted through the project;

''(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will assist in starting and sustaining self-employment enterprises;

''(3) establish and apply criteria to determine whether an enterprise is a viable option in which to invest project funds;

''(4) establish and apply criteria to determine when and if the project would provide assistance in sustaining an ongoing enterprise engaged in by a client or potential client;

''(5) establish and apply criteria to determine when and if the project would provide assistance in expanding an ongoing enterprise engaged in by a client or potential client;

''(6) establish and apply procedures to ensure that a potential client has a clear understanding of the scope and limits of assistance from the project that will be applicable in such client's case;

''(7) develop procedures, which include a written agreement, that provide for the documentation of the respective responsibilities of the self-employment project and any client with regard to the creation, maintenance, or expansion of the client's self-employment enterprise; and

''(8) with respect to the project, submit a report to the Commissioner—

''(A) for each project year, concerning the number of clients assisted by the project who are

engaging in self-employment enterprises and whether the goal described in the agreement entered into under paragraph (2) was met; and

''(B) concerning the number of clients assisted by the project who are still engaged in such an enterprise on the date that is—

''(i) 6 months after the date on which assistance provided by the project was terminated; and

''(ii) 12 months after the date on which assistance provided by the project was terminated.

''(f) DURATION OF AWARDS.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

''(g) DEFINITION.—For the purpose of this section, the term 'client' means 1 or more individuals with disabilities who engage in or seek to engage in a self-employment enterprise.

''SEC. 614. DISCRETIONARY AUTHORITY FOR DUAL-PURPOSE APPLICATIONS.

''(a) IN GENERAL.—The Commissioner may establish procedures to permit applicants for grants, contracts, or cooperative agreements under this part to submit applications that serve dual purposes, so long as such applications meet the requirements of sections 612 and 613.

''(b) AMOUNT OF ASSISTANCE.—In a case described in subsection (a), the minimum amount of a grant, contract, or cooperative agreement awarded under a dual-purpose application may, at the discretion of the Commissioner, exceed the limitations described in section 612(f)(2).

''SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2004.

''PART B—PROJECTS WITH INDUSTRY

''PROJECTS WITH INDUSTRY

''SEC. 621. (a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

''(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

''(A) provide for the establishment of business advisory councils, that shall—

''(i) be comprised of—

''(I) representatives of private industry, business concerns, and organized labor;

''(II) individuals with disabilities and representatives of individuals with disabilities; and

''(III) a representative of the appropriate designated State unit;

''(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment partnership for the community under section 308(e)(6) of the Workforce Investment Partnership Act of 1998;

''(iii) identify the skills necessary to perform the jobs and careers identified; and

''(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

''(B) provide job development, job placement, and career advancement services;

''(C) to the extent appropriate, provide for—

''(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

''(ii) the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

''(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

''(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 102(a)(1), and if the determination is made in a manner consistent with section 102(a).

''(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 102(a).

''(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals' representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

''(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 101(a)(10), as determined to be appropriate by the Commissioner.

''(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

''(A) assist employers in hiring individuals with disabilities; or

''(B) improve or develop relationships between—

''(i) grant recipients or prospective grant recipients; and

''(ii) employers or organized labor; or

''(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

''(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

''(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

''(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled coworkers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

''(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

''(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

''(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

''(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

''(3) No standards may be established under this subsection unless the standards are approved by the National Council on Disability. The Council shall be afforded adequate time to review and approve the standards.

''(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

''(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

''(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

''(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register, in final form, indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

''(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

''(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

''(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

''(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

''(i) is not an employee of the Federal Government; and

''(ii) has experience or expertise in conducting projects.

''(D) The Commissioner shall ensure that—

''(i) a representative of the appropriate designated State unit shall participate in the review; and

''(ii) no person shall participate in the review of a grant recipient if—

''(I) the grant recipient provides any direct financial benefit to the reviewer; or

''(II) participation in the review would give the appearance of a conflict of interest.

''(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project

performance for purposes of making continuation awards in the third, fourth, and fifth years.

''(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of onsite compliance reviews, identifying individual grant recipients.

''(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

''(1) entities conducting projects for the purpose of assisting such entities in—

''(A) the improvement of or the development of relationships with private industry or labor; or

''(B) the improvement of relationships with State vocational rehabilitation agencies; and

''(2) entities planning the development of new projects.

''(h) As used in this section:

''(1) The term 'agreement' means an agreement described in subsection (a)(4).

''(2) The term 'project' means a Project With Industry established under subsection (a)(2).

''(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 622. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1998 through 2004.

''PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

''SEC. 631. PURPOSE.

''It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

''SEC. 632. ALLOTMENTS.

''(a) IN GENERAL.—

''(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

''(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

''(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

''(2) CERTAIN TERRITORIES.—

''(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

''(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

''SEC. 633. AVAILABILITY OF SERVICES.

''Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or title I, may not be used to provide extended services to individuals who are eligible under this part or title I.

''SEC. 634. ELIGIBILITY.

''An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

''(1) the individual is eligible for vocational rehabilitation services;

''(2) the individual is determined to be an individual with a most significant disability; and

''(3) a comprehensive assessment of rehabilitation needs of the individual described in section 7(2)(B), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

''SEC. 635. STATE PLAN.

''(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

''(b) CONTENTS.—Each such plan supplement shall—

''(1) designate each designated State agency as the agency to administer the program assisted under this part;

''(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(15)(A)(i), with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

''(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

''(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

''(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

''(6) provide assurances that—

''(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

''(B) the comprehensive assessments of individuals with significant disabilities conducted under section 102(b)(1) and funded under title I will include consideration of supported employment as an appropriate employment outcome;

''(C) an individualized rehabilitation employment plan, as required by section 102, will be developed and updated using funds under title I in order to—

''(i) specify the supported employment services to be provided;

''(ii) specify the expected extended services needed; and

''(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized rehabilitation employment plan is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

''(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized rehabilitation employment plan;

''(E) services provided under an individualized rehabilitation employment plan will be coordinated with services provided under other individualized plans established under other Federal or State programs;

''(F) to the extent jobs skills training is provided, the training will be provided onsite; and

''(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

''(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

''(8) contain such other information and be submitted in such manner as the Commissioner may require.

''SEC. 636. RESTRICTION.

''Each State agency designated under section 635(b)(1) shall collect the information required by section 101(a)(10) separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under title I.

''SEC. 637. SAVINGS PROVISION.

''(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

''(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

''SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1998 through 2004.''.

SEC. 610. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.

Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.) is amended to read as follows:

''TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

''CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

''PART A—GENERAL PROVISIONS

''SEC. 701. PURPOSE.

''The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with

disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

''(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

''(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

''(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal law, and programs funded through non-Federal sources.

''SEC. 702. DEFINITIONS.

''As used in this chapter:

''(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

''(A) is designed and operated within a local community by individuals with disabilities; and

''(B) provides an array of independent living services.

''(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

''SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

''Services may be provided under this chapter to any individual with a significant disability, as defined in section 7(21)(B).

''SEC. 704. STATE PLAN.

''(a) IN GENERAL.—

''(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

''(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

''(A) the director of the designated State unit; and

''(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

''(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

''(A) the provision of State independent living services;

''(B) the development and support of a statewide network of centers for independent living; and

''(C) working relationships between—

''(i) programs providing independent living services and independent living centers; and

''(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

''(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

''(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

''(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

''(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

''(2) provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723;

''(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

''(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

''(d) OBJECTIVES.—The plan shall—

''(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

''(2) explain how such objectives are consistent with and further the purpose of this chapter.

''(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with significant disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

''(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

''(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

''(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

''(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

''(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

''(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

''(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

''(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

''(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

''(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

''(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

''(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

''(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

''(4)(A) maintain records that fully disclose—

''(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

''(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

''(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

''(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

''(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

''(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

''(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

''(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

''(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

''SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

''(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within a State agency.

''(b) COMPOSITION AND APPOINTMENT.—

''(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

''(2) COMPOSITION.—The Council shall include—

''(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

''(B) as ex officio, nonvoting members—

''(i) a representative from the designated State unit; and

''(ii) representatives from other State agencies that provide services for individuals with disabilities; and

''(C) in a State in which 1 or more projects are carried out under section 121, at least 1 representative of the directors of the projects.

''(3) ADDITIONAL MEMBERS.—The Council may include—

''(A) other representatives from centers for independent living;

''(B) parents and guardians of individuals with disabilities;

''(C) advocates of and for individuals with disabilities;

''(D) representatives from private businesses;

''(E) representatives from organizations that provide services for individuals with disabilities; and

''(F) other appropriate individuals.

''(4) QUALIFICATIONS.—

''(A) IN GENERAL.—The Council shall be composed of members—

''(i) who provide statewide representation;

''(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

''(iii) who are knowledgeable about centers for independent living and independent living services; and

''(iv) a majority of whom are persons who are—

''(I) individuals with disabilities described in section 7(20)(B); and

''(II) not employed by any State agency or center for independent living.

''(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

''(i) individuals with disabilities described in section 7(20)(B); and

''(ii) not employed by any State agency or center for independent living.

''(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.

''(6) TERMS OF APPOINTMENT.—

''(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

''(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

''(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

''(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

''(7) VACANCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

''(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

''(c) DUTIES.—The Council shall—

''(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 704;

''(2) monitor, review, and evaluate the implementation of the State plan;

''(3) coordinate activities with the State Rehabilitation Council established under section 105, if the State has such a Council, or the commission described in section 101(a)(21)(A), if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

''(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

''(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

''(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

''(e) PLAN.—

''(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this chapter, and under section 110 (consistent with section 101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

''(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

''(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

''(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

''SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

''(a) APPROVAL OF STATE PLANS.—

''(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

''(2) PROCEDURES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

''(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

''(i) to the Secretary shall be deemed to be references to the Commissioner; and

''(ii) to section 101 shall be deemed to be references to section 704.

''(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

''(c) ONSITE COMPLIANCE REVIEWS.—

''(1) REVIEWS.—The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

''(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

''(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

''(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

''(C) ensure that at least one member of a team conducting such a review shall be an individual who—

''(i) is not a government employee; and

''(ii) has experience in the operation of centers for independent living.

''(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

''PART B—INDEPENDENT LIVING SERVICES

''SEC. 711. ALLOTMENTS.

''(a) IN GENERAL.—

''(1) STATES.—

''(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

''(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

''(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

''(2) CERTAIN TERRITORIES.—

''(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made.

''(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

''(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being

reduced to less than the amount required by subsection (a)(1)(B).

''(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

''SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

''(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

''(b) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

''(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

''SEC. 713. AUTHORIZED USES OF FUNDS.

''The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

''(1) to provide independent living services to individuals with significant disabilities;

''(2) to demonstrate ways to expand and improve independent living services;

''(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725;

''(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

''(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

''(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

''(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

''SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

''PART C—CENTERS FOR INDEPENDENT LIVING

''SEC. 721. PROGRAM AUTHORIZATION.

''(a) IN GENERAL.—From the funds appropriated for fiscal year 1998 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

''(b) TRAINING.—

''(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this part for the fiscal year involved.

''(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

''(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

''(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

''(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

''(c) IN GENERAL.—

''(1) STATES.—

''(A) POPULATION BASIS.—After the reservation required by subsection (b) has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

''(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

''(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

''(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

''(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

''(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

''(2) CERTAIN TERRITORIES.—

''(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made.

''(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

''(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

''(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

''SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

''(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

''(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

''(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

''(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

''(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

''(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

''(d) NEW CENTERS FOR INDEPENDENT LIVING.—

''(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

''(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

''(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

''(B) shall consider the ability of each such applicant to operate a center for independent living based on—

''(i) evidence of the need for such a center;

''(ii) any past performance of such applicant in providing services comparable to independent living services;

''(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

''(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

''(v) budgets and cost-effectiveness;

''(vi) an evaluation plan; and

''(vii) the ability of such applicant to carry out the plans; and

''(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

''(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

''(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

''(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

''(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

''(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

''(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

''(g) REVIEW.—

''(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

''(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

''SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—

''(A) INITIAL YEAR.—

''(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

''(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

''(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

''(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

''(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

''(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 722.

''(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

''(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

''(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

''(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

''(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

''(d) NEW CENTERS FOR INDEPENDENT LIVING.—

''(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

''(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

''(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

''(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

''(i) evidence of the need for a center for independent living, consistent with the State plan;

''(ii) any past performance of such applicant in providing services comparable to independent living services;

''(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

''(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

''(v) the budgets and cost-effectiveness of the applicant;

''(vi) the evaluation plan of the applicant; and

''(vii) the ability of such applicant to carry out the plans; and

''(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

''(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

''(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

''(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

''(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

''(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

''(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

''(g) REVIEW.—

''(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

''(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

''(A) the date of such notification; or

''(B) in the case of a center that requests an appeal under subsection (i), the date of any final decision under subsection (i),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

''(h) ONSITE COMPLIANCE REVIEW.—The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

''(i) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

''SEC. 724. CENTERS OPERATED BY STATE AGENCIES.

''A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

''(1) no nonprofit private agency—

''(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

''(B) obtains approval of the application under section 722 or 723; or

''(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

''SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

''(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

''(b) STANDARDS.—

''(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

''(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

''(B) self-help and self-advocacy;

''(C) development of peer relationships and peer role models; and

''(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

''(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

''(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

''(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

''(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

''(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

''(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

''(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

''(1) the applicant is an eligible agency;

''(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

''(3) the applicant will comply with the standards set forth in subsection (b);

''(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

''(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

''(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

''(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31, United States Code;

''(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

''(A) the extent to which the center is in compliance with the standards;

''(B) the number and types of individuals with significant disabilities receiving services through the center;

''(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

''(D) the sources and amounts of funding for the operation of the center;

''(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

''(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

''(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

''(10) aggressive outreach regarding services provided through the center will be conducted

in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

''(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

''(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

''(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

''(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

''SEC. 726. DEFINITIONS.

''As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

''SEC. 727. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

''CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

''SEC. 751. DEFINITION.

''For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

''SEC. 752. PROGRAM OF GRANTS.

''(a) IN GENERAL.—

''(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

''(2) DESIGNATED STATE AGENCY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(2)(A)(i).

''(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants made under subsection (a) shall be—

''(1) discretionary grants made on a competitive basis to States; or

''(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

''(A) under this chapter; or

''(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

''(c) CONTINGENT FORMULA GRANTS.—

''(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

''(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

''(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

''(1) providing independent living services to older individuals who are blind;

''(2) conducting activities that will improve or expand services for such individuals; and

''(3) conducting activities to help improve public understanding of the problems of such individuals.

''(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

''(1) services to help correct blindness, such as—

''(A) outreach services;

''(B) visual screening;

''(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

''(D) hospitalization related to such services;

''(2) the provision of eyeglasses and other visual aids;

''(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

''(4) mobility training, braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

''(5) guide services, reader services, and transportation;

''(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

''(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

''(8) other independent living services.

''(f) MATCHING FUNDS.—

''(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

''(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

''(i) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

''(2) CONTENTS.—An application for a grant under this section shall contain—

''(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

''(i) the number and types of older individuals who are blind and are receiving services;

''(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

''(iii) the sources and amounts of funding for the operation of each project or program;

''(iv) the amounts and percentages of resources committed to each type of service provided;

''(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

''(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

''(B) an assurance that the agency will—

''(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

''(ii) engage in—

''(I) capacity-building activities, including collaboration with other agencies and organizations;

''(II) activities to promote community awareness, involvement, and assistance; and

''(III) outreach efforts; and

''(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

''(j) AMOUNT OF FORMULA GRANT.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

''(A) the amount determined under paragraph (2); or

''(B) the amount determined under paragraph (3).

''(2) MINIMUM ALLOTMENT.—

''(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

''(i) $225,000; or

''(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

''(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

''(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

''(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

''(B) a percentage equal to the quotient of—

''(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

''(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

''(4) DISPOSITION OF CERTAIN AMOUNTS.—

''(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

''(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not

paid to States under subsection (a) as a result of—

''(i) the failure of any State to submit an application under subsection (i);

''(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

''(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

''(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

''SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1998 through 2004.''.

SEC. 611. HELEN KELLER NATIONAL CENTER ACT.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking ''1993 through 1997'' and inserting ''1998 through 2004''.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is amended by striking ''1993 through 1997'' and inserting ''1998 through 2004''.

(c) REGISTRY.—Such Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following:

''SEC. 209. NATIONAL REGISTRY AND AUTHORIZATION OF APPROPRIATIONS.

''(a) REGISTRY.—The Center shall establish and maintain a national registry of individuals who are deaf-blind, using funds made available under subsection (b).

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) such sums as may be necessary for each of fiscal years 1998 through 2004.''.

SEC. 612. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

Section 2(2) of the joint resolution approved July 11, 1949 (63 Stat. 409, chapter 302; 36 U.S.C. 155b(2)) is amended by inserting ''solicit,'' before ''accept,''.

SEC. 613. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary of Education shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this title.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall submit to Congress the recommended legislation referred to under subsection (a).

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House, and the Chair is authorized to appoint conferees on the part of the Senate.

The Presiding Officer (Mr. BROWNBACK) appointed Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY and Mr. REED conferees on the part of the Senate.

Mr. JEFFORDS. Mr. President, I want to thank all my colleagues for their support on this bill. It is an excellent bill. I appreciate Senators having the confidence in us. We hope to move expeditiously in getting to conference.

I yield to Senator DEWINE.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Ohio.

Mr. DEWINE. I thank the Chair. Let me again thank the chairman of the committee, Senator JEFFORDS, for the great work he has done on this bill, as well as Senator WELLSTONE and Senator KENNEDY.

I also thank the staff who worked on this bill. They spent a tremendous amount of time. It was a great effort.

Mr. President, the Workforce Investment Partnership Act represents our commitment to the American people to recreate.

Through State and especially local partnerships with business and industry, the nation's job training system will be able to identify the jobs that exist and the skills needed to fill them.

Through consolidation and reform we establish a truly comprehensive workforce development system that brings together nearly 70 categorical programs and redefines the federal Job Corps program.

By adding The Rehabilitation Act Amendments of 1998, we reauthorize the Rehabilitation Act, link the vocational rehabilitation system to States' workforce development systems and increase and simplify access for individuals with disabilities to job training services.

Mr. President, this legislation is a milestone, and will no doubt prove to be one of our country's economy's greatest assets.

In closing, Mr. President, I would particularly like to thank my colleagues Senators JEFFORDS, KENNEDY, WELLSTONE, FRIST, COLLINS, HARKIN, and DODD as well as the individual members of their staffs who have worked many long hours to make this bill possible: Patricia Morrissey, Sherry Kaiman, Jeff Teitz, Connie Garner, Brian Alhberg, Dave Larsen, Katie Braden, Julian Haynes, Sharon Masling, Jim Fenton, Jenny Saunders, Chas Phillips, Rick Murphy, Robin Bowen, Chad Calvert, Angie Stewart, a special thanks to Ann Lordeman and Rick Apling, from the Congressional Research Service and Liz Aldrige and Mark Sigurski, and finally my own staff—Dwayne Sattler, Aaron Grau, and Yolanda Rogers for their tireless efforts.

I am confident that this bill will provide needed change and opportunities for the millions of Americans, both employers and job seekers, who need this improved job training system to help make our country more prosperous and more prepared for the next century. And I look forward to working with my friends in the House of Representatives in conference.

SENATOR ROBERT C. BYRD CASTS 15,000TH VOTE

Mr. LOTT. Mr. President, Senator DASCHLE and I both want to join in once again commending and recognizing the tremendous record that Senator BYRD of West Virginia has made to the U.S. Senate. Senator BYRD just cast his 15,000th vote—15,000th vote.

(Applause, Senators rising.)

He continues to hold the Senate record of total number of votes cast. Therefore, out of the 1,843 Senators past and present, he is No. 1 in total number of votes cast. He broke the record when he cast his 12,134th vote on April 27, 1990. As an aside, Senator THURMOND is No. 2 on the all-time list at 14,863 votes.

These Senators set a torrid pace that the rest of us probably would not even want to try to replicate.

Thank you, Senator BYRD, for the example and the tremendous record you have set.

Mr. DASCHLE. Mr. President, on behalf of colleagues, both Republican and Democrat, I, too, rise to congratulate our distinguished colleague on this remarkable achievement.

Just to remind Senators, Senator BYRD began building this unsurpassed record more than 39 years ago. On January 8, 1959, Senator BYRD cast his first vote in the U.S. Senate. Fittingly, it was a vote on Senate procedure. On April 27, 1990, Senator BYRD cast his 12,134 vote, earning him the record for greatest number of rollcall votes in Senate history. On July 27, 1995, he became the first Senator in history to cast 14,000 votes, and now he has built on his record number of rollcall votes to be the first person in Senate history to cast 15,000 votes.

To place this record in some historical context, Senator BYRD cast the first of his 15,000 votes with Senators John Kennedy and Lyndon Johnson here in the chamber with him. When he cast his first vote, Hawaii had not yet become a State, and the United States had not yet put a man in space.

Perhaps the most remarkable aspect of this record is Senator BYRD's lifetime attendance record. Over 39 plus years, Senator BYRD has stood in this well or voted from his chair on 98.7 percent of the votes cast.

Every one of my colleagues knows the day-to-day pressures of Senate life. We all attend countless hearings and meetings with constituents. We travel thousands of miles to our States and within our States and sometimes attend overseas fact-finding missions like the one just returned from Bosnia. Sometimes these commitments do not match the uncertain schedule of the Senate.

But for more than 39 years, Senator BYRD has managed to run the Senate as Majority Leader. He has chaired the Senate Appropriations Committee. He has studied and written volumes on the history of the Senate.

He has earned his place as the unrivaled expert on Senate rules. And he has become perhaps the most popular political figure in West Virginia history, all while making nearly 99 out of 100 rollcall votes on the Senate floor.

Not just votes on important treaties or landmark legislation, but countless Monday and Friday votes and late night rollcalls on routine procedural motions.

Mr. President, future historians will write about Senator BYRD's remarkable impact on this chamber as an orator, a parliamentary expert, a Senate historian, a legislative tactician, and a remarkable leader.

He has achieved a number of records in both West Virginia and Senate history. He has held more legislative offices than anyone else in the history of his State. He is the longest-serving Senator in the history of his State. And he has held more leadership positions in the U.S. Senate than any other Senator in history.

For all his grand achievements, Senator BYRD has performed the most basic requirement of a Senator more times than any other Senator in history. But we recognize and respect the senior Senator from West Virginia for the quality as well as the quantity of his service in the Senate.

During his 15,000 Senate votes, Senator BYRD has been here observing history, participating in history, and now occupies an important new place in the history of this institution.

Again, I commend him.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I trust that my colleagues will indulge me just for a few minutes. I thank the majority leader and the minority leader. I am grateful to the two leaders, Mr. President, for their generous expressions of praise and affection. I thank all of my colleagues for the many courtesies that they have extended to me over these, now going on, 40 years in this body.

Majorian, who became Emperor of the West in 457 A.D., referred to himself as ''a prince who still glories in the name of 'Senator.''' That is the way I feel about it. I am grateful to the good people of West Virginia for trusting me with this honor for nearly 40 years now. I carry this title with great pride.

Sometimes my constituents say to me, ''Do you ever get used to it?'' as they look about this marvelous building, and the truth of the matter is that I haven't gotten used to it. Each time I walk through these doors, I feel a sense of great pride in being a Member of the United States Senate, and a sense of satisfaction in knowing that I have tried to do my best, and that the people of West Virginia have recognized that, and that they have continually shown their faith and confidence in me.

There have only been 1,843 men and women who have graced these desks, and those in the old Senate Chamber down the hall, those on the floor below, those in Philadelphia, and those in New York City where the first Senate met in 1789—1,843 Senators.

These 15,000 votes that we have just heard about, if we allow 15 minutes per vote, and if we allow the average number of 148 days per session, as has been the case over the past 10 years, and allowing for 8-hour days, it would require constant consecutive votes expanding over 3 years and 24 days to cast these 15,000 votes, back to back, doing nothing other than voting. Three years and 24 days. I am thankful for the opportunity to have cast these votes.

But it isn't the number of votes that really counts so much; it is the substance of each vote and the quality of judgment that is brought to bear in reaching a decision thereon. There have been a few votes that I regret having cast. But, in regard to the overwhelming majority of votes, I would not change them if I had the opportunity to do so.

And so I trust that I can help other Senators from day-to-day to feel great pride in their having been selected by the people of their States to serve in this great body. It is the highest legislative office in the land. I do not consider a Senator as someone who serves under any President. Senators serve with Presidents. The Presidency is the highest office in the executive branch. I respect the Presidency always, whether the holder of the office is a Democrat or Republican. But a United States Senator has no superior in any other office of Government. That is the way we should feel about it. After all, this Senate is the pillar upon which the Constitution really rests, because it was on July 16, 1787, when the Great Compromise occurred, and out of that compromise came the United States Senate—the forum of the States. It is the only forum in the Nation in which the States themselves are recognized on the basis of equality. And each Senator is fortunate that his or her constituents have chosen him or her to represent them in this great forum of the States.

The other night I was proud to look around and see all Senators sitting in their seats as they arose to answer the rollcall. After that rollcall was announced, several Senators came to me and expressed the fact that they had been greatly impressed by the dignity and the performance of the Senate as it voted on that occasion, which was a great occasion, an outstanding one. But I suppose that what touched me most was afterward, when I started to leave the Chamber, a number of these pages came up to me and one said, ''Gee, that was cool''; another said, ''that was great.'' Still another said, ''I couldn't keep the tears from rolling down my cheek as I watched the Senators cast their votes.'' The pages were genuinely touched by the dignity and performance of the Senate on that day.

The people of the United States watch this Senate every day. They see us if we are milling around in the well. Legislators in State legislatures are accustomed to voting from their seats. Many of you have been members of the State legislatures. So have I. Those members remain in their seats and they vote there.

We may sometimes forget that the world is watching us. But the people in whom sovereignty resides are watching. They see us.

As the premier legislative body of the Nation, it seems to me that we should all take great pride in this institution and realize that we are the people who, perhaps more than any others in Government, set the standards. Who else sets the standards? Where have all our heroes gone? Babe Ruth used to be my hero. Lou Gehrig was my hero. In 1927, Babe Ruth broke his previous record with 60 home runs. But where do our young people go now to find their heroes? Back in my days the baseball players didn't spit in the face of the umpire, or choke the coach. We looked up to those athletes. We had our heroes. Perhaps we Senators can fill the place of heroes for our young people so they can have someone to whom they can look and emulate.

I am proud of all of my colleagues. I have often remarked about the high intelligence of the Members of the Senate. I hope we will be reinspired to serve with high purpose knowing that we have no particular right to this office except the fact that the people of our States trust us for a limited time with it. And, in that limited time, it is my desire that we do our best, and that we set a high standard of performance so that the American people will regain their confidence in government.

If I might be pardoned for taking a few more minutes, Pyrrhus was a great Greek general. Hannibal said that he was one of the three greatest generals of all time—Pyrrhus. He defeated the Romans at the Battle of Heraclea in 280 B.C., and he paid a great price, from which we get the term ''a Pyrrhic victory.'' He knew he was going to have to fight the Romans again because they weren't conquered, by any means. So Pyrrhus sent Cineas, the philosopher, to the Roman Senate. And Cineas went with jewelry, and exquisite robes and other gifts, hoping to corrupt the Roman Senate, and, persuade the Romans to become an ally of his.

After Cineas had observed the Roman Senate, he reported to Pyrrhus that the Roman Senate was no mere gathering of venal politicians, no haphazard council of mediocre men, but in dignity and statesmanship, veritably it was an assemblage of kings.

About 175 years later, Jugurtha, a Numidian prince, came to Rome and connived in the assassination of a Roman leader. He was ordered to leave Rome. He walked through the gates of Rome and upon several occasions paused to look back. Suddenly, he exclaimed, ''Yonder is a city that is up for sale, and its days are numbered if it finds a buyer.'' The Roman Senate had deteriorated to that extent in one and three quarters centuries.

I don't believe this Senate's days are numbered. But it is going to depend upon the Members of the body—not the number of votes that they will cast but the quality of the Senators, their high purpose, their dedication.

I salute my colleagues and thank them for all of their kindnesses to me.

Now I am off to my second 15,000.

As Oliver Wendell Holmes said, ''The rule of joy and the law of duty seem to me all one.''

(Applause, Senators rising.)

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, while Senator BYRD is here, I would like to take this opportunity to make just a few remarks, daring to venture into the lion's den because of the eloquence that Senator BYRD brings to his thought and to his speech.

I have been a long-time admirer of Senator BYRD. I have been here 16 years. As I looked around the room, I noted that there were only six others who had been here as long as I have, which gives me a relative senior status, although the Chamber wasn't filled, and I regret that it wasn't because I know that everybody responds the same way as I do when Senator BYRD speaks. You always learn something of quite an incredible nature, and we are always in awe of his intellect and his memory.

I will never forget my earliest days here when I went in to visit Senator BYRD because I was anxious to serve on the Appropriations Committee. And Senator BYRD gave me a treatise on English kings, reaching back, I think, somewhere before William the Conqueror. I am not going to try to duplicate anything that Senator BYRD said by way of recall, but I remember that that was in the 1000s, I guess. And I listened while Senator BYRD talked about Ethelberht and all of those, and how each one succeeded the other and how each one died and how long each one served. I walked out shaking my head, and I said, ''What is there about this man that enables him to remember so much for such a long period of time?''

Senator BYRD cast his 15,000th vote this day, and he is our Babe Ruth, there is no doubt about that, having accomplished things that none other before him ever accomplished. But it is not just the votes. As the Senator said, it is the quality; it is the kind of votes that we are casting.

I asked Senator BYRD before he stood up to make his remarks did he have any regrets. And he repeated publicly what he said to me privately—there were a few. But I think he probably remembers darned near every vote that he has cast. He certainly remembers those that were of major magnitude.

There are a few of us in this room, Senator BYRD, who are not going to cast 15,000 votes. I would like to do it, but I may have to do it from some place on high. Not only do we treasure Senator BYRD's presence here, but for me one of the great honors of having served in this body, and I consider it a tremendous honor; I come from immigrant parents. They came early in the century as little children, but their aspirations were limited, never suspecting, though always believing that it could happen to their son, that I would have the distinction of serving in this body.

Senator BYRD reminds us that only 1,840-some have ever served here since the founding of this country. And when I opened my desk top, I saw that one of the names in there was Truman, Missouri, and wherever I moved, Senator BYRD, I have always taken that desk with me. So there is so much honor and so much grace that falls our way, but one of the great honors for me has been to serve with you, Senator BYRD, master of all about the Senate. I don't think anyone ever loved the body with the same depth of interest, not just affection, as Senator BYRD has shown us in his years here. It is always an uplifting experience to listen to Senator BYRD talk about the Senate and to bring us to our dignity by asking us once in a while to sit down and cast our vote from our seats. It is for me, relatively seasoned, a refresher about the dignity of this body and the removal from the squabble and the hostility that sometimes has occasion to rise here. It doesn't make it any less of a distinction or a privilege to serve here, but every now and then, Senator BYRD, I thank you for bringing us back to our senses about where we are in this great Nation of ours and how fortunate we are to have known one another.

But you, Senator BYRD, have, I think—I come out of the computer business—probably been a model for those who wanted to construct a computer that would have vast memory, quick response, and developed intelligence, not artificial at all but real, and I salute you on this 15,000th vote to say that I know, for as long as I serve in this body, you will continue to inspire and encourage all of us, and I thank you for the contribution you have made to the country and to me as well.

I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Jersey for his overly gracious and more than charitable remarks. I am grateful for them. I hope that he will never have cause to have a second thought about what he has just said. I hope that I can justify his faith and his confidence and his high estimation of me and my work here. May I say that I won't ever forget his kind words. I am grateful for them. I am glad to be in the Senate with Senator LAUTENBERG. He has been my friend, he is my friend, and he will always be my friend.

I thank the Senator very much.

Mr. LOTT. Mr. President, may I say thank you again, Senator BYRD, for your vote and for your comments. They are always very enlightening.

Mr. BYRD. I thank the Senator.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, Senator DASCHLE and I have been working throughout the day to get an agreement that will allow us to come to a fair and reasonable conclusion to the IRS restructuring and reform bill. We have been able to work out, I think, a fair agreement, and I would like to propound that.

I ask unanimous consent that with respect to H.R. 2676 all amendments be relevant to the bill except amendments to title VI must be both relevant and cleared by both the managers and leaders, one amendment offered by the chairman that pays for the cost of the legislation, with no second-degree amendments in order, one amendment offered by Senator KERREY that also pays for the legislation, with no second-degree amendments, and it not be in order prior to the conclusion of debate on the chairman's ''pay for'' amendment.

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

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I do not object, but I rise to make a point that I would hope it would be appropriate at this time to reserve the right, but I do not intend to object.

I understand that oftentimes my colleagues work long and hard to craft legislation that they believe is in the best interests of their constituents and the people of this country, and that we do not always have the freedom and luxury for whatever the reason to offer such legislation. Indeed, I have been working with a number of my colleagues, Senator FEINSTEIN and others, on a piece of legislation that I think is absolutely essential and should not be delayed; that every day it is delayed causes anguish for women throughout this country, for families without this country when they are denied basic treatment in terms of their medical needs. And I am talking about those who face cancer, breast cancer in particular, who are forced to leave a hospital because their insurance policy limits the length of stay and/or they are denied basic treatment, reconstructive surgery. And, indeed, just within the past 6 weeks we have had two cases that have come to my attention personally in my State, but it is happening throughout this country, where medical plans deny them these basic rights, the right to reconstructive surgery after a radical mastectomy.

I have taken the time and impinged upon and imposed upon the time of the two leaders here because I feel strongly

about this, because this is taking place. I believe it is an unwarranted and unintended consequence that brought this upon us, by passage of the ERISA law, which keeps States from putting on these reasonable conditions. It says, basically, a woman should be entitled to this kind of coverage. Unfortunately, there are some who say we should not have mandates. It is unfortunate that we might have to, and do have to, mandate in this case because there are millions and millions of American women who do not have this basic protection and right.

I am fully intending to, and I said to my colleagues on the Finance Committee that I would, offer this legislative proposal that would see to it that this grievous situation is rectified. I intended to do it here on the IRS reform bill, because this is a bill that will pass. This is a bill that is necessary. This is a bill that my colleagues, Democrats and Republicans, have worked on long and hard. And it will be signed into law.

I also know that if we ever get an opportunity to bring the Women's Health and Cancer Rights Act to this floor it will pass overwhelmingly.

For a number of reasons we have not been able to do that. The two leaders have indicated to me, and have asked me to withhold, because there are other laudable, and I am sure very worthy, amendments that my colleagues have agreed not to put forth. They have assured me they will seek to give us an opportunity—Senator FEINSTEIN and myself and the other 20 cosponsors—to bring up this amendment. It is not a costly amendment but will save lives. It will save families. It will ensure that women get the proper kind of care they can and should be getting. It is unfortunate that we need this kind of legislation. They will attempt to give us an opportunity of some 2 hours this Tuesday to bring forth this legislation.

On that basis, I will not object. But I have to tell my colleagues, it is a year and a half now. There is a lot of pain. A lot of people have been denied that which they should have had. A lot of people have been forced to go to appeals, to appeal through the boards that administer many of these programs, their self-insured programs, to get this basic right. I don't think that we want to, nor should we, continue this nor countenance this any longer.

On the assurance that we are going to attempt and really make a good-faith effort to bring this to the floor Tuesday, I will withdraw any objection and go along. I thank my colleagues for recognizing the plight of families in America in attempting to work with us in a way that collectively we can solve that problem.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. LOTT. Having reached this agreement, there will be no further votes this evening.

After Senator DASCHLE makes his comments, I do want to respond and comment on the fact that, frankly, Senators on both sides of the aisle have had to hold back and be cooperative. This was not easy to reach. But this is a very important piece of legislation that has been crafted in a bipartisan way. If we didn't get this agreement, we could have been working on it for days and weeks and it would have wound up pushing everything down the line, many bills that we do want to do and can do.

So I appreciate the cooperation and I appreciate that Senator DASCHLE has had to work very hard. I could start naming Senators on this side and he can start naming Senators on that side who had good and valid amendments. But I think we did the right thing. After the Senator comments, I would like to respond further to Senator D'AMATO's generosity and very responsible action and talk about what we are going to try to do to be helpful.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, the majority leader has spoken well about the difficulty of this agreement. This was, I told him, one of the more difficult, if not the most difficult we have had in some time. I could name 30 Senators on this side of the aisle who have very important amendments, who are very concerned about the lack of an opportunity to offer these amendments on this bill or on other bills. So I, first, thank them for their cooperation and for their support in allowing us to move forward, as we are tonight. I believe there must come a time when this pent-up demand to offer some of this legislation has to be addressed. I will be speaking with the majority leader about that as we go through the schedule for the next couple of weeks.

I might say, a major factor—and I have indicated this to the majority leader—in our ability to reach this agreement was his assurance that we were also going to take up, in a timely way, some other very critical pieces of legislation this agreement allows us to take up. First and foremost is a crop insurance and research bill that I have assured my colleagues will be taken up, if at all possible, this week. We don't know how long the amendment process will take. But the majority leader has assured me it is the next bill. So I thank him for that and, as I have indicated to him privately and I will say again publicly, that was a major consideration. Another was our strong desire to get on with the consideration of the tobacco bill. The majority leader has assured me that we will do that as well.

So we have an array of matters that must be addressed. It was in keeping with our understanding of the workload this month that a lot of our Democratic colleagues were willing to concede the recognition of the importance of this particular agreement.

Let me address what I hope is not a misunderstanding. I don't know of any particular agreement with regard to the bill referred to by the distinguished Senator from New York, except to say that I am very sympathetic with what he is attempting to do. Many of our colleagues on this side of the aisle will wish to be heard on that bill and will wish to offer amendments. So I will work with the majority leader to schedule some time for us to consider this bill, and we will do our best to accommodate all Senators as they are called upon to debate and offer their amendments. But we will negotiate in good faith and attempt to come up with the best agreement we can.

Mr. KERREY. Will the Democratic leader yield?

Mr. DASCHLE. I am happy to yield.

Mr. KERREY. Just to inform both the Democratic leader and the majority leader, it would be Senator ROTH's intention and my intention at 9:30 to take up both of the funding amendments and to have two back-to-back rollcall votes at 10:30, or close to that, unless we yield time back, so you and other colleagues can plan.

Mr. DASCHLE. I only have two final points, Mr. President. The first is that this is the 6-month anniversary of the passage of this legislation in the House of Representatives. We cannot afford to wait any longer. We must pass this bill. The urgency is recognized by this agreement. I appreciate that very much.

The final point is that there are a number of Senators who, in good faith, will be offering amendments they truly believe are relevant. I don't know how one defines the relevance of amendments, but I hope we can work with our Parliamentarian and with the Presiding Officers to accommodate our colleagues, as relevance is contemplated and defined. This is a very important matter for a lot of Senators. This is a rare vehicle that they will have to offer legislation. I am hopeful we can accommodate as many Senators as possible with relevant amendments.

Again, I thank all cooperating Senators and appreciate, once more, the chance to resolve this matter with the majority leader.

I yield the floor.

Mr. LOTT. Mr. President, I would like to say, before Senator KERREY leaves the floor, that the time that he outlined so both Senators could explain what is in the amendments that would pay for the costs of these corrections at IRS sounds fine. If we could have votes by 10:30 in the morning, I don't see any problem with that, two back to back at 10:30.

Let me say to Senator D'AMATO, once again, I appreciate his cooperation here, and it is not the first time he has cooperated this year on a lot of issues. But on this issue in particular, I know how strongly he feels about it and I am absolutely satisfied that he is going to

get a vote on this issue, and he should get a vote on this issue, and I am going to work with him to make that happen in a reasonable way.

I will work with you to try to see if we can get an agreement to bring this up next week. It is going to take work on your part and on my part. Senator DASCHLE has a number of Senators who have views, or amendments even, on this. That is a problem, because it could very easily get totally out of control and have the whole world caving in on it. But we will work on that.

If, for some reason, that does not work out, every bill that comes along will be a prospect for an amendment, for the Senator's amendment.

Mr. D'AMATO. If the majority leader might yield at this point just for an observation? I want my colleagues to understand that we are going to vote on this one way or the other. I am committed to it. I have, on a number of occasions now, so as to provide the opportunity for this body to do its business—no one Senator, including this Senator, should put himself or herself above the interests of the body. I have attempted to respect that. I mean that. I have not attempted to delay.

Mr. LOTT. Let me say, you certainly have. You have been very responsible and you have been very cooperative, but you also made very clear your determination on this amendment. I understand that, and I am going to try to help you find a way to get it done.

Mr. D'AMATO. Good, because I will wait for something all my colleagues want, and we may be here a long time. I don't think that is going to serve anybody's interest. I would like everyone to join in. If they can make this bill a better bill truly in that spirit, then let's do it. If it is just to weight it down and sink it, that is not something I am going to take as being responsible, and we will talk to that.

Everybody has a right to do what they want out here in the open. People can judge whether they are being responsible or not. I hope in that spirit, because we have done a lot of good things together, I remind my colleagues on both sides, it is in that spirit I would like to approach it. I thank the majority leader for understanding and the minority leader. I look forward to working with them both.

Mr. LOTT. Thank you very much. I yield the floor, Mr. President.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of our majority leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each, with the exception of the Senator from Iowa who requests 11 minutes.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 4, 1998, the federal debt stood at $5,477,263,228,571.00 (Five trillion, four hundred seventy-seven billion, two hundred sixty-three million, two hundred twenty-eight thousand, five hundred seventy-one dollars and zero cents).

Five years ago, May 4, 1993, the federal debt stood at $4,240,752,000,000 (Four trillion, two hundred forty billion, seven hundred fifty-two million).

Ten years ago, May 4, 1988, the federal debt stood at $2,514,920,000,000 (Two trillion, five hundred fourteen billion, nine hundred twenty million).

Fifteen years ago, May 4, 1983, the federal debt stood at $1,262,026,000,000 (One trillion, two hundred sixty-two billion, twenty-six million).

Twenty-five years ago, May 4, 1973, the federal debt stood at $452,347,000,000 (Four hundred fifty-two billion, three hundred forty-seven million) which reflects a debt increase of more than $5 trillion—$5,024,916,228,571.00 (Five trillion, twenty-four billion, nine hundred sixteen million, two hundred twenty-eight thousand, five hundred seventy-one dollars and zero cents) during the past 25 years.

HONORING THE REDDINGS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Pat and Don Redding of Kansas City, Missouri, who on May 23, 1998, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Redding's commitment to the principles and values of their marriage deserves to be saluted and recognized.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on developments concerning the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, and matters relating to the measures in that order. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c). This report discusses only matters concerning the national emergency with respect to Sudan that was declared in Executive Order 13067.

1. On November 3, 1997, I issued Executive Order 13067 (62 *Fed. Reg.* 59989, November 5, 1997—the ''Order'') to declare a national emergency with respect to Sudan pursuant to IEEPA. Copies of the Order were provided to the Congress by message dated November 3, 1997.

The Order blocks all property and interests in property of the Government of Sudan, its agencies, instrumentalities, and controlled entities, including the Central Bank of Sudan, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches. The Order also prohibits (1) the importation into the United States of any goods or services of Sudanese origin except for information or informational materials; (2) the exportation or reexportation of goods, technology, or services to Sudan or the Government of Sudan except for information or informational materials and donations of humanitarian aid; (3) the facilitation by a United States person of the exportation or reexportation of goods, technology, or services to or from Sudan; (4) the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan; (5) the grant or extension of credits or loans by any United States person to

the Government of Sudan; and (6) transactions relating to the transportation of cargo. The Order also provided a 30-day delayed effective date for the completion of certain trade transactions.

2. Executive Order 13067 became effective at 12:01 a.m., eastern standard time on November 4, 1997. On December 2, 1997, the Department of the Treasury's Office of Foreign Assets Control (OFAC) issued General Notice No. 1, interpreting the delayed effective date for pre-November 4, 1997, trade contracts involving Sudan if the preexisting trade contract was for (a) the exportation of goods, services, or technology from the United States or a third country that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997, or (b) the reexportation of goods or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997. Such exports or reexports were authorized until 12:01 a.m. eastern standard time, December 4, 1997, and nonfinancing activity by United States persons incidental to the performance of the preexisting trade contract (such as the provision of transportation or insurance) was authorized through 12:01 a.m. eastern standard time, February 2, 1998. If the preexisting trade contract was for the importation of goods or services of Sudanese origin or other trade transactions relating to goods or services of Sudanese origin or owned or controlled by the Government of Sudan, importations under the preexisting trade contract were authorized until 12:01 a.m. eastern standard time, December 4, 1997.

3. Since the issuance of Executive Order 13067, OFAC has made numerous decisions with respect to applications for authorizations to engage in transactions under the Sudanese sanctions. As of March 12, 1998, OFAC has issued 55 authorizations to nongovernmental organizations engaged in the delivery of humanitarian aid and 77 licenses to others. OFAC has denied many requests for licenses. The majority of denials were in response to requests to authorize commercial exports to Sudan—particularly of machinery and equipment for various industries—and the importation of Sudanese—origin goods. The majority of licenses issued permitted the unblocking of financial transactions for individual remitters who routed their funds through blocked Sudanese banks. Other licenses authorized the completion of diplomatic transfers, preeffective date trade transactions, and the performance of certain legal services.

4. At the time of signing Executive Order 13067, I directed the Secretary of the Treasury to block all property and interests in property of persons determined, in consultation with the Secretary of State, to be owned or controlled by, or to act for or on behalf of, the Government of Sudan. On November 5, 1997, OFAC disseminated details of this program to the financial, securities, and international trade communities by both electronic and conventional media. This information included the names of 62 entities owned or controlled by the Government of Sudan. The list includes 12 financial institutions and 50 other enterprises.

5. OFAC, in cooperation with the U.S. Customs Service, is closely monitoring potential violations of the import prohibitions of the Order by businesses and individuals. Various reports of violations are being aggressively pursued.

6. The expenses incurred by the Federal Government in the 6-month period from November 3, 1997, through May 2, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Sudan are reported to be approximately $425,000, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureaus of Economic and Business Affairs, African Affairs, Near Eastern Affairs, Counsular Affairs, and the Office of the Legal Adviser), and the Department of Commerce (the Bureau of Export Administration and the General Counsel's Office).

7. The situation in Sudan continues to present an extraordinary and unusual threat to the national security and foreign policy of the United States. The declaration of the national emergency with respect to Sudan contained in Executive Order 13067 underscores the United States Government opposition to the actions and policies of the Government of Sudan, particularly its support of international terrorism and its failure to respect basic human rights, including freedom of religion. The prohibitions contained in Executive Order 13067 advance important objectives in promoting the antiterrorism and human rights policies of the United States. I shall exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

REPORT ENTITLED ''THE STATE ON SMALL BUSINESS''—MESSAGE FROM THE PRESIDENT—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Small Business.

To the Congress of the United States:

I am pleased to present my fourth annual report on the state of small business. In short, the small business community continues to perform exceptionally well. For the fourth year in a row, new business formation reached a record high: 842,357 new firms were formed in 1996.

The entrepreneurial spirit continues to burn brightly as the creativity and sheer productivity of America's small businesses make our Nation's business community the envy of the world. My Administration has worked hard to keep that spirit strong by implementing policies and programs designed to help small businesses develop and expand. We have focused our economic strategy on three pillars: reducing the deficit, opening up markets overseas, and investing in our people through education and technology. Our efforts with respect to small business have been concentrated in a number of specific areas, including directing tax relief to more small businesses, expanding access to capital, supporting innovation, providing regulatory relief, opening overseas markets to entrepreneurs, and strengthening America's work force.

A BALANCED BUDGET AND TAXPAYER RELIEF

When I took office, the Federal budget deficit was a record $290 billion. I determined that one of the best things we could do for the American people, including small business, would be to balance the budget. Because of our hard choices, the deficit has been reduced for 5 years in a row. By October 1997, the deficit had fallen to just $22.6 billion—a reduction of $267 billion or 90 percent. These lower deficits have helped to reduce interest rates, an important matter for all small businesses.

Small business owners have long recognized the importance of this issue. At each of the White House Conferences on Small Business—in 1980, 1986, and 1995—small businesses included on their agenda a recommendation to balance the Federal budget. With passage of the Balanced Budget Act of 1997, I signed into law the first balanced budget in a generation. The new budget will spur growth and spread opportunity by providing the biggest investment in higher education since the GI bill more than 50 years ago. Even after we pay for tax cuts, line by line and dime by dime, there will still be $900 billion in savings over the next 10 years.

And at the same time we are easing the tax burden on small firms. My Administration and the Congress took the White House Conference tax recommendations seriously during deliberations that led to the Taxpayer Relief Act of 1997. The new law will direct billions of dollars in tax relief to small firms over the next 10 years. Small businesses will see a decrease in the estate tax, an increase to 100 percent over the next 10 years in the percentage of health insurance payments a self-employed person can deduct, an updated definition of ''home office'' for tax purposes, and a reduction in paperwork associated with the alternative minimum tax.

Significant new capital gains provisions in the law should provide new infusions of capital to new small businesses. By reducing the capital gains tax rate and giving small business investors new options, the law encourages economic growth through investment in small businesses.

ACCESS TO CAPITAL

For so many small business owners, gaining access to capital continues to be a very difficult challenge. The U.S. Small Business Administration (SBA) plays a key role as a catalyst in our efforts to expand this access. The SBA made or guaranteed more than $13 billion in loans in 1997. Since the end of fiscal year 1992, the SBA has backed more than $48 billion in loans to small businesses, more than in the previous 12 years combined. In 1997, the SBA approved 45,288 loan guarantees amounting to $9.46 billion in the 7(a) guaranty program, a 23 percent increase from 1996, and 4,131 loans worth $1.44 billion under the Certified Development Company (CDC) loan program.

Included in the 1997 loan totals were a record $2.6 billion in 7(a) and CDC loans to more than 10,600 minority-owned businesses and another record $1.7 billion in roughly 10,800 loans to women-owned businesses. Over the last 4 years, the number of SBA loans to women small business owners have more than tripled, and loans to minority borrowers have also nearly tripled.

The Small Business Investment Company (SBIC) program, the SBA's premier vehicle for providing venture capital to small, growing companies, produced a record amount of equity and debt capital investments during the year. The program's licensed SBICs made 2,731 investments worth $2.37 billion. In 1997, 33 new SBICs with combined private capital of $471 million were licensed. Since 1994, when the program was revamped, 111 new SBICs with $1.57 billion in private capital have entered the program.

And in the past year, the SBA's Office of Advocacy developed a promising new tool to direct capital to dynamic, growing small businesses—the Angel Capital Electronic Network, or ACE-Net. This effort has involved refining Federal and State small business securities requirements and using state-of-the-art Internet technology to develop a brand new nationwide market for small business equity.

GOVERNMENT SUPPORT FOR SMALL BUSINESS INNOVATION

As this report documents, small firms play an important role in developing innovative products and processes and bringing them to the marketplace. Federal research and development that strengthens the national defense, promotes health and safety, and improves the Nation's transportation systems is vital to our long-term interests. Our Government has instituted active policies to ensure that small businesses have opportunities to bring their innovative ideas to these efforts.

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs help ensure that Federal research and development funding is directed to small businesses. In fiscal year 1996, more than 325 Phase I and Phase II STTR awards totaling $38 million went to 249 small businesses. Also in 1996, the SBIR program invested almost $1 billion in small high technology firms. The program has touched and inspired individuals like Bill McCann, a blind—and once frustrated—trumpet player who used SBIR funding to help start a company that designs software to automatically translate sheet music into braille. Today, Dancing Dots Braille Music Technology is rapidly expanding the library of sheet music available to blind musicians.

Other initiatives include the National Institute of Standards and Technology's (NIST) Advanced Technology Program, enabling small high technology firms to develop pathbreaking technologies, and NIST's Manufacturing Extension Partnership, which helps small manufacturers apply performance-improving technologies needed to meet global competition. Two of the SBA's loan programs—the 7(a) and 504 loan programs—currently assist 2,000 high technology companies. And the SBA's ACE-Net initiative is especially designed to meet the needs of these dynamic high technology firms.

Because they give small firms a footing on which to build new ideas and innovative products, these efforts benefit not only the small firms themselves, but the entire American economy.

REGULATORY RELIEF

A pressing concern often identified by small businesses is unfairly burdensome regulation. My Administration is committed to reforming the system of Government regulations to make it more equitable for small companies. In 1996, I signed into law the Small Business Regulatory Enforcement Fairness Act, which strengthens requirements that Federal agencies consider and mitigate unfairly burdensome effects of their rules on small businesses and other small organizations. A small business ombudsmen and a new system of regulatory fairness boards, appointed in September 1996, give small firms new opportunities to participate in agency enforcement actions and policies. Because agencies can be challenged in court, they have gone to extra lengths to ensure that small business input is an integral part of their rulemaking processes.

Many agencies are conducting their own initiatives to reduce the regulatory burden. The SBA, for example, cut its regulations in half and rewrote the remaining requirements in plain English. All of these reforms help ensure that the Government maintains health, safety and other necessary standards without driving promising small companies out of business.

OPENING OVERSEAS MARKETS

Key in my Administration's strategy for economic growth are efforts to expand business access to new and growing markets abroad. I want to open trade in areas where American firms are leading—computer software, medical equipment, environmental technology. The information technology agreement we reached with 37 other nations in 1996 will eliminate tariffs and unshackle trade in computers, semiconductors, and telecommunications. This cut in tariffs on American products could lead to hundreds of thousands of jobs for our people.

Measures aimed at helping small firms expand into the global market have included an overhaul of the Government's export controls and reinvention of export assistance. These changes help ensure that our own Government is no longer the hurdle to small businesses entering the international economy.

A 21ST CENTURY WORK FORCE

American business' most important resource is, of course, people. I am proud of my Administration's efforts to improve the lives and productivity of the American work force. We know that in this Information Age, we need a new social compact—a new understanding of the responsibilities of government, business, and every one of us to each other.

Education is certainly the most important investment we can make in people. We must invest in the skills of people if we are to have the best educated work force in the world in the 21st century. We're moving forward to connect every classroom to the Internet by the year 2000, and to raise standards so that every child can master the basics.

We're also training America's future entrepreneurs. The SBA, for example, has improved access to education and counseling by funding 19 new women's business centers and 15 U.S. export assistance centers nationwide. And we are encouraging businesses to continue their important contributions to job training. The Balanced Budget Act of 1997 encourages employers to provide training by excluding income spent on education for employees from taxation.

We are taking steps to improve small business workers' access to employee benefits. Last year, I signed into law the Small Business Job Protection Act, which, among other things, makes it easier for small businesses to offer pension plans by creating a new small business 401(k) plan. We make it possible for more Americans to keep their pensions when they change jobs without having to wait before they can start saving at their new jobs. As many as 10 million Americans without pensions when the law was signed can now earn them because this law exists.

Given that small businesses have created more than 10 million new jobs in the last four years, they will be critical in the implementation of the welfare to work initiative. That means the SBA microloan and One-Stop Capital

Shop programs will be uniquely positioned to take on the ''work'' component of this initiative. The work opportunity tax credit in the Balanced Budget Act is also designed as an incentive to encourage small firms, among others, to help move people from welfare to work.

A small business starts with one person's dream. Through devotion and hard work, dreams become reality. Our efforts for the small business community ensure that these modern American Dreams still have a chance to grow and flourish.

I want my Administration to be on the leading edge in working as a partner with the small business community. That is why an essential component of our job is to listen, to find out what works, and to go the extra mile for America's entrepreneurial small business owners.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

REPORT CONCERNING THE PREMIGEWASSET RIVER IN NEW HAMPSHIRE—MESSAGE FROM THE PRESIDENT—PM 121

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

I take pleasure in transmitting the enclosed report for the Pemigewasset River in New Hampshire. The report and my recommendations are in response to the provisions of the Wild and Scenic Rivers Act, Public Law 90–542, as amended. The Pemigewasset River study was authorized by Public Law 101–357.

The study was conducted by the National Park Service with assistance from a local study committee. The National Park Service determined that the 32.5–mile study segment is eligible for designation based upon its free-flowing character and outstanding scenic, recreational, geologic, fishery, and botanic values. However, in deference to the wishes of local adjoining communities, six of seven of whom voted against designation, and the State of New Hampshire, I am recommending that the Congress not consider designation at this time. If the local communities and/or the State should change their position in the future, the question of designation could be reevaluated.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4719. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Alyeska Ballast Water Treatment Facility (Alaska); to the Committee on Commerce, Science, and Transportation.

EC–4720. A communication from the Secretary of Transportation, transmitting, drafts of proposed legislation including one entitled ''The Federal Aviation Authorization Act of 1998''; to the Committee on Commerce, Science, and Transportation.

EC–4721. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures'' (RIN0648–AK98) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4722. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, a report regarding highly migratory species; to the Committee on Commerce, Science, and Transportation.

EC–4723. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Financial Assistance for Research and Development Projects in the Northeastern Coastal States; Marine Fisheries Initiative'' (RIN0648–ZA36) received on April 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4724. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System; Harvest Guideline; Closed Season'' (RIN0648–AK22) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4725. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 9'' (RIN0648–AH52) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4726. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM station allotments in Walhalla, Michigan [MM Docket 97–118) received on April 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4727. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of two rules regarding FM Broadcast Stations (Banks, Corvallis, Redmond, Sunriver, Oregon; Corvallis, The Dalles, Oregon) [MM Dockets 96–7, 96–12) received on April 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4728. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM Broadcast Stations (Ironton and Malden, Missouri) [MM Docket 97–136) received on April 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4729. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Guides For the Use of Environmental Marketing Claims'' received on April 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4730. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of seven rules regarding airworthiness directives, including a rule entitled ''Airworthiness Directives; Twin Commander Aircraft Corporation 500, 600, and 700 Series Airplanes'' (RIN2120–AA64: Docket 95–CE–92–AD, 98–NM–79–AD, 97–CE–130–AD, 97–NM–40–AD, 97–CE–74–AD, 95–CE–71–AD, 98–SW–09–AD) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4731. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled ''Rail General Exemption Authority—Nonferrous Recyclables'' received on April 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4732. A communication from the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development, transmitting, pursuant to law, a report entitled ''Minority Small Business and Capital Ownership Development'' for fiscal year 1997; to the Committee on Small Business.

EC–4733. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Reporting Health Care Professionals to State Licensing Boards'' (RIN2900–AI78) received on April 28, 1998; to the Committee on Veterans' Affairs.

EC–4734. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled ''The Tribal Trust Fund Settlement Act of 1998''; to the Committee on Indian Affairs.

EC–4735. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a report relative to the Red Lake Band of Chippewa Indians judgment funds; to the Committee on Indian Affairs.

EC–4736. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report under the Chemical and Biological Weapons Control and Warfare Elimination Act for the period February 1, 1997 through January 31, 1998; to the Committee on Foreign Relations.

EC–4737. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to danger pay; to the Committee on Foreign Relations.

EC–4738. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a rule entitled ''Documentation of Nonimmigrants Under the Immigration and Nationality Act, as amended—Fees For Application and Issuance of Nonimmigrants Visas'' received on April 27, 1998; to the Committee on Foreign Relations.

EC–4739. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the reports of eight notices of proposed issuances of export licenses; to the Committee on Foreign Relations.

EC–4740. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Scope of Medicare Benefits and Application of the Outpatient Mental Health Treatment Limitation to Clinical Psychologist and Clinical Social Worker Services'' (RIN 0938–AE99) received on April 27, 1998; to the Committee on Finance.

EC–4741. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to reauthorize the U.S. Automotive Parts Advisory Committee through December 31, 2003; to the Committee on Finance.

EC–4742. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to trade readjustment allowances; to the Committee on Finance.

EC–4743. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to Regular Trade Adjustment Assistance for the period October 1 through December 31, 1997; to the Committee on Finance.

EC–4744. A communication from the Acting Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to the Medicare subvention demonstration; to the Committee on Finance.

EC–4745. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Customs Service Field Organization; Establishment of Sanford Port of Entry'' received on April 23, 1998; to the Committee on Finance.

EC–4746. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Abolishment of Boca Grande As a Port of Entry'' received on May 1, 1998; to the Committee on Finance.

EC–4747. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of regulations governing book-entry Treasury Bonds, Notes, and Bills; Determination Regarding State Statute; South Dakota; received on April 22, 1998; to the Committee on Finance.

EC–4748. A communication from the Senior Attorney, Federal Register, Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Administrative Wage Garnishment'' received on May 1, 1998; to the Committee on Finance.

EC–4749. A communication from the Acting Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the report of the Treasury Bulletin for March 1998; to the Committee on Finance.

EC–4750. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 98–24 received on April 23, 1998; to the Committee on Finance.

EC–4751. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 98–25 received on April 27, 1998; to the Committee on Finance.

EC–4752. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of an Action On Decision received May 4, 1998; to the Committee on Finance.

EC–4753. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of property management regulations (RIN1991–AA28) received on April 27, 1998; to the Committee on Labor and Human Resources.

EC–4754. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Mergers and Transfers Between Multiemployer Plans'' (RIN1212–AA69) received on May 1, 1998; to the Committee on Labor and Human Resources.

EC–4755. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, trasmitting, pursuant to law, the report of a rule entitled ''Respiratory Protection; Correction'' (RIN1218–AA05) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4756. A communication from the Assistant Secretary of Labor for Mine Safety and Health Administration, transmitting, pursuant to law, a rule entitled ''Safety Standards for Roof Bolts in Metal and Nonmetal and Underground Coal Mines'' (RIN1219–AB00) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4757. A communication from the Assistant Secretary of Labor for Mine Safety and Health Administration, transmitting, pursuant to law, a rule entitled ''Criteria and Procedures for Proposed Assessment of Civil Penalties'' (RIN1219–AA49) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4758. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients'' (RIN0910–AA01) received on April 27, 1998; to the Committee on Labor and Human Resources.

EC–4759. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Polymers'' (Docket 92F–0290) received on April 27, 1998; to the Committee on Labor and Human Resources.

EC–4760. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives for Coloring Sutures; D&C Violet No. 2'' (Docket 95C–0399) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4761. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Removal of Regulations'' (RIN1820–AB43) received on April 23, 1998; to the Committee on Labor and Human Resources.

EC–4762. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a report of final priorities received on April 29, 1998; to the Committee on Labor and Human Resources.

EC–4763. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report for calendar year 1997 on the National Institutes of Health AIDS Research Loan Repayment Program; to the Committee on Labor and Human Resources.

EC–4764. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on occupational safety and health for fiscal year 1996; to the Committee on Labor and Human Resources.

EC–4765. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Tobacco Use Among U.S. Racial/Ethnic Minority Groups''; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1618. A bill to amend the Communications Act of 1934 to improve the protection of consumers against ''slamming'' by telecommunications carriers, and for other purposes (Rept. No. 105–183).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 442. A bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes (Rept. No. 105–184).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 2031. A bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 2032. A bill to designate the Federal building in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building''; to the Committee on Environment and Public Works.

By Mr. ABRAHAM (for himself, Mr. ALLARD, Mr. HATCH, Mr. THURMOND, Mr. ENZI, Mr. HELMS, Mr. GRASSLEY, Mr. COVERDELL, Mr. HAGEL, and Mrs. FEINSTEIN):

S. 2033. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD:

S. 2034. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself and Mr. JEFFORDS):

S. 2035. A bill to amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 2032. A bill to designate the Federal building in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building''; to the Committee on Environment and Public Works.

HURFF A. SAUNDERS FEDERAL BUILDING

Mr. MURKOWSKI. Mr. President, I rise today to introduce a bill that will dedicate the Juneau, Alaska Federal building in honor of Hurff Saunders who passed away in 1996. Hurff was a lifelong Alaskan who touched the lives

of countless people in Southeast Alaska and played an important role in Alaska's history both as a territory and as a state.

Among his many accomplishments, Hurff was a federal government civil engineer in charge of the construction of the Juneau federal building. Typical of Hurff's efforts, the Juneau federal building project was completed on time and under budget. In addition, Hurff helped to correct many of the navigational charts for Southeast Alaska thereby assisting the United States Navy and the Coast Guard in safely carrying out their missions in southeast Alaska during World War II.

I am privileged to have known Hurff and his family quite well. Hurff's wife Florence was one of my teachers as a young boy growing up in Ketchikan. Hurff and Florence were wonderful people, who left a long and lasting impression on those around them.

Mr. President, I have received copies of a number of resolutions, including one passed by the City and Borough of Juneau, all requesting that the Juneau federal building be dedicated in Hurff's memory. Many other Alaskans who also knew Hurff have taken the time to write and to share their support.

Hurff was a dedicated public servant who touched the lives of many Alaskans. Naming the Juneau federal building in his honor would be a fitting and lasting tribute to his memory.

Finally, Mr. President, I ask unanimous consent that a copy of this legislation and supporting resolutions be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF HURFF A. SAUNDERS FEDERAL BUILDING.

The Federal building in Juneau, Alaska, shall be known and designated as the ''Hurff A. Saunders Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''Hurff A. Saunders Federal Building''.

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Whereas, the late Hurff Saunders was a civil engineer employed by the federal government in Alaska for many years, and

Whereas, Mr. Saunders served his fellow Americans and the people of Alaska with distinction, beginning in world War II, when he played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in North Pacific waters by correcting official charts to show the true latitude and longitude of aids to navigation, and

Whereas, after the war Mr. Saunders worked as a civil engineer for the federal government, supervising the construction of many important projects throughout the territory, then the state of Alaska, and

Whereas, Mr. Saunders was the engineer in charge of constructing the Juneau Federal Building, which, like most of his projects, was completed on time and under budget, and

Whereas, the career of Hurff Saunders exemplifies the best qualities of public service in Alaska: perserverence, efficiency, and a love of community; now therefore,

Be it Resolved by the Assembly of the City and Borough of Juneau, Alaska:

Section 1. That the Alaska Congressional Delegation is respectfully requested to endorse naming the Juneau Federal Building the Hurff A. Saunders Federal Building.

Section 2. That the federal government cause a suitable bronze plaque be affixed in a place of honor in the lobby of the Hurff A. Saunders Federal Building at the time of the dedication ceremony.

Section 3. That the clerk shall distribute copies of this resolution to the Alaska Congressional Delegation.

Section 4. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 2nd day of February, 1998.

RESOLUTION ADOPTED BY THE MEMBERSHIP OF THE JUNEAU ROTARY CLUB HONORING THE MEMORY OF HURFF A. SANDERS

Hurff A. Saunders and Florence Saunders, married for over 70 years, moved from South Dakota to Ketchikan, prior to World War II where he accepted the position of civilian engineer for the United States Coast Guard.

Whereas, Hurff A. Saunders played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in the North Pacific waters by correctly determining the latitude and longitude of various key aids to navigation that were in place, but incorrectly located on official charts at the time.

Whereas, Hurff A. Saunders, in his capacity as civil engineer, supervised the construction of many important public works projects throughout the Territory and now State of Alaska, completing the projects on schedule and within budget.

Whereas, Hurff A. Saunders was invited to become a member of Rotary International, first in Ketchikan, then Juneau, and was very active at all levels, from being elected president of the Juneau Club, Governor of District 5010, and then on to the board of directors of Rotary International.

Whereas, Hurff A. Saunders accompanied by his wife Florence Saunders, most times at their own expense, represented this Rotary District at many Rotary International Conferences throughout the world during his tenure as District Governor and beyond.

Whereas, Hurff A. Saunders led his private and professional life according to his Christian beliefs and Rotary International's highest standards, being recognized as a true and effective leader.

Whereas, Hurff A. Saunders, just before his retirement in 1966, successfully completed his last federal construction project, the Juneau Federal Building, Post Office and Court House, located on 10th Street, again under budget and on time for a cost to the taxpayers of just $33.00 per square foot.

Whereas, Hurff A. Saunders life peacefully ended August 29th, 1996 shortly after his 94th birthday, here at his home in Juneau bringing him back together with his wife Florence who passed on just a little over a year earlier.

Whereas, the officers of the Juneau Rotary Club, and all its members deeply miss the presence of Hurff A. Sanders: Now, therefore be it hereby.

Resolved, That the Board of Directors of the Juneau Rotary Club wish to petition the office of our United States Senator Frank Murkowski, a former student of Florence Saunders in Ketchikan, to assist us in having the Juneau Federal Building, just newly remodeled, dedicated to the memory of Hurff A. Saunders by naming the building the Hurff A. Saunders Federal Building.

Be it further resolved, That the federal government cause a suitable bronze plaque be affixed in a place of honor in the lobby of the Hurff A. Saunders Federal Building at the time of the dedication ceremony.

Signed:

ROBERT REHFELD,
President, Juneau Rotary Club.

PROPOSED RESOLUTION 97–3, ROTARY INTERNATIONAL DISTRICT 5010, CONFERENCE AT GIRDWOOD, ALASKA

To honor fellow Rotarian and Past District Governor (1966–67) Hurff A. Saunders for a life time of dedication and devotion to the Rotary Ideal ''Service above Self''.

Whereas, the service to Rotary International by Hurff A. Saunders, Past District Governor 1966–67 exemplifies truly outstanding dedication and devotion, and

Whereas, Past District Governor Saunders was a Rotarian for over 50 years with membership first in the Ketchikan Rotary Club and later with the Juneau Club and served as President of both of these clubs, and

Whereas, Past District Governor Saunders was chosen to be District Governor of District 504 during the Rotary Year of 1966–67, and

Whereas Hurff and his late wife continued the Rotary Ideal ''Service above Self'' by visiting much of the Rotary World as Chairman of Rotary International's World Community Service Committee 1968 to 1970, and

Whereas, Rotary history shows Rotarian Saunders continued his dedication with multiple Paul Harris Fellowships, service as Vice Chairman, RI Extension Committee 1970–71, and Rotary Exchange South Africa 1972; it is hereby

Resolved by Rotary International District 5010 that Past District Governor Hurff A. Saunders truly possessed a full measure of humanitarian attributes recognized not only by Rotary International but also by his fellow Rotarians and his community and that his dedication to ''Service above Self'' is a credit to his family and friends.

It is further resolved, that we as Rotarians of District 5010 by honoring his devotion and self sacrifice recognize a truly outstanding inspired leader in the Rotary world.

PURPOSE AND EFFECT

To honor Past District Governor Hurff A. Saunders.

Adopted at Conference assembled at Girdwood, Alaska, May 3, 1997.

JUNEAU BRANCH OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS, A RESOLUTION HONORING HURFF A. SAUNDERS, ''A COMPETENT MAN'', ADOPTED APRIL 29, 1997.

Whereas, Hurff A. Saunders and Florence Saunders, married for over 70 years, moved from South Dakota to Ketchikan prior to World War II to work for the United States Coast Guard as a civilian Civil Engineer; and

Whereas, Hurff A. Saunders played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in the Northern Pacific waters by correctly determining the latitude and longitude of the aids to navigation that were in place, though incorrectly located on official charts at the time; and

Whereas, Hurff A. Saunders, in his capacity as Civil Engineer, supervised the construction of many public works projects throughout the Territory and now State of Alaska, bring in the projects under budget and on time; and

Whereas, Hurff A. Saunders, just before his retirement in 1966, successfully completed

his last federal construction project, the Juneau Federal Building, Post Office and Court House, located on 10th Street in Juneau, again under budget and on time for $33.00 per square foot; and

Whereas, Hurff A. Saunders, life peacefully ended August 29, 1996 shortly after his 94th birthday, here in Juneau; and

Whereas, Hurff A. Saunders, the officers of the Juneau Branch of the American Society of Civil Engineers, and all its members deeply miss the presence of Hurff A. Saunders; now, therefore, be it hereby

Resolved, That the Officers of the Juneau Branch of the American Society of Civil Engineers wish to petition the office of our United States Senator Frank Murkowski, a former student of Florence Saunders, to assist in having the Juneau Federal Building, just remodeled, dedicated to the memory of Hurff A. Saunders by naming the building the Hurff A. Saunders Federal Building.

Whereas, Hurff A. Saunders and Florence Saunders, married for over 70 years, moved from South Dakota to Ketchikan, prior to World War II where he accepted the position of a civilian engineer for the United States Coast Guard; and

Whereas, Hurff A. Saunders played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in the North Pacific waters by correctly determining the latitude and longitude of various keys to navigation that were in place, but incorrectly located on official charts at the time; and

Whereas, Hurff A. Saunders, in his capacity as a civil engineer, supervised the construction of many important public works projects throughout the Territory and now State of Alaska, completing the projects on schedule and within budget; and

Whereas, Hurff A. Saunders was invited to become a member of Rotary International, first in Ketchikan, then in Juneau, and was very active at all levels, from being elected president of the Juneau Club, Governor of the District 501, and then on to the board of directors of Rotary International; and

Whereas, Hurff A. Saunders, accompanied by wife Florence Saunders-most time at their own expenses, represented this Rotary District at many Rotary International Conferences throughout the world during his tenure as District Governor and beyond; and

Whereas, Hurff A. Saunders, led his private and professional life according to his Christian beliefs and Rotary International's highest standards, being recognized as a true and effective leader; and

Whereas, Hurff A. Saunders, just before his retirement in 1966, successfully completed his last federal construction project, the Juneau Federal Building, Post Office and Court House, located on 10th street, again under budget and on time for a cost to the taxpayers of just under $33.00 per square foot; and

Whereas, Hurff A. Saunders life peacefully ended August 29th, 1996 shortly after his 94th birthday, here at his home in Juneau bringing him back together with his wife Florence who passed on just a little over a year earlier; and

Whereas, the officers of the Alaska Society of Professional Engineers and its members deeply miss the presence of Hurff A. Saunders: now therefore be it hereby

Resolved, that the Board of Alaska Society of Professional Engineers—Juneau Chapter wish to petition the office of our United States Senator Frank Murkowski, a former student of Florence Saunders in Ketchikan, to assist us in having the Juneau Federal Building, just newly remodeled, dedicated to the memory of Hurff A. Saunder by naming the building the Hurff A. Saunders Federal Building; and

Be it further resolved, That the federal government cause a suitable bronze plaque be affixed in a place of honor in the lobby of the Hurff A. Saunders Federal Building at the time of the dedication ceremony.

DAVID KHAN,
President, Acting on behalf of the Board of Alaska Society of Professional Engineers—Juneau Chapter.

By Mr. ABRAHAM (for himself, Mr. ALLARD, Mr. HATCH, Mr. THURMOND, Mr. ENZI, Mr. HELMS, Mr. GRASSLEY, Mr. COVERDELL, and Mr. HAGEL):

S. 2033. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

THE POWDER COCAINE MANDATORY MINIMUM SENTENCING ACT OF 1998

Mr. ABRAHAM. Mr. President, I rise to introduce the ''Powder Cocaine Mandatory Minimum Sentencing Act,'' along with Senator ALLARD and other Senators whose names I will be submitting in a moment.

This legislation will toughen sentences for drug dealers caught peddling powder cocaine.

I believe it is crucial, given our continuing struggle in the war on drugs, that we send an unwavering and unambiguous message to all Americans, and our children in particular, that the sale of illegal drugs is dangerous, wrong, and will not be tolerated.

As the father of three young children, I am deeply disturbed by recent trends in drug use. Indeed, since 1992 Washington has been losing important ground in the war on drugs. Let me cite just a few of the alarming facts:

Over the past five years, the average number of federal drug defendants prosecuted has dropped by almost 1500 cases from the 1992 level. And the average number of drug convictions has gone down by a similar amount since 1993.

The drug interdiction budget was cut by 39 percent from 1992 to 1996 and drug surveillance flights were cut in half.

The impact on our kids has been serious. In the last six years, the percentage of high school seniors admitting that they had used an illicit drug has risen by more than half.

Incredibly, 54 percent of the Class of 97 had used an illicit drug by graduation.

For 10th graders during that same time, drug use has doubled.

And—perhaps worst of all—nearly 20 percent of our 8th graders use illegal drugs.

Faced with this bad news, this year the Administration finally submitted a comprehensive long range National Drug Strategy to Congress.

Unfortunately, it took them nearly five years to take this step. And, as the numbers show, our children have been paying the price.

What is more, when it comes to one crucial part of the war on drugs—punishing drug pushers—the Administration wants to move us in the wrong direction. It would make the mandatory minimum prison sentences for crack cocaine dealers 5 times more lenient than they are today.

The President would raise, from 5 to 25 grams—that is, from about 50 to about 250 doses—the amount of crack a person could sell before triggering a mandatory 5 year sentence. And he would raise from 50 to 250 grams the amount of crack a person could sell before triggering a mandatory 10 year sentence.

This would have the effect of lowering sentences for all those who deal crack—even though just 2 years ago the President vetoed a similar proposal, explaining ''I am not going to let anyone who peddles drugs get the idea that the cost of doing business is going down.''

The President says we need to reduce crack dealer sentences because they are too tough compared to sentences for powder cocaine kingpins. I agree. It doesn't make sense for people who are higher on the drug chain to get lighter sentences than those at the bottom. But going easier on crack peddlers—the dealers who infest our school yards and playgrounds—is in my judgment the solution.

Crack is a cheap drug and highly addictive. Tough sentences for crack dealers has forced many of them to turn in their superiors in the drug trade, in exchange for leniency. Softening these sentences will remove that incentive and undermine our prosecutors.

I might add, in my State of Michigan, if we were to soften these sentences, it would create a considerable disparity between the mandatory minimums under the State law and the mandatory minimums under the Federal law. My prosecutors and local law enforcement officials are very concerned about this because it would, in effect, mean that a lot of drug dealers they are pursuing will begin making deals with and negotiating with Federal prosecutors in order to avoid the tough sanctions the people of Michigan have attempted to put into effect.

I believe there's a better way. We must reject President Clinton's proposal to lower sentences for crack dealers. Instead, let's make the sentences for powder cocaine dealers a lot tougher.

I agree with the Administration's view that the differentiation between crack and powder sentences is too sharp and should be reduced. But I do not agree with its conclusion that therefore we should lower sentences for crack dealers.

We can instead accomplish this entirely by increasing sentences for dealing powder cocaine.

For the sake of our children, I urge President Clinton to abandon his plans to lower sentences for crack dealers and instead support legislation for tougher sentences on powder dealers.

Powder sentences are too low. Powder is the raw material for crack, yet sentences for powder dealers were set before the crack epidemic, without accounting for powder's role in causing it.

Moreover, we occasionally see a large powder supplier get a lower sentence than the low-level crack dealer who resold some powder in crack form, simply because the powder dealer took the precaution of selling his product only in powder form.

That is a genuine disparity that should be remedied, although without eliminating the differential altogether.

That differential should remain, Mr. President, because, as both the President and the Sentencing Commission recognize, crack is more addictive, more available to minors, and more likely to result in violence than is powder cocaine, and hence its sale should continue to be punished more harshly.

That is why today I am introducing the Powder Cocaine Mandatory Minimum Sentencing Act.

This legislation reduces from 500 to 50 grams the amount of powder cocaine a person must be convicted of selling before receiving a mandatory 5 year minimum sentence.

By so doing it changes the quantity ratio for powder and crack cocaine from 100 to 1 to 10 to 1, the same ratio proposed by the Administration and within the range recommended by the Sentencing Commission. But this legislation reduces that ratio by getting tougher on powder dealers, not by giving a break to crack dealers.

We owe it to the thousands upon thousands of families struggling to protect their children from the scourges of drugs and drug violence to stay tough on the criminals who prey on their neighborhoods.

At this critical time it would be a catastrophic mistake to let any drug dealer think the cost of doing business is going down.

More importantly it will be nearly impossible to succeed in discouraging kids from using drugs if they learn we are lowering sentences for any drug dealers.

Protecting our kids means staying tough on those who peddle drugs and sending a clear message to our young people that we will not tolerate crack dealers in our neighborhoods.

President Clinton had it right two years ago when he said:

> We have to send a constant message to our children that drugs are illegal, drugs are dangerous, drugs may cost your life—and the penalties for dealing drugs are severe.

Unfortanately, President Clinton's new plan to reduce sentences for crack dealers does not live up to this obligation. It sends our kids exactly the wrong message and it does not do any favor to anybody except drug pushers.

In contract, the legislation I am introducing today is faithful to this obligation. It achieves a reduction in the disparity between crack and powder cocaine sentencing in the right way, through legislation making the sentences for powder cocaine dealers a lot tougher.

By enacting the Powder Cocaine Mandatory Minimum Sentencing Act we can send our kids the right message. We will not tolerate crack dealers in our neighborhoods, and we will make the sentences on powder cocaine dealers a lot tougher.

Success in the drug war depends above all on the efforts of parents, schools, churches, and medical community, local law enforcement officials and community leaders. And they are doing a great job in the drug fight. But the Federal Government must do its part too.

Washington has to renew the war on drugs. We must provide needed resources, and we must reinforce the message that drugs aren't acceptable and that drug dealers belong in prison—for a long time.

Our kids deserve no less.

I urge my colleagues to support this important legislation.

At this time, I yield to the Senator from Colorado who, under the unanimous consent that we just proposed here, will now take the floor and speak on this subject.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, first of all, I thank my good friend, the Senator from Michigan, for his very hard work on this particular issue. He was working on the issue before I was elected to the Senate and is recognized for his efforts to try to control the use of illegal drugs. His national reputation precedes my meeting him here in the Senate, so the question is, How did I get involved in this particular issue? I got involved in this issue because I do hold a lot of town meetings in the State of Colorado, the State which I represent. In the inner-city areas of the Denver metropolitan area, the issue of discrepancy sentencing between powder cocaine and crack cocaine was brought up by the minority communities. There were a few members who felt the crack cocaine penalties should be less. But, by far, the majority of members in those meetings felt we needed to make tougher powder cocaine penalties because the crack cocaine penalties were working.

I also heard some concern from within the judiciary of the State of Colorado about the discrepancy between crack and powder cocaine. So that is how I got involved in the issue. Then I had introduced some legislation to deal with this issue. I had an opportunity to sit down with the Senator from Michigan and we have worked out a provision in a new bill that I think is the right answer. It does toughen the penalties on powder cocaine, brings it more in line with crack cocaine. It is a position I support. It is a position I believe the voters of Colorado and the people of Colorado, even in the minority communities, do support.

Mr. President, today I rise to address one of the most longstanding and racially sensitive disputes in the criminal justice system. Senators ABRAHAM, HATCH, FEINSTEIN, KYL, and I are introducing a bill to lessen the disparity between criminal penalties of selling crack and powder cocaine.

Under current law, a seller of 5 grams of crack cocaine receives the same mandatory 5-year prison term as a seller of 500 grams of powder cocaine. I believe this is inexcusable.

The disparity between penalties has been scrutinized by the U.S. Sentencing Commission, Congress, and the Clinton administration for the last several years. Recommendations by the administration and U.S. Sentencing Commission have called for lessening the penalties for crack dealers, bringing them closer to the lax penalties applied to powder offenders.

Our legislation rejects the administration's harmful solution. Lowering the penalty for crack to make it equal to powder cocaine penalties goes against our Nation's conviction to send a strong message to drug dealers: If you sell drugs, you are going to have to face serious consequences.

The Powder Cocaine Mandatory Minimum Sentencing Act increases the mandatory penalties for dealing powder cocaine to 50 grams receiving a 5-year minimum sentence, bringing it closer to crack's stiff sentence of 5 grams for a minimum of 5 years.

The disparity ratio of powder to crack cocaine will be a 10-to-1 ratio under our bill instead of the 100-to-1 ratio. This is the same number ratio recommended, by the way, by the commission and by the administration. This correction goes a long way in reforming the unjust disparity that we see now.

Critics of current law remind us that cocaine dealers carry powder cocaine, leaving customers the risk of converting to crack. The very core of the drug crisis in the United States begins with the arrogance of drug traffickers who have found a way to ''work the system.'' Our bill will destroy the ease drug dealers now enjoy as they choose to traffic their drug in powder form alone. No longer will the penalty price for dealing powder be a bargain for drug traffickers. The safe option for dealing cocaine will no longer exist.

During the 1980s, Congress legislated steep consequences for crack cocaine. The crack epidemic was plaguing our Nation with high crime rates and unprecedented statistics of addiction, and it warranted several drastic legal reforms. We saw the destruction wrought on entire communities by this cheap and highly addictive form of cocaine and realized that tough penalties were needed to restrict its availability.

These tougher sentences were needed, but the problem we are seeing today is that powder cocaine sentences were set before the crack epidemic began. They don't reflect the influence powder has had on crime and drug trafficking.

It is time to admit that the penalty for powder cocaine must change. The

notion that powder cocaine is not dangerous is simply false. A Rocky Mountain News reporter was killed 2 years ago when an heir to one of Colorado's largest fortunes, high on powder cocaine, plowed his sports car into the reporter's car. Ask the wife and son of this young reporter if they think the penalty for powder cocaine should be 100 times less than that of crack.

Law enforcement officials, including drug enforcement detectives in both Denver and Washington, DC, have encouraged me to pursue passage of this legislation. The National Headquarters for the Fraternal Order of Police issued a statement several weeks ago saying:

> The current disparities in the sentencing are unjust and do not provide law enforcement with the tools they need to restrict the sale of powder cocaine.
>
> The overwhelming majority of violent crime in this country is drug related. We need to do more to get and keep dealers of drugs, whatever the form, off the streets. Your bill will help us do it.

The U.S. Attorney for the District of Colorado, Henry Solano, supports this legislative concept saying:

> The law enforcement community learned years ago that the strong sentences meted out to crack cocaine dealers has had a significant deterrent effect on the production and distribution of crack.
>
> Senator Allard's proposed penalty for powder cocaine will likewise restrict the flow of powder cocaine in this country.

In light of the numerous proposals introduced to correct this problem, I encourage my colleagues to contemplate the alternatives and consider how justice is served in this matter. Maintaining the current ratio is allowing a wrongful disparity in penalties to continue. It is time to act to correct this injustice. I encourage my colleagues to support the powder cocaine mandatory minimum sentence bill.

I yield the remainder of my time to the Senator from Michigan.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I just have one or two additional comments to make before yielding the floor.

In the process of putting together this legislation which we introduce today, I had the occasion to speak to a number of people in the law enforcement community in our State, as well as individuals who have been touched in some way or another by the crack cocaine epidemic. There are two or three points I would like to enter into the RECORD at this point, in conjunction with our legislation, that are drawn from some of the comments I have heard.

One of them I have already mentioned, and that is the concerns local law enforcement people have that if we change the crack minimum mandatory threshold at the Federal level, it will create a problem in our State, and probably in a lot of other States where there are very tough mandatory minimums for crack dealing, because it will give people who are criminal defendants the option of going into the Federal system to avoid tough State-level penalties. I don't think we want to do that.

Second, it was pointed out to me that the 5-gram trigger which currently exists for crack is very appropriate for the simple reason that most drug dealers who at least deal in crack cocaine do so in very small quantities; that there are very, very, very few crack cocaine dealers who are ever dealing in quantities such as 25 grams where they can be found in possession of and dealing at that level. In fact, what happens is that they essentially hide their crack cocaine stash in locations that are very hard to trace to the dealer and carry around quantities in the 5-gram level, which is why the mandatory minimum is, in fact, only appropriate.

A third point that was made to me is the fact that by having this tough mandatory minimum in place at the Federal level, as well as in our State, at the State level, we have been very successful, through the safety valve process that exists in the Federal legislation, in getting people at the lower end of the drug chain, the crack dealer at the 5-gram level confronted with the possibility of a very severe prison sentence, to begin cooperating with authorities in exchange for the benefits to be received under the safety valve, to, in fact, begin to allow law enforcement to pursue people further up the drug chain.

Increasing the threshold for the crack mandatory minimum, as the administration has proposed and consistent with the sentencing commission's recommendations, will affect very dramatically, it is believed by at least the law enforcement people in my State, the level of cooperation people will have, because in individual transactions they will be dealing below that 25-gram level and, therefore, not confronted with the 5-year mandatory minimum threat, consequently, not nearly in the same position of jeopardy as is the case today. It means, in fact, that we might have less cooperation, less ability to pursue the people who are the drug lords rather than those who are at the dealer level.

Finally, again, I want to talk, as I said, about some of the contact we have had with the people who are victims. When we have talked to those people to the extent we have, it doesn't really matter—Senator ALLARD alluded to the racial disparity and it is a very significant issue that we are trying to address with our bill—but I have not found people, regardless of their race, whose children have been touched by a crack cocaine dealer who don't want to see the person responsible suffer consequences.

Their families are suffering consequences, their school yards are suffering consequences, their neighborhoods are suffering consequences. They believe that the people behind it —whether it is the peddler in the school yard or the kingpin selling the powder cocaine—ought to suffer the consequences, as well.

The way to do that, in my judgment, Mr. President, and the reason Senator ALLARD and I are here today, is to make it tougher on the drug kingpins and make it no easier on anybody involved in this heinous activity. We hope our colleagues will join us in this legislation.

We think the arguments for it, as we have attempted to lay it here today, should be ones that are persuasive as they have been persuasive to us.

By Mr. DODD:

S. 2034. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to the Committee on Labor and Human Resources.

THE LYME DISEASE INITIATIVE ACT OF 1998

Mr. DODD. Mr. President, I am pleased to introduce the Lyme Disease Initiative Act of 1998, companion legislation to a bill being introduced today by Representative CHRISTOPHER H. SMITH of New Jersey. The objective of this bill is to put us on the path toward eradicating Lyme disease—a disease that is unfamiliar to some Americans, but one that those of us from Connecticut and the Northeast know all too well.

Almost everyone in my state, including myself, has seen the devastating impact that this disease can have on its victims. Lyme disease can cause serious health problems, both physical and psychiatric, and can ruin a family's life. Some damage due to the disease, especially memory loss and other brain damage, is permanent.

And we have also seen that, in many ways, efforts to educate people about this disease and to find a cure have come up short.

The number of cases reported to the CDC increased from 500 cases in 1982 to 16,000 cases in 1996. And some reports suggest that these cases only represent the tip of the iceberg—that there are in fact tens of thousands more cases that have gone unreported or undiagnosed, due in part to the lack of a standardized diagnostic test.

Studies indicate that long term treatment of infected individuals often exceeds $100,000 per person—a phenomenal cost to society. Because Lyme disease mimics other health conditions, patients often must visit multiple doctors before a proper diagnosis is made. This results in prolonged pain and suffering, unnecessary tests, and costly and futile treatments. But an even greater price is paid by the victims and their families—we can put no price tag on the emotional costs associated with this disease.

But there is hope. We are close to the approval of vaccines to prevent this disease—perhaps as soon as next spring. And combined with a strong commitment to public education, we can hope that the numbers of new families affected by this terrible disease will finally begin to diminish.

But we can't let down our guard. We can't let the promise of a vaccine to prevent Lyme disease distract us from seeking more effective ways to diagnose an treat those individuals who are already infected.

The Lyme Disease Initiative is a $100 million federal initiative which will, for the first time, establish prominent, coordinated, federal role in Lyme disease research, treatment, and education. Various agencies within the federal government have made a good start in addressing Lyme disease concerns. These efforts have been hampered, however, by a lack of interagency coordination, inconsistent funding, and limited agency staff attention. The Lyme Disease Initiative will correct these problems.

First, my bill calls for a 5 year plan to be established by the Secretary of Health and Human and Services, in coordination with the Secretary of Defense and outside experts, to advance the treatment of and a cure for Lyme disease. This legislation also sets out four critical public health goals for advancing Lyme disease research efforts which include: the development of standardized diagnostic tests; a review of current systems for reporting cases; a study on how to improve the accuracy of diagnoses; and a campaign to educate physicians how to properly diagnose and treat Lyme disease.

Other major provisions of the bill include establishing a Lyme Disease Taskforce to provide advice and expertise to Congress and federal agencies on all areas of Lyme disease policy; requiring that annual reports be submitted to Congress on the progress of NIH, CDC, and DoD with respect to the goals and programs funded in this bill; an authorization of $100 million over five years to ensure sufficient resources for critical, scientific research; and a request to the FDA rapidly and thoroughly review pending Lyme disease vaccine applications.

Summer is just around the corner. My hope is that the Lyme Disease Initiative Act of 1998 will help to ensure a future where children and their families can engage in outdoor activities without the fear of contracting this dreaded disease.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lyme Disease Initiative Act of 1998''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The incidence of Lyme disease in the United States is increasing more rapidly than most other diseases. The Centers for Disease Control and Prevention has determined that, since 1982, there has been a 32-fold increase in reported cases.

(2) For 1996, such Centers determined that 16,455 cases of the disease were reported.

(3) There is no reliable standardized diagnostic test for Lyme disease, and it is therefore likely that the disease is severely underreported. The disease is often misdiagnosed because the symptoms of the disease mimic other health conditions.

(3) Lyme disease costs our Nation at least $60,000,000 a year in direct medical costs for early, acute cases. The costs of chronic cases of the disease, as well as the costs of lost wages and productivity, are many times higher.

(4) Many health care providers lack the necessary knowledge and expertise—particularly in non-endemic areas—to accurately diagnose Lyme disease. As a result, patients often visit multiple doctors before obtaining a diagnosis of the disease, resulting in prolonged pain and suffering, unnecessary tests, and costly and futile treatments.

SEC. 3. PUBLIC HEALTH GOALS; FIVE-YEAR PLAN.

(a) IN GENERAL.—The Secretary of Health and Human Services (acting as appropriate through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health) and the Secretary of Defense shall collaborate to carry out the following:

(1) The Secretaries shall establish the goals described in subsections (c) through (f) (relating to activities to provide for a reduction in the incidence and prevalence of Lyme disease).

(2) The Secretaries shall carry out activities toward achieving the goals, which may include activities carried out directly by the Secretaries and activities carried out through awards of grants or contracts to public or nonprofit private entities.

(3) In carrying out paragraph (2), the Secretaries shall give priority—

(A) first, to achieving the goal under subsection (c);

(B) second, to achieving the goal under subsection (d);

(C) third, to achieving the goal under subsection (e); and

(D) fourth, to achieving the goal under subsection (f).

(b) FIVE-YEAR PLAN.—In carrying out subsection (a), the Secretaries shall establish a plan that, for the 5 fiscal years following the date of the enactment of this Act, provides for the activities to be carried out during such fiscal years toward achieving the goals under subsections (c) through section (f). The plan shall, as appropriate to such goals, provide for the coordination of programs and activities regarding Lyme disease that are conducted or supported by the Federal Government.

(c) FIRST GOAL: DETECTION TEST.—

(1) IN GENERAL.—For purposes of subsection (a), the goal described in this subsection is the development, by the expiration of the 18-year period beginning on the date of the enactment of this Act, of—

(A) a test for accurately determining whether an individual who has been bitten by a tick has Lyme disease; and

(B) a test for accurately determining whether a patient with such disease has been cured of the disease.

(d) SECOND GOAL: IMPROVED SURVEILLANCE AND REPORTING SYSTEM.—For purposes of subsection (a), the goal described in this subsection is to review the system in the United States for surveillance and reporting with respect to Lyme disease and to determine whether and in what manner the system can be improved (relative to the date of the enactment of this Act). In carrying out activities toward such goal, the Secretaries shall—

(1) consult with the States, units of local government, physicians, patients with Lyme disease, and organizations representing such patients;

(2) consider whether uniform formats should be developed for the reporting by physicians of cases of Lyme disease to public health officials; and

(3) with respect to health conditions that are reported by physicians as cases of Lyme disease but do not meet the criteria established by the Director of the Centers for Disease Control and Prevention to be counted as such cases, consider whether data on such health conditions should be maintained and analyzed to assist in understanding the circumstances in which Lyme disease is being diagnosed and the manner in which it is being treated.

(e) THIRD GOAL: INDICATOR REGARDING ACCURATE DIAGNOSIS.—For purposes of subsection (a), the goal described in this subsection is to determine the average number of visits to physicians that are made by patients with Lyme disease before a diagnosis of such disease is made. In carrying out activities toward such goal, the Secretaries shall conduct a study of patients and physicians in 2 or more geographic areas in which there is a significant incidence or prevalence of cases of Lyme disease.

(f) FOURTH GOAL: PHYSICIAN KNOWLEDGE.—For purposes of subsection (a), the goals described in this subsection are to make a significant increase in the number of physicians who have an appropriate level of knowledge regarding Lyme disease, and to develop and apply an objective method of determining the number of physicians who have such knowledge.

SEC. 4. LYME DISEASE TASK FORCE.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, there shall be established in accordance with this section an advisory committee to be known as the Lyme Disease Task Force (in this section referred to as the Task Force).

(b) DUTIES.—The Task Force shall provide advice to the Secretaries with respect to achieving the goals under section 3, including advice on the plan under subsection (b) of such section.

(c) COMPOSITION.—The Task Force shall be composed of 9 members with appropriate knowledge or experience regarding Lyme disease. Of such members—

(1) 2 shall be appointed by the Secretary of Health and Human Services, after consultation with the Director of the Centers for Disease Control and Prevention;

(2) 2 shall be appointed by the Secretary of Health and Human Services, after consultation with the Director of the National Institutes of Health;

(3) 1 shall be appointed by the Secretary of Defense;

(4) 2 shall be appointed by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House; and

(5) 2 shall be appointed by the President Pro Tempore of the Senate, after consultation with the Minority Leader of the Senate.

(d) CHAIR.—The Task Force shall, from among the members of the Task Force, designate an individual to serve as the chair of the Task Force.

(e) MEETINGS.—The Task Force shall meet at the call of the Chair or a majority of the members.

(f) TERM OF SERVICE.—The term of service of a member of the Task Force is the duration of the Task Force.

(g) VACANCIES.—Any vacancy in the membership of the Task Force shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to carry out the duties of the Task Force.

(h) COMPENSATION; REIMBURSEMENT OF EXPENSES.—Members of the Task Force may not receive compensation for service on the Task Force. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Task Force.

(i) STAFF; ADMINISTRATIVE SUPPORT.—The Secretary of Health and Human Services shall, on a reimbursable basis, provide to the Task Force such staff, administrative support, and other assistance as may be necessary for the Task Force to effectively carry out the duties under subsection (b).

(j) TERMINATION.—The Task Force shall terminate on the date that is 90 days after the end of the fifth fiscal year that begins after the date of the enactment of this Act.

SEC. 5. ANNUAL REPORTS.

The Secretaries shall submit to the Congress periodic reports on the activities carried out under this Act and the extent of progress being made toward the goals established under section 3. The first such report shall be submitted not later than 18 months after the date of the enactment of this Act, and subsequent reports shall be submitted annually thereafter until the goals are met.

SEC. 6. DEFINITION.

For purposes of this Act, the term ''Secretaries'' means—

(1) the Secretary of Health and Human Services, acting as appropriate through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health; and

(2) the Secretary of Defense.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL INSTITUTES OF HEALTH.—In addition to other authorizations of appropriations that are available for carrying out the purposes described in this Act and that are established for the National Institutes of Health, there are authorized to be appropriated to the Director of such Institutes for such purposes $9,000,000 for each of the fiscal years 1999 through 2003.

(b) CENTERS FOR DISEASE CONTROL AND PREVENTION.—In addition to other authorizations of appropriations that are available for carrying out the purposes described in this Act and that are established for the Centers for Disease Control and Prevention, there are authorized to be appropriated to the Director of such Centers for such purposes $8,000,000 for each of the fiscal years 1999 through 2003.

(c) DEPARTMENT OF DEFENSE.—In addition to other authorizations of appropriations that are available for carrying out the purposes described in this Act and that are established for the Department of Defense, there are authorized to be appropriated to the Secretary of Defense for such purposes $3,000,000 for each of the fiscal years 1999 through 2003.

SEC. 8. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Food and Drug Administration should—

(1) conduct a rapid and thorough review of new drug applications for drugs to immunize individuals against Lyme disease; and

(2) ensure that the labeling approved for such drugs specifically indicate the particular strains of Lyme disease for which the drugs provide immunization, the duration of the period of immunization, and the reliability rate of the drugs.

By Mr. BAUCUS (for himself and Mr. JEFFORDS):

S. 2035. A bill to amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes; to the Committee on Governmental Affairs.

THE COMMUNITY AND POSTAL PARTICIPATION ACT OF 1998

Mr. BAUCUS. Mr. President, I rise today to introduce the Community and Postal Participation Act of 1998. This legislation aims to preserve the fabric of downtown American communities by giving citizens a say in Postal Service decisions to close, relocate or consolidate post offices.

Mr. President, the Postal Service is near and dear to the people of the United States. Since its establishment over 200 years ago with Benjamin Franklin as the first Postmaster General, the Postal Service has dutifully delivered the mail to generations of Americans. In many towns across the U.S., the post office is still the center of the community, the very anchor of what we fondly refer to as ''small-town America.'' Nowhere is that more true than in my own state of Montana. In Livingston, people meet to collect their mail and talk about what flies are hatching on the Yellowstone River. In Red Lodge, folks come together at the post office not only to collect their mail but to discuss last weekend's track meet. And in Plains, Montana, the place where people receive their mail is as important a meeting-spot as it was when the first post office opened there more than 115 years ago.

But sadly, Mr. President, America has seen a rash of post office closings, relocations and consolidations in recent years. From California to Connecticut, Montana to Maine, the Postal Service has proposed closing post offices located in the very heart of their communities. When the post office goes, often the central business district goes with it. And, more important, the local gathering place disappears.

Mr. President, today Senator JEFFORDS and I are introducing legislation to change that. With passage of the Community and Postal Participation Act, downtown communities will have an increased say in their future. They will have input into Postal Service decisions that affect their communities, and they will be allowed the chance to offer alternatives to Postal Service changes. Under current law, communities have little say when the USPS decides to pull up stakes. Our bill would change that by: allowing those served by a post office to receive at least 60 days' notice before the USPS decides to relocate, close or consolidate a post office; giving those affected by the closing a chance to respond to the proposed changes by offering an alternative to the USPS proposals; providing for a public hearing before a final determination is made; allowing those affected by the relocation, closing or consolidation to appeal to the Postal Rate Commission (PRC); and requiring the USPS to comply with applicable zoning, planning or land use laws.

Mr. President, I believe that with mutual cooperation, the interests of communities and the Postal Service can be served. The nature—indeed the very name—of this legislation is participation. I am confident that with its passage our communities and this important American institution may begin a new era of cooperation for the good of all involved. And we can put the community back in the Postal Service.

Mr. President, I hope my colleagues will join Senator JEFFORDS and I in passing this important legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community and Postal Participation Act of 1998''.

SEC. 2. GUIDELINES FOR RELOCATION, CLOSING, OR CONSOLIDATION OF POST OFFICES.

Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

''(2)(A) The notification under paragraph (1) shall be in writing, hand delivered or delivered by mail to persons served by that post office, and published in 1 or more newspapers of general circulation within the zip codes served by that post office.

''(B) The notification under paragraph (1) shall include—

''(i) an identification of the relocation, closing, or consolidation of the post office involved;

''(ii) a summary of the reasons for the relocation, closing, or consolidation; and

''(iii) the proposed date for the relocation, closing, or consolidation.

''(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

''(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing, and persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

''(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

''(i) the extent to which the post office is part of a core downtown business area;

''(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

''(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

''(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

''(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

''(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

''(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

''(viii) whether management of the post office contributed to a desire to relocate;

''(ix)(I) the adequacy of the existing post office; and

''(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

''(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

''(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

''(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

''(i) the determination and findings under subparagraph (A); and

''(ii) each alternative proposal and a response by the Postal Service.

''(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

''(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

''(B) The applicable date specified in this subparagraph is—

''(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

''(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph 7(A), but not later than 120 days after the date on which the appeal is made.

''(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

''(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

''(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

''(ii) without observance of procedure required by law; or

''(iii) unsupported by substantial evidence on the record.

''(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

''(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

''(E) A determination made by the Commission shall not be subject to judicial review.

''(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

''(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

''(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h–2).''.

SEC. 3. POLICY STATEMENT.

Section 101(g) of title 39, United States Code, is amended by adding at the end the following: ''In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.''.

Mr. JEFFORDS. Mr. President, I rise today to discuss a bill that my colleague Senator BAUCUS and I are introducing titled the, ''Community And Postal Participation Act of 1998'' (CAPPA).

Coming from a small town in Vermont, I understand the importance downtowns or village centers play in the identity and longevity of a community. Downtowns are where people go to socialize, shop, learn what their elected representatives are doing, and gather to celebrate holidays with their neighbors.

One of the focal points of any downtown area is the community's post office. Post offices have been part of downtowns and village centers as long as most cities and towns have existed. These post offices are often located in historic buildings and have provided towns with a sense of continuity as their communities have changed over time. The removal of this focal point can quickly lead to the disappearance of continuity and spirit of a community and then the community itself.

Mr. President, this legislation will enable the inhabitants of small villages and large towns to have a say when the Postal Service decides that their local post office will be closed, relocated, or consolidated. Some of my colleagues may ask why this legislation is necessary. A few stories from my home state of Vermont will answer this question and hopefully lead to quick passage of this important legislation.

A few years ago the general store on the green in Perkinsville, Vermont went bankrupt and the adjacent post office wanted to leave the small village center for a new building outside of town. By the time the community was aware of the project, plans were so far along—the new building had actually been constructed based on the promise of the post office as the anchor tenant—that there was no time to fully investigate in-town alternatives. One elderly resident wrote that in contrast to families now being able to walk to the post office, ''we certainly won't be walking along the busy Route 106 two miles or more to get our mail.'' The State Historic Preservation Officer commented that as people meet neighbors at the post office, the threads of community are woven and reinforced. ''It may be intangible, but its real, and such interaction is critically important to the preservation of the spirit and physical fabric of small village centers like Perkinsville.''

In 1988, the post office in the Stockbridge Vermont General Store needed to expand. The store owner tried to find money to rehabilitate an 1811 barn next to the store to provide the needed space, but was not successful. In 1990, the post office moved into a new facility located on the outskirts of Stockbridge on a previously undeveloped section of land at the intersection of two highways. People can no longer walk to the post office as they once were able to do when it was located in the village center. The relocation of the Stockbridge post office unfortunately removed one of the anchors of the community.

These are not isolated examples. I ask unanimous consent that a description of Postal Service activities related to the relocation of post offices in the Vermont towns of Fairfax, Ascutney, Taftsville, and Huntington be included for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VERMONT

FAIRFAX AND ASCUTNEY

Formerly located in an historic building at the center of Fairfax village, the Postal Service sought larger quarters and moved out of town to a new development known as the ''Fairfax Commons Shopping Center.'' Could the facility have been accommodated in the village center? Possibly, if the Postal Service had worked with the community, but no such steps were taken.

In Ascutney, the Postal Service may vacate its existing site on the village's Main Street to move around the corner toward Exit 8 of the Interstate, to a new building which will share the same floor plan as the Fairfax shopping center facility. Prescription of stock requirements and layouts

leaves little room for creative adaptation of spaces in existing buildings in existing village centers.

TAFTSVILLE

When the Postal Service advertised to lease a new, larger space for the Taftsville Post Office, housed for 65 years in the general store, people in town voiced their opposition. One resident wrote a letter to the Editor of the New York Times that focused attention on the issue. In a compromise praised by locals, an addition to the rear of the store was built to house expanded postal facilities. Village residents care about preserving village post offices as centers of community life, and will work to find solutions, if given the chance.

HUNTINGTON

Development plans were well underway to move the post office out of Huntington village to a new building before the general public was aware of the proposal. When residents found out, many voiced objection and they identified a larger, historic building in the village that could serve the Postal Service's need for expanded space. Plans are now being developed to help fund the purchase and rehab of the building for post office and other commercial use. Residents note that lack of early notification polarized the community and slowed progress of the proposed in-town solution.

Mr. JEFFORDS. Mr. President, post office relocations are not only occurring in Vermont, but all across the country. My colleagues will quickly discover similar examples in their own states where the removal of the post office has harmed the economic vitality of the downtown area, deprived citizens without cars of access, and contributed to urban sprawl.

The basic premise for this legislation is to give the individuals in a community a voice in the process of a proposed relocation, closing or consolidation of a post office. This community voice has been lacking in the current process. This bill does not give the citizenry the ultimate veto power over a relocation, closing or consolidation. Instead, the bill sets up a process that makes sure community voices and concerns are heard and taken into account by the Postal Service.

Additionally, this act will require the Postal Service to abide by local zoning laws and the historic preservation rules regarding federal buildings. Because it is a federal entity, the Postal Service has the ability to override local zoning requirements. In some cases this has lead to disruption of traffic patterns, a rejection of local safety standards, and concerns about environmental damage from problems such as storm water management.

Mr. President, post offices in Vermont and across the nation are centers of social and business interaction. In communities where post offices are located on village greens or in downtowns, they become integral to these communities' identities. I believe that this legislation will strengthen the federal-local ties of the Postal Service, help preserve our downtowns, and combat the problem of sprawl. I urge my colleagues to join Senator BAUCUS and I in support of this important legislation.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 356

At the request of Mr. CHAFEE, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 375

At the request of Mr. MCCAIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 1124

At the request of Mr. KERRY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1124, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 1132

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1132, a bill to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1305

At the request of Mr. GRAMM, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1571

At the request of Mr. MCCAIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1571, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 1579

At the request of Mr. DEWINE, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1579, a bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations for such Act, and for other purposes.

S. 1618

At the request of Mr. MCCAIN, the names of the Senator from Washington (Mr. GORTON) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 1618, a bill to amend the Communications Act of 1934 to improve the protection of consumers against ''slamming'' by telecommunications carriers, and for other purposes.

S. 1723

At the request of Mr. ABRAHAM, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1723, a bill to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

S. 1724

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1724, a bill to amend the Internal Revenue Code of 1986 to repeal the information reporting requirement relating to the Hope Scholarship and Lifetime Learning Credits imposed on educational institutions and certain other trades and businesses.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1915

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1915, a bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 1983

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1983, a bill to amend section 991(a) of title 28, United States Code, to require certain members of the United States Sentencing Commission to be selected from among individuals who are victims of a crime of violence.

S. 1992

At the request of Mrs. HUTCHISON, the name of the Senator from Maine [Ms. SNOWE) was added as a cosponsor of S. 1992, a bill to amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of a gain on the sale of a principal residence shall apply to certain sales by a surviving spouse.

SENATE JOINT RESOLUTION 30

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of Senate Joint Resolution 30, a joint resolution designating March 1, 1998 as ''United States Navy Asiatic Fleet Memorial Day,'' and for other purposes.

SENATE RESOLUTION 207

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of Senate Resolution 207, a resolution commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

THOMPSON (AND FRIST) AMENDMENT NO. 2337

(Ordered to lie on the table.)

Mr. THOMPSON (for himself and Mr. FRIST) submitted an amendment intended to be proposed by them to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

On page 392, after line 24, add:

SEC. 3714. CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN FEDERAL EMPLOYEES.

(a) FORT CAMPBELL.—

(1) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky

''Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.''.

(b) FACILITIES ON THE COLUMBIA AND MISSOURI RIVERS.—Section 111 of title 4, United States Code, is amended—

(1) by inserting ''(a) GENERAL RULE.—'' before ''The United States'' the first place it appears, and

(2) by adding at the end the following:

''(b) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE COLUMBIA RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

''(1) which is owned by the United States,

''(2) which is located on the Columbia River, and

''(3) portions of which are within the States of Oregon and Washington,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

''(c) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE MISSOURI RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

''(1) which is owned by the United States,

''(2) which is located on the Missouri River, and

''(3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pay and compensation paid after the date of the enactment of this Act.

BROWNBACK AMENDMENT NO. 2338

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tax Code Termination Act''.

SEC. 2. TERMINATION OF INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(1) for any taxable year beginning after December 31, 2001, and

(2) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2001.

(b) EXCEPTION.—Subsection (a) shall not apply to taxes imposed by—

(1) chapter 2 of such Code (relating to tax on self-employment income),

(2) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(3) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

SEC. 3. NEW FEDERAL TAX SYSTEM.

(a) STRUCTURE.—The Congress hereby declares that any new Federal tax system should be a simple and fair system that—

(1) applies a low rate to all Americans,

(2) provides tax relief for working Americans,

(3) protects the rights of taxpayers and reduces tax collection abuses,

(4) eliminates the bias against savings and investment,

(5) promotes economic growth and job creation, and

(6) does not penalize marriage or families.

(b) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form not later than July 4, 2001.

NOTICES OF HEARINGS

SENATE COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet to conduct a hearing on Wednesday, May 6, 1998 at 10 a.m. on tribal sovereign immunity, focusing on torts. The hearing will be held in room 106 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on ''Safety of Food Imports.''

This hearing will take place on Thursday, May 14, 1998, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 5, 1998, at 9:30 a.m. on the nomination of Deborah Kilmer to be Assistant Secretary of Commerce.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on ''SAFE KIDS Campaign'' during the session of the Senate on Tuesday, May 5, 1998, at 10:00 a.m.

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

COMMITTEE ON SMALL BUSINESS

Mr. ROTH. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled ''Nomination of Fred P. Hochberg to be Deputy Administrator of the SBA.'' The hearing will be held on Thursday, May 14, 1998, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 5, 1998 at 2:30 p.m. to hold closed meeting on intelligence matters.

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

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 3:15 p.m. in closed session, to mark up the Department of Defense Authorization Act for Fiscal Year 1999.

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

SUBCOMMITTEE ON AIRLAND FORCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 9:30 a.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

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

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources, Subcommittee on Children and Families, be authorized to meet for a hearing on ''Community Services Block Grant'' during the session of the Senate on Tuesday, May 5, 1998, at 2:00 p.m.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, May 5, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Act of 1997.

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

SUBCOMMITTEE ON READINESS

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 2:30 p.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

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

SUBCOMMITTEE ON SEAPOWER

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 11:00 a.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 6:00 p.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

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

ADDITIONAL STATEMENTS

SENATOR ROBERT C. BYRD RECEIVES 1998 LEADERSHIP AWARD

● Mr. ENZI. Mr. President, the Congressional Awards Foundation recently held their third annual benefit. At that event, several award winners spoke of their dedication to this program that promotes volunteerism, personal development, physical fitness, and active community involvement by our nation's young people.

At the benefit, one of our colleagues, Senator BYRD of West Virginia, was honored. A lifetime of public service and his own commitment to God and Country was noted by the Congressional Awards Foundation with the presentation of their 1998 Leadership Award.

The Congressional Awards are near and dear to many a Wyomingite's heart because our state was the first to present these awards and recognize the importance of our young people's contribution to the effort to make our communities better places to live. The program has since become a great success and recognized the efforts of many special people along the way—like Senator BYRD.

When he was presented with his Leadership Award, Senator BYRD had some important things to say about his youth, his childhood, and about those things that helped to mold him, shape him and make him what he is today. There is a great deal of food for thought there, which is why I wanted to share those remarks with my colleagues.

I was particularly interested in his comments about heroes and about the role models we looked up to when we were youngsters. Unfortunately, as Senator BYRD notes in his speech, the kind of people we drew our inspiration from back then seem to be few and far between nowadays.

Still, there is reason for hope. There are still those people, like Senator BYRD, who exemplify the qualities of leadership, strong personal character, and a sense of values and principles, that inspires others to greatness. These are the kinds of examples we need to provide our children.

As Senator BYRD points out so well in his speech, ''Each of us has a chance through our personal example to inspire some youngster to greatness. And that is a gift far too precious to squander.''

It is clear from Senator BYRD's many years of public service, and especially from his service in the Senate, that he has not squandered that precious gift. There is no doubt that he has inspired many to greatness by his example.

Mr. President, I ask that Senator BYRD's remarks be printed in the RECORD.

The remarks follow:

STATEMENT OF SENATOR ROBERT C. BYRD, APRIL 29, 1998

I am honored to be here tonight before this very distinguished audience, and delighted to have been selected to be the recipient of the 1998 Leadership Award.

When I was a boy growing up in southern West Virginia, I loved to read history. I think one of the reasons why I loved it so much was that it provided me with heroes. I thought maybe, if I worked hard enough, I could be as brave as Nathan Hale, or as wise and honorable as George Washington. I had other heroes as well. I wanted to play baseball like the Sultan of Swat, Babe Ruth. I dreamed about piloting a plane like Charles Lindbergh.

People in my own small community inspired me too. The old-time fiddle player, who, incidentally, happened to be the father of a pretty blonde girl that I later married, encouraged me to learn more tunes and practice hard. My English teacher instilled in me a desire to learn to write and to speak as well as she. For me, heroes fueled a desire to work on my own personal development—to take whatever talents God gave me and make them better. The fact that there was another person—a great general, a president, an aviator, a good fiddle player, who had achieved something extraordinary—something I wanted to achieve—gave me the confidence to ''go for it'', and the inspiration to work to polish my own skills.

Sometimes I look around at our country today and I feel sorry for our young people. Where have all the heroes gone? The idols of today's youngsters seem to be rock stars or rap stars who sing lyrics and push messages that are the very antitheses of everything that used to typify our values in this country. Athletes have always been heroes to young people. But the athletes in my day did not strangle their coaches or spit in the face of the umpire. They tried to exhibit the best sort of sportsmanship because they knew that they were heroes to thousands of young fans.

Well, what about public service, then? Are we here in Washington providing our young people with heroes or even role models to inspire them? I think many of us try to do

that, at least on a small scale, perhaps within our own states. But in general, on a larger scale, I think we miss the mark. In my view, politics today is often too harshly partisan. Of course, politics has always been, and always will be, partisan. That is nothing new. But, I am talking about the kind of partisan warfare that dominates, and subjugates everything, including the public good, to the goal of political victory for one side or another. It sends a bad message. I wish for less of it.

Public service is an honorable calling, demanding hard work, sacrifice, and dedication from those who shoulder the responsibility. And it is good for us to keep in mind that to those young people whom we hope to involve in public service through programs like the Congressional Award, we are among the heroes they look to for inspiration.

Programs like this one can be enormously successful in encouraging community involvement and a caring attitude about the problems of others in our young people. But, the living examples we set, all of us right here in this room, through our public statements, our demeanor, the way we live our lives, and the respect that we show for each others' views also make a tremendous impact. Each of us has a chance through our personal example to inspire some youngster to greatness. And that is a gift far too precious to squander.●

THE Y2K PROBLEM

● Mr. MOYNIHAN. Mr. President, in yesterday's Wall Street Journal Edward Yardeni, chief economist and managing director of Deutsche Morgan Grenfell, wrote that there is 60 percent chance that the year 2000 (Y2K) computer bug will cause a recession and that the U.S. may experience a $1 trillion drop in nominal GDP and a $1 trillion loss in stock market capitalization. A trillion dollar drop. I do not know if these predictions will come true, but I do know the millennial malady is real.

In his op-ed, Mr. Yardeni encourages States to follow the advice of Bank of England governor Eddie George, who says the British government should freeze all regulatory and legislative changes that would burden the computers of financial institutions already struggling to fix their Y2K problem. In a similar gesture, Commissioner Rossotti has asked that provisions in the IRS restructuring bill be delayed until after the year 2000. This delay would allow the IRS to solve the year 2000 problem before changes to the tax code are implemented. The Commissioner has sent us a six-page letter detailing how he would phase in such changes. Commissioner Rossotti knows what he is talking about, and I hope we will listen to him.

This past Sunday, May 3, 1998, the front page of the Washington Post called attention to another important aspect of Y2K—the legal blame game. At issue: who should pay the cost of the millennium bug. If a date-related computer failure prevents an airline from flying, for example, who will make up the millions of dollars in lost ticket revenue? Should the airline just swallow the cost itself, or are its computer and software suppliers liable? How about individual programmers? Or the insurance companies that cover those parties?

The article states that there are pending lawsuits on Y2K and that the suits are the first in what legal specialists predict could be a wave of litigation that eventually could prove more expensive and time-consuming than the worldwide effort to fix the problem in the first place. According to the article, preliminary estimates for litigation and settlement costs range from $100 billion to $1 trillion. As a member of the recently established Special Committee on the year 2000 technology problem, I hope that we will have the opportunity to take a closer look into the legal issues surrounding the Y2K problem.

These articles illustrate the serious and far-reaching effects of the millennium bug. I have referred to Y2K as the ''13th labor of Hercules.'' People have begun to realize the magnitude of this problem. We must all work together to ensure the proper functioning not only of our Government, but of the economy.

I ask that yesterday's Wall Street Journal op-ed, ''Y2K—An Alarmist View'' and the Washington Post's story, ''Year 2000 Bug Could Bring Flood of Lawsuits'' be printed in the RECORD. The material follows:

[From the Wall Street Journal, May 4, 1998]

Y2K—AN ALARMIST VIEW

(By Edward Yardeni)

Concerns about the Year 2000 Problem—often called ''Y2K''—have focused on the cost and difficulty of finding and eliminating the software glitch in time. Most older mainframe computer software systems, many personal computers and millions of embedded semiconductor chips could malfunction or even crash on Jan. 1, 2000, simply because they read only the last two digits of the year, and may interpret it as meaning 1900. But I believe most people are not yet aware of the magnitude of the problem we face.

A survey released in March by the Information Technology Association of America indicates that 44% of responding companies have already experienced Y2K-related failures under operating conditions, and 67% report failures under test conditions. The entire Y2K problem will not be solved. We must prepare for the possibility of business failures and the collapse of essential U.S. government services, including tax collection, welfare payments, national defense and air traffic control.

SITUATION WORSENED

I am a Y2K alarmist, having previously predicted a 40% likelihood of recession in the wake of Y2K computer crashes. Despite many warnings, the situation has only worsened: The recession odds are now up to 60% in my estimation, and there is even a possibility of a depression. The time has come to mobilize against Y2K as if for a war. While we work to minimize government and business exposure to Y2K, we must also begin preparing to soften the inevitable disruptions that will occur when the millennium bug bites.

Our global and domestic markets for financial securities, commodities, products and services depend completely on the smooth functioning of the vast information technology infrastructure. Information technology has helped create modern versions of the division of labor, like just-in-time manufacturing, outsourcing and globalization. Imagine a world in which these systems are either impaired or completely broken. Suddenly, people will be forced to do without many goods and services that cannot be produced without information technology.

The likely recession could be at least as bad as the one during 1973–74, which was caused mostly by a disruption in the supply of oil. Information, stored and manipulated by computers, is as vital as oil for running modern economies. If information is harder to obtain, markets will allocate and use resources inefficiently. Market participants will be forced to spend more time and money obtaining information that was previously available at little or no cost.

How much could GDP fall? In the U.S., it dropped 3.7% from peak to trough during 1973–74. We should prepare for a similar fall in 2000. Furthermore, a 2000 recession is bound to be deflationary. The U.S. may experience a $1 trillion drop in nominal GDP and a $1 trillion loss in stock market capitalization.

Why am I so sure that we will fail to have all our information-technology systems ready and that the disruptions will be severe enough to cause a major global recession? Fixing and responding to Y2K requires a cooperative and collective approach, which has yet to be adopted by businesses and nations facing the millennial malady.

There is currently no global Y2K battle plan. Each company and government agency is responsible for fixing Y2K on its own. Even worse, there is no global campaign to increase awareness of Y2K, and very few national efforts to alert the public. Preventing disaster will depend on launching a centralized international effort to direct several crucial damage-control initiatives.

British Prime Minister Tony Blair plans to put the Y2K matter before the Group of Eight at its May meeting in Birmingham, England. This should be an occasion for concerted action. An international Year 2000 Alliance must emerge from the meeting—which should include all 29 members of the Organization for Economic Cooperation and Development—to deal comprehensively with the worldwide Y2K problem.

U.S. government reports indicate that the Pentagon has a ''tight schedule for meeting its massive Y2K challenge,'' and the situation in other nuclear countries is no better. The military leaders of the G–8 states, especially the U.S. and Russia, must jointly assess the risk of an accidental nuclear missile launch or a provocative false alarm. They must rapidly develop a fail-safe joint communication and intelligence network to eliminate any such risks.

The international alliance should establish Y2K ''sector alliances'' to deal with the bug on an industry-by-industry basis. The top priority should be to ensure the world-wide supply of electricity, water and other utilities. Contingency plans for rationing utility use should be prepared.

Nothing should divert government or business resources from fixing the millennium bug. The Y2K Alliance should encourage states to follow the example of Bank of England governor Eddie George, who says the British government should freeze all regulatory and legislative changes that would burden the computers of financial institutions already struggling to fix their Y2K problem. Canadian Prime Minister Jean Chretien is informing his cabinet that Y2K should be their top priority.

The Y2K Alliance should consider requiring all nonessential employees to stay home during the first week of January 2000. Financial markets might have to be closed during

this period. This global Y2K holiday would give information-technology personnel an opportunity to stress-test their systems with a slow ''reboot,'' rather than under peak load conditions. They could first test the integrity of basic utility services. Then they could bring their own systems on-line in a phased sequence that can pinpoint weak links.

The Year 2000 Alliance should further require all members to fund a Y2K emergency budget with an initial minimum balance of $100 billion. This money should be spent on both last-ditch efforts to repair or replace key computer systems around the world and to implement contingency plans once the weakest links have been identified. The funds may also be needed to purchase strategic stockpiles of fuel, food and medicine.

The alliance should direct and supervise current efforts by governments and companies to fix or minimize their Y2K problems. Currently, each organization with a Y2K liability establishes a triage process to identify ''mission-critical'' systems. But there are no objective standards to determine what is mission-critical. As a result, Y2K fixers are free to reclassify mission-critical systems as noncritical.

For example, the number of U.S. government mission-critical systems dropped from 8,589 to 7,850 in just the three-month period ending Feb. 15; much of the reclassification was done by the Department of Defense. As the deadline approaches, the pressure will only increase for organizations to define down their systems, making it seem they have made greater progress. Only improved monitoring and verification can prevent such dangerous fudging.

COOPERATIVE APPROACH

Those responsible for dealing with Y2K must decide whether to fix their noncritical systems or to let them fail in 2000. But without a cooperative or collective approach, it is likely that some entities will kill supposedly noncritical systems that are actually mission-critical to some of their external, and even internal, dependents.

Therefore we need to know if the products, services, information, incomes and payments we rely on have been doomed by the triage decisions of those who provide them. If so, we might already be toast in 2000 and not know it in 1998 or even in 1999.

[From the Washington Post, May 3, 1998]

YEAR 2000 BUG COULD BRING FLOOD OF LAWSUITS

(By Rajiv Chandrasekaran)

The year 2000 is still 20 months away, but the legal blame game already has begun. At issue: who should pay the costs of the ''millennium bug,'' a glitch that has left computers all over the world unable to recognize dates after Dec. 31, 1999.

Near Detroit, a grocery store is suing a cash register manufacturer whose machines can't accept credit cards that expire in 2000. In Ohio, a firm that makes accounting software is being hauled into court by a Connecticut computer company. And in New York, a well-known law firm is spearheading a class action lawsuit against the developer of popular computer virus-blocking technology.

The suits are the first in what legal specialists predict could be a wave of litigation that eventually could prove more expensive and time-consuming than the world-wide effort to fix the glitch in the first place. The cost of hiring programmers and buying new computers is forecast by industry analysts to be $300 billion to $600 billion. The price tag for lawyers' fees and compensating people for any failures that occur, through no one knows how many there will be, could reach $1 trillion, according to some new estimates.

''We used to think that programmers would be the ones to profit from this,'' said Lou Marcoccio, a research director at the Gartner Group consulting firm. ''Now it's becoming clear that lawyers stand to gain the most here.''

Lawyers have started attending seminars on how to bring and defend Year 2000 cases. Law firms eager to get in on the action have set up Internet sites and sent out mass mailings to attract clients.

''There'll be as many, if not more, lawyer-driven cases as there will be customer-driven ones,'' said Kirk R. Ruthenberg, a partner in the Washington office of Sonnecschein Nath & Rosenthal who teaches a seminar on Year 2000 legal issues.

Corporate executives complain that people already are so afraid of being sued that they can't get a straight answer from their banks, suppliers or vendors on whether their computer systems will be ready to function in the new century. Requests for information about readiness are routed through lawyers—not technicians—who send out boilerplate language saying the company is working hard and is highly confident its systems will be ready.

At the same time, insurance companies are furiously rewriting policies and seeking legislative changes to protect them from what they expect to be a wave of claims—and finger pointing—when computer systems fail.

If a date-related computer failure prevents an airline from flying, for example, who will make up the millions of dollars in lost ticket revenue? Should the airline just swallow the cost itself, or are its computer and software suppliers liable? How about individual programmers? Or the insurance companies that cover those parties?

Preliminary estimates for litigation and settlement costs range from $1200 billion to $1 trillion, a figure advanced by the Lloyds of London insurance company and the Giga Information Group, a consulting firm in Cambridge Mass.

That could rival legal fees and settlements associated with such products as breast implants, asbestos or tobacco. Andrew S. Grove, chief executive of computer chip maker Intel Corp., recently predicted that ''this country is going to be tied down in a sea of litigation'' over the next decade because of the Year 2000 problem. ''It's going to put the asbestos litigation to shame,'' Grove said.

The big explosion of such suits probably won't start until next year, industry specialist said. But Marcoccio, who monitors Year 2000 work at 375 large law firms, said he knows of about 200 disputes that already have been settled out of court. ''Most of them were resolved for substantial sums, between $1 [million] and $10 million per settlement,'' he said.

No Year 2000 case has yet been decided by a court, but legal observers and technology companies are watching closely the first class action suits, all of which have been brought by the high-profile New York law firm of Milberg Weiss Bershad Hynes & Lerach. A win by Milberg, the nation's most prolific filer of class action suits accusing companies and executives of securities fraud, could lead to quick flood of similar suits experts said. Even a loss wouldn't necessarily dissuade further legal action, they said—only a change in lawyers' litigation strategy.

Milberg's first case was filed in December on behalf of Atlas International Ltd., a New York computer equipment vendor, which charged Software Business Technologies Inc. of San Rafael, Calif, with breach of warranty, fraud and unfair business practices. Milberg alleges that SBT is improperly forcing customers, including Atlaz, to buy a pricey new version of its accompanying software to correct the date glitch instead of providing a free ''patch'' to fix the problem.

''They knowingly sold them a product that was materially defective and failed to disclose that,'' said Salvatore J. Graziano, a Milberg lawyer representing Altaz, which is seeking more than $50 million from SBT. ''Our position is that the upgrades should be given free.''

A lawyer representing SBT said that after the suit was filed, the company started offering a free software ''patch'' to fix the problem in versions of its software used by Atlaz. But he acknowledged that the repair won't work for other, earlier editions of SBT's software. ''The engineering task of going back and altering all the old [software] code is substantial,'' said David M. Furbush, an attorney representing Atlaz.

Milberg's other two class action suits—one against Ohio accounting software firm Macola Inc. and the other against anti-virus software maker Symantec Corp.—make similar claims for the same reason: The companies are requiring users to pay for new versions of software that are Year 2000-compliant.

Despite the recent lawsuits, software companies don't appear to be backing down from the upgrade charges. In January 1997 only about 1 percent of software vendors were charging for Year 2000 upgrades, Marcoccio said. By this January, 29 percent were, he said. ''They see the year 2000 as a way to sell new software, to make money,'' he said. ''It can be a risky strategy.''

A spokesman for Symantec, which makes the popular Norton AntiVirus software, said that people who use virus-checking software should be buying updates anyway to get the latest protection. ''You need up-to-date products to scan for viruses,'' said spokesman Richard Saunders, who added that the Milberg suit ''is without merit.''

In all three of the Milberg cases none of the plaintiffs has yet suffered actual Year 2000-related computing problems.

Produce Palace in Warren, Mich., already knows what that's like. Its cash registers will not accept credit cards that expire in the year ''00'' or beyond. If a cashier swipes such a card through the magnetic reader on a register, it can cause the store's entire computer system to crash, said Brian P. Parker, the store's lawyer.

''Imagine a Saturday afternoon and the registers go down in all 10 aisles,'' Parker said. ''It's been chaotic for them.''

After unsuccessfully trying to fix the problem, the store sued the cash register maker, TEC America Inc., and its distributor, All American Cash Register Inc. Last month Parker said a mediator recommended that the Produce Palace be compensated $250,000. The store has not formally decided whether to accept the settlement; Parker said he expects the case to go to trial. A TEC America spokesman would not comment on details of the suit.

Lawsuits against technology companies may be only the first step in a years-long stream of litigation. Specialists predict that by late 1999, when some businesses start to experience system failures, a second round of chain-reaction lawsuits will ensue among all sorts of companies.

An auto parts maker that fails to get raw material because of a Year 2000 failure at a supplier might sue the supplier. The automaker that relies on the parts maker to stock its assembly line might then sue the parts company, because it has failed to deliver its parts on time and cost the automaker sales.

Investors who see a company's stock price slide because of Year 2000-related expenses and system failures could mount class action suits, claiming that corporate officers failed to adequately inform shareholders of the problem. ''Both breach of contract suits between businesses and shareholder suits will be rampant,'' said Jeff Jinnett, a lawyer with the New York firm of LeBoeuf, Lamb, Greene & MacRae.

Hoping to stem such lawsuits, a coalition of technology firms and other businesses in California have urged the state legislature to pass a bill that would immunize companies from Year 2000 suits if they warn customers of the problem and offer free upgrades. The bill was defeated by a key committee last month after strenuous opposition from the state's trial lawyers.

But state officials across the country are moving quickly to protect themselves against litigation. Bills that would limit state agencies from liability if their computers suffer date-related failures recently have been signed into law in Virginia, New Hampshire and Georgia.

A final wave of litigation, experts said, will begin in 2000 and involve insurance companies, as defendants seek to force their insurers to cover their legal fees and any damages they are ordered to pay. The cost to the insurance industry could reach $65 billion, said Todd A. Muller, an assistant vice president at the Independent Insurance Agents of America, a trade group in Alexandria.

''There's going to be a huge impact on the insurance industry,'' Muller said. ''Because the industry has deep pockets, we expect [trial lawyers] to do everything possible to drag us into these disputes.''

Insurance industry executives said they expect businesses to file claims under various types of common corporate policies, including property insurance, general liability insurance, and directors' and officers' liability insurance. Property insurance claims, for example, could result from actual physical damage caused by a Year 2000 malfunction, such as fire sprinklers that accidentally go off, experts said.

The insurance industry is moving quickly to prevent such suits by revising policies to exclude Year 2000-related claims on the grounds the peril wasn't known to exist when the policies were created, and as a result, premiums never were collected for such coverage. The Insurance Services Office Inc., which authors generic policy language used by most large insurers, already has gotten regulators in 40 states to approve such exclusions, said Christopher Guidette, an ISO spokesman.

At the same time, insurers are arguing that the problem was entirely predictable, and therefore isn't coverable, because insurance is only for the unpredictable.

''This is a foreseeable event. People have known for more than 98 years that this was coming. . . . We're not going to be the bank of last resort to pay for this,'' said Steven Goldstein a spokesman for the Insurance Information Institute, a trade group in New York.

But whatever steps the insurers take, predicts Muller, ''when their claims are denied, people are going to go to court.''

Lawyers who have gone after companies over asbestos and breast implants already have started preparing litigation strategies for the date glitch.

''Insurance sells itself as a public-service operation,'' said Eugene R. Anderson of Anderson, Kill & Olick in New York, who has won dozens of cases against insurers. ''They are the safe hands, the rock of Gibraltar, the good neighbors. When there's a problem they can't just say, 'Oh well, we don't cover that.' It's contrary to the very idea of insurance.''

Unlike in breast implants and asbestos cases, some lawyers said the lack of ordinary human victims in Year 2000 litigation could make it tougher to ask a jury for multi-million-dollar damages. Others caution that the scope of the litigation will rest on the number of systems that actually fail, a figure impossible to determine today.

But there is broad agreement that no matter how severe the glitch eventually proves to be, a cadre of lawyers will find reason to sue. ''There's too big of a jackpot here,'' Marcoccio said.●

''CINCO DE MAYO''

● Mrs. HUTCHISON. Mr. President, I rise to recognize and remember the importance of this day, known as ''Cinco de Mayo'' to the Republic of Mexico and to millions of Mexican-Americans. Many in this country may not realize it, but after 40 years after achieving independence from Spain, in 1862 Mexico was again subjugated to European colonial domination, this time by the French. In that year, Napoleon sent a massive military force to Mexico to unseat President Benito Juarez to install a Hapsburg, Maximilian, as monarch of Mexico.

After capturing the port city of Veracruz, the French continued their march toward Mexico City. But the proud Mexicans did not give in without a fight. On this day in 1862, on a small battlefield near Puebla, a hastily assembled, ill-equipped Mexican force of predominantly Mestizo and Zapotec Indians bravely battled against a force of Napoleon's renowned professional French Army. Against all odds, the Mexicans actually routed the French, and the ''Batalla de Puebla'' became a rallying cry and watershed event for eventual Mexican independence.

The Mexicans who fought on that fateful day embodied the spirit of freedom and patriotism that eventually drove Mexico to victory and paved the way for the economic and political advances that continue in that nation to this day. It is in that same spirit that we in the United States, who have our own proud history of achieving independence, celebrate and recognize the Batalla de Puebla and the significance of this day.

In addition to signifying a military victory, the Cinco de Mayo holiday, particularly as recognized in the United States, is also a celebration of Mexican and Mexican-American culture and history. In many cities throughout the U.S., this celebration centers around grand cultural fiestas that include traditional Mexican song, dance, and cuisine. Much as we recognize the Fourth of July not only as an act of independence from Britain, but also as a cornerstone of our cultural identity as Americans, many Mexican-Americans view Cinco de Mayo as a common cultural thread and history that they share.

Mr. President, I would like to join all Americans and all Mexicans in this recognition of a very proud and colorful Mexican history. The Mexicans who fought and died on that battlefield near Puebla in 1862 embodied the ideal to which all human beings, regardless background or status, aspire—the inalienable right of self-determination. Cinco de Mayo is therefore a chance for communities on both sides of the border to remember how important a gift freedom is, how difficult it is to achieve, and how vigilant we must all be to preserve it.●

TRIBUTE TO JEAN BROWN, UPON HER RETIREMENT AS HEAD OF LEADERSHIP GREENVILLE

● Mr. HOLLINGS. Mr. President, it is my great honor today to salute one of Greenville's most beloved business leaders on her retirement as head of Leadership Greenville: Mrs. Jean Brown.

Mrs. Brown has dedicated the last twenty years of her life to fostering an entrepreneurial environment in the South Carolina Upstate. Since 1979, she has worked with the Greenville Chamber of Commerce to develop the Leadership Greenville program, which today is a model of its kind.

Through Leadership Greenville, Jean Brown has had an influence on the life of her community few individuals can match. Graduates of her ten month program head countless civic associations, philanthropic boards, and volunteer organizations in the Upstate. These leaders possess an unselfish and admirable desire to serve their communities, which Jean Brown encouraged and channeled.

Thanks to her enthusiasm and energy, Leadership Greenville has grown into a Greenville institution. Although Jean Brown is retiring, her legacy will live on for generations in the good works of the Leadership Greenville graduates she trained.

Mrs. Brown defines a leader as ''a person who has a passion for what they want to accomplish.'' If that is true, Mr. President, Jean Brown is a peerless leader. Today I am honored to pay tribute to such a dedicated and unselfish public servant.●

H.R. 3579 CONFERENCE AGREEMENT ON FISCAL YEAR 1998 SUPPLEMENTAL APPROPRIATIONS

● Mr. McCAIN. Mr. President, I voted in favor of the conference agreement on the FY 1998 Supplemental Appropriations Bill which funds the necessary costs of ongoing U.S. military operations in Bosnia and Southwest Asia and provides relief for those affected by the devastating natural disasters which swept through the United States in recent months.

Mr. President, frankly, I have to applaud the conferees on this bill. They did not include in the conference bill much of the pork-barrel spending that was contained in the individual House and Senate bills. In addition, the conferees wisely agreed to the House position to offset the domestic spending in

this bill with other non-defense reductions, designating only the $2.8 billion in must-pay defense funding as emergency spending. This defense and disaster supplemental appropriations bill will cost the American taxpayer only $3.6 billion.

Now that is not to say, Mr. President, that this bill is pork-free. In fact, this bill contains $52.3 million in low-priority, wasteful, and unnecessary spending. Even though the bill is a step in the right direction, it still wastes millions of taxpayer dollars.

Eliminating pork-barrel spending is key to realizing the federal budget surpluses that are projected for the next several years. Paying down our national debt is vital to our nation's long-term economic health, and providing greater tax relief to all Americans will improve their quality of life and help sustain our robust economy. In addition, a balanced federal budget coupled with a sustained strong economy will enable us to protect Social Security and Medicare for current and future generations.

If we do not curb pork-barrel spending, future anticipated budget surpluses will not occur, and this historic opportunity to reduce our federal debt will pass us by.

Mr. President, again, the amount of wasteful spending in this bill is less onerous than in most other bills I have seen. However, I still must object strenuously to the inclusion of $52.3 million in earmarks and add-ons in conference agreement. We cannot afford pork-barrel spending, even in the amount contained in this bill, because the cumulative effect of each million wasted is a million dollars in debt on which we must pay interest.

Some of the more egregious items earmarked in this bill include:

$14 million for a tree assistance program. This amount is an increase of $9.3 million and $5.3 million over what was proposed by the House and Senate respectively.

$1 million to conduct ''transit investment analysis'' in Hawaii.

$4 million for maple sugar producers.

$222,000 for boll weevil eradication loans.

$20 million for the implementation of the Capitol Square perimeter security plan.

$7.5 million for repairs to the Capital Dome.

$1 million to increase the emergency preparedness of the State of Alabama.

$1.5 million for the Grain Inspection, Packers and Stockyards Administration.

Mr. President, I ask unanimous consent to include in the RECORD at this point a list of the projects contained in this measure that meet at least one of the five objective criteria which I have used for many years to evaluate spending bills.

On Friday, May 1, I sent a letter to the President urging him to use his line-item veto authority to eliminate these low-priority, unnecessary, and wasteful programs from the bill.

Mr. President, even the relatively small amount of pork-barrel spending in this bill undercuts our efforts to keep the federal budget in balance and ensure we are spending the taxpayers dollars wisely, as they have entrusted us to do. Pork-barrel spending robs funds from other worthwhile programs and prevents us from further reducing taxes and paying down our national debt.

In the upcoming FY 1999 appropriations season, I look forward to working with my colleagues on the Appropriations Committee to ensure that we do not waste taxpayers dollars on projects that are low-priority, wasteful, or unnecessary, and that have not been evaluated in the appropriate merit-based review process.●

RECOGNITION OF BOB LENT

● Mr. LEVIN. Mr. President, I rise today to pay tribute to a good friend of mine and of the working men and women of Michigan, Bob Lent. Bob is retiring at the end of June, 1998, from his position as Director of UAW Region 1.

Bob Lent has been a UAW member for nearly 50 years, when he began working in 1949 at the Dodge Main plant in Hamtramck, Michigan. After serving in the U.S. Army from 1951 to 1953, Bob went to work as a millwright apprentice and skilled tradesman at the Chrysler 9 Mile Road Press Plant. It was here, as a member of UAW Local 869, that he began his rise into the leadership of the UAW. He served in a number of leadership positions in Local 869, including alternative chief steward, trustee chairman, vice president and president. From here he was appointed to the Region 1B staff, where he rose to the position of assistant director in 1982. In 1983, Bob was elected Regional Director at the UAW's 27th Constitutional Convention in Dallas, Texas.

Bob is something of a legend in labor circles for his commitment to the working men and women of Region 1. But he is almost equally well-known for his remarkable ability to remember the most minute details of events that happened years before. Of course, in his line of work, a memory like that can be an incredible asset to bring to the bargaining table. But it can also be the source of amusement, and occasionally embarrassment, when Bob relates who said what to whom at a dinner which took place ten or fifteen years ago.

Knowing Bob as I do, I have no doubt that retirement will not slow him down, and that he will continue to serve his community in a number of ways. I am sure that his wife, Earline, will keep him at least as busy as his commitments to the United Way of Pontiac-Oakland County, the Detroit-area United Foundation, the NAACP and the Wayne State University Labor Advisory Committee. And I also know that the men and women of the UAW can count on Bob to continue to stand with them in their ongoing efforts on behalf of the working people of our nation.

Mr. President, I know my colleagues join me in extending congratulations and best wishes to Bob Lent, Director of UAW Region 1, on the occasion of his retirement. ●

TRIBUTE TO ANNIE MALONE CHILDREN AND FAMILY SERVICE CENTER

● Mr. BOND. Mr. President, every year in St. Louis, Missouri, May Day is especially important in paying tribute to what can be achieved through collective action. This year, the Annie Malone Children and Family Service Center, as well as, the St. Louis African American community will celebrate May Day on May 17. The first of these celebrations occurred more than eighty years ago and since that time they have continually grown. The celebration serves as a reminder of all that has been endured and the prosperity that it now reflects.

Annie Malone Children and Family Service Center began its service more than 100 years ago. Its predecessor was the St. Louis Colored Orphans' Home and was established in 1888 by a group of prominent women concerned about the welfare of neglected and orphaned children. The president of the Board of Directors from 1919 to 1943 was Annie Malone. In honor of her loyalty and dedication to the goals of the institution, it was renamed for her in 1946. Through the years, the Center has continued to expand its services and programs to meet the needs of a changing society, but the mission, ''to improve the quality of life for children, families, and the community utilizing education, social services, and developing positive values and self esteem,'' has remained the same.

Annie M's has several programs including residential treatment, therapeutic services/family crisis center and its evaluation and diagnostic services. The programs have helped to make the quality of life more complete, fulfilling and successful for African Americans in the St. Louis Community. I salute the contributions made by Annie M's beneficial programs and join the community in paying tribute to the woman that helped in their growth and success, Annie Malone.●

ISRAEL'S 50TH ANNIVERSARY

● Mr. LEAHY. Mr. President, on April 30th the people of Israel celebrated their nation's fiftieth anniversary and people around the world commemorated the realization of a dream of a Jewish state first envisioned by Theodor Herzl in 1897. Today, with characteristic courage, intelligence and determination, Israelis face the many challenges that lie ahead.

With the collapse of the former Soviet Union and the ethnic violence that has rocked parts of Europe and Africa,

the term ''nation building'' has taken on new significance as we near the end of the millennium. National borders that were static during the Cold War have changed and in some countries the institutions necessary for a functioning government have crumbled. We need only look as far as Israel to realize what can be accomplished with a vision and the will to fulfill it.

In 1948, 600,000 Jews emerged from the Holocaust to forge a nation committed to the ideals of democracy and the prosperity of its people. Having survived the genocide that has since been burned into the world's collective memory, the founders of the Jewish state embarked on a mission to unite a people speaking over 100 languages and dispersed for 2,000 years in 140 countries. At the time it seemed like an impossible challenge, yet today it is a reality that represents one of the greatest, most breathtaking accomplishments of this century.

The founders of Israel did not recognize the obstacles before them as limitations but as opportunities. Prime Minister David Ben-Gurion used to say that a man who does not believe in miracles is not a realistic person. Yet, not even he imagined what could be accomplished in just 50 years.

Despite the toll taken by six wars and innumerable terrorist attacks, despite the difficulties inherent in resurrecting an ancient language and absorbing 2.6 million immigrants, the people of Israel have created a nation at the forefront of technology, industry, art and academics. They have created a nation that embodies democratic principles and practices. They have served as a staunch ally of the United States in the most dangerous region of the world.

On May 15, 1948, when President Truman first declared our nation's support for the free state of Israel, I was eight years old. On that day my father sat me down and, with great emotion, told me what a historic event it was, how important it was to Jews around the world who were struggling to rebuild their lives, reaffirm their identity and heal their communities after years of suffering. His words rang true and they left a lasting impression.

Since then I have traveled to Israel many times. I have had the privilege to know as friends former Prime Ministers Rabin and Perez, two extraordinary courageous leaders. I have seen how the Jewish people have never shied away from adversity, but have faced it fearlessly and with a commitment to overcome. But despite all they have accomplished, much work remains. Many of us will not be here to mark Israel's 100th anniversary. I fervently hope, however, that those who are here to celebrate will be able to recount to their own children and their grandchildren the events that led to a lasting peace for all the citizens of this small but powerful nation.

Mr. President, I offer my congratulations to the people of Israel and reaffirm the bond that President Truman first established in 1948.●

TRIBUTE TO THE HONORABLE CHARLES C. BROWN, JR.

Mr. SANTORUM. Mr. President, I rise today to recognize the outgoing chair of the YMCA of the USA National Board of Public Policy Committee and a fellow Pennsylvanian, Judge Charles C. Brown, Jr.

For the past three years, Judge Brown has steered the public policy initiatives of the YMCA of the USA through good and bad times. As a result, the YMCA of the USA now enjoys a strong and credible standing in the public policy arena. Under Judge Brown's leadership, the YMCA has earned the respect of other nonprofit organizations, administration officials, senators, and congressmen alike. Sadly, this month Judge Brown will step down as chair of the YMCA of the USA National Board of Public Policy Committee.

During his tenure as chairman, Judge Brown was instrumental in shaping a new direction for the YMCA movement. The quintessential professional and team builder, the Judge—as he is respectfully called by his colleagues—was never satisfied to let the nation's largest youth-serving organization remain on the sidelines of public policy advocacy. Through Judge Brown's vision and guidance, the YMCA of the USA developed legislation which was introduced in Congress to expand youth development programs; held three national conferences to educate policy makers on the role and impact of YMCA programs; took the lead in coordinating a national coalition to support school-age child care provided by nonprofit organizations like the YMCA; helped shape and direct national legislation on juvenile justice; and became a leading national resource on the state of America's children, youth and families. Although one of these achievements would have been impressive in and of itself, the Judge insisted on a comprehensive, integrated advocacy role for the YMCA. For these and many other reasons, Judge Brown's leadership will be sincerely missed by the YMCA of the USA National Board of Directors.

Mr. President, I believe it is important to recognize Judge Charles C. Brown's contributions to one of the nation's oldest and most respected organizations, the YMCA. As he prepares to pass the reigns of leadership, I ask my colleagues to join me in extending the Senate's best wishes for continued success to Judge Brown and his family.

CONGRATULATIONS TO THE COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK

● Mr. MOYNIHAN. Mr. President, I rise to offer my congratulations, on the occasion of the Centennial of the oldest social work training program in the nation, to the Columbia University School of Social Work. Evolving from a summer program organized by the Charity Organization in New York, the School of Social Work has a long history of pioneering research, informed advocacy, and exceptional professional training.

It is a remarkable accomplishment that social workers have played key roles in every major social reform movement, from settlement houses to labor reform, to the New Deal, to civil rights and voter registration. Many of the things we take for granted today—Social Security, child-labor laws, the minimum wage, the 40-hour work week, Medicare—came about because social workers saw injustice, acted, and inspired others.

Throughout the century, Columbia's faculty, students, and alumni have worked tirelessly to address both the causes and symptoms of our most pressing social problems. National movements, such as the White House Conference on Children and the National Urban League, have emerged from projects undertaken by the School's faculty and administrators in cooperation with professional and community organizations. The entire nation has benefited from the research and work of people such as Eveline Burns (Social Security); Mitchell I. Ginsberg (Head Start); Richard Cloward (welfare rights and voter registration); Alfred Kahn and Sheila B. Kamerman (cross-national studies of social services); and David Fanshel (children in foster care).

As the School, and indeed the social profession, move into their second centuries, they will be challenged to respond to social change, new social problems, family change, and evolving societal commitments. Now more than ever, we will need well-trained and dedicated social workers to work with troubled children and families, organize communities for change, conduct cutting-edge research, administer social programs, and alleviate society's most intractable problems.

It is with appreciation and admiration that I extend my best wishes to the Columbia University School of Social Work on its Centennial and look forward to its future activity and achievement. ●

RECOGNITION OF FAMILIES FOR HOME EDUCATION

● Mr. BOND. Mr. President, in observance of Home Education Week, May 3–9, I rise to pay tribute to the eight regions of Families for Home Education (FHE), in my home State of Missouri, for their excellence and continuing efforts to better the home education system. I have always recognized the importance of family involvement in the education of our youth and applaud the efforts of home educators to make a difference in the lives of their families.

In today's complex society it is especially significant to have guidance in

the development of our children and their continuing education. Through adult mentors, home schoolers develop, not only a close relationship with their families, but also acquire the much needed interpersonal skills through involvement in civic and community organizations in form of apprenticeship opportunities.

The support home schooling receives helps to cultivate its success through family participation in our communities. My home State of Missouri especially relishes the high quality of home education and the strong family values it teaches. I commend the energies of FHE and the families that help make it possible. I wish FHE continued success and growth in future years. ●

TRIBUTE TO DR. JOHN E. SIRMALIS ON RECEIVING THE DISTINGUISHED EXECUTIVE AWARD

● Mr. CHAFEE. Mr. President, this morning here in Washington, Dr. John E. Sirmalis, Commander of the Naval Undersea Warfare Center (NUWC) in Newport, Rhode Island, is receiving the Distinguished Executive Award. Vice President GORE will take part in this ceremony.

Having worked with John Sirmalis for many years, I can say with certainty that he is a most worthy recipient of this prestigious award. Dr. Sirmalis has served our nation and our Navy admirably during a distinguished career. Widely recognized as the Navy's foremost authority on undersea weapons systems, Dr. Sirmalis has helped bring about improvements in methodologies for developing and testing undersea warfare (USW) systems and components. In particular, John has implemented a program to identify submarine technology opportunities for the year 2010, leading the Navy to shift its focus from traditional antisubmarine warfare to find responses to new and more complex military threats.

Dr. Sirmalis' outstanding work at NUWC/Newport has contributed to the evolution of a facility that is widely recognized as a center of excellence within the Navy and the Department of Defense (DoD). NUWC has consistently sustained a high level of technical productivity, as it has become a leader in the use of commercial-off-the-shelf components and open system architecture. These attributes are today more important than ever at a Defense Department that is greatly constrained by tight budgets.

It was certainly no surprise to me that during the defense base realignment and closure (BRAC) process, NUWC/Newport was designated one of the Navy's four principal research ''mega-centers.'' I look forward to NUWC/Newport continuing to maintain its important contribution to our national security under the leadership of Dr. Sirmalis. So my heartiest congratulations to John Sirmalis on receiving the Distinguished Executive Award. All Americans are well-served by the outstanding performance of this genuine public servant.●

HIGHER EDUCATION REPORTING RELIEF ACT

● Mr. MCCAIN. Mr. President, I am proud to have become a cosponsor of S. 1724, the Higher Education Reporting Relief Act. As many of my colleagues know, this bill would repeal the reporting requirements imposed on colleges and universities when Congress enacted the HOPE scholarships and the Lifetime Learning Tax credit last year.

The Taxpayer Relief Act of 1997 contained many important provisions for American families, particularly in the area of education. As a part of this bill, Congress created several new initiatives to make college and higher education more affordable for students throughout our country. The Hope and Opportunity for Postsecondary Education (HOPE) scholarship provides students with a 100% tax credit for up to $1,000 of their tuition costs for higher education and a 50% credit for the next $1,000 spent on their tuition. This credit can be claimed by the student, their spouse, or parents if they are still a dependent. Another program created by Congress to ease the financial burden of higher education for our working families is the Lifetime Learning Tax Credit.

Both of these programs are helping make college and postsecondary education more affordable. Unfortunately, when Congress created these new education programs, we inadvertently levied very costly and burdensome reporting requirements on our educational institutions. Beginning in the 1998 tax year, schools are required to compile and issue annual reports on their students for the Internal Revenue Services. Under the new law, schools are now responsible for providing detailed information on all their students, including name, address, Social Security number, attendance records, academic information, tuition data, along with the amount of qualified student aid.

Preliminary studies indicate that the cost to our nation's universities and colleges to comply with the new reporting requirements will range from $125 million to $150 million for just the first year. The three colleges in my home state of Arizona expect that this new requirement will cost them approximately $400,000 to begin the reporting system, which will turn into an annual expense of $200,000 for each of the institutions.

This reporting requirement is costly and counterproductive. At a time when Congress and the Federal government are trying to make college affordable, contain costs, and make higher education more accessible to millions of students, we are subjecting schools to excessive and unnecessary reporting requirements. According to the Commission on the Cost of Higher Education, a primary factor contributing to escalating tuition costs is excessive government regulation and reporting requirements.

This is why I am cosponsoring Senator COLLINS' bill, the Higher Education Reporting Relief Act, which repeals the requirement for schools to report personal information on their students to the IRS. Instead, the new HOPE scholarships and Lifetime Learning Tax Credit will be treated like all other existing tax credits. The individual taxpayer will be responsible for providing the IRS with the pertinent information on their tax returns and maintaining appropriate records to substantiate their claims.

This important piece of legislation prevents the limited resources of our colleges and universities from being wasted on unneccesary administrative costs and allows them to focus on our students and their education.●

TRIBUTE TO DANIEL SMITH

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Daniel Smith, for his unyielding support for and commitment to the Northeast Dairy Compact. With the help of Dan Smith the Dairy Compact has become an instrument of balance that is critical to the needs of both farmers and consumers in the New England region, as well as a model of success for the rest of the country.

A carpenter by trade, Dan Smith, for more than ten years unselfishly committed himself to the crafting and building of the Northeast Dairy Compact Commission. Dan's dedication to the survival of New England's small farms and his desire to finish the job has benefited all those who value the strong agricultural communities in New England. With a bachelors degree from Dartmouth College and a law degree from the University of Wisconsin, Dan served as law clerk to the Honorable Frederic W. Allen, Chief Justice of the Vermont Supreme Court. As legal counsel for the Vermont State Legislature, Dan carefully drafted the Dairy Compact legislation. He then worked as Executive Director for Dairy Compact Committee, nurturing the Compact legislation through each of the six New England state legislatures, resulting in overwhelming support in each of the states. After six years of traveling throughout New England educating legislatures and building support for the Compact, Dan turned his efforts to Washington, D.C. and to the ratification of the Northeast Dairy Compact by the U.S. Congress.

Mr. President, few initiatives in my memory have sparked such a vigorous policy debate as the Dairy Compact. Dan worked closely with me and my staff to develop and execute the many strategies that helped pass the Compact. The passage of the Compact was a long shot in the minds of many, but I knew that with Dan Smith's commitment we would succeed. I am proud to

have sponsored the Compact on behalf of all my colleagues from the New England delegation. Adoption of the Compact could not have happened in Congress without the help of Dan Smith, and without the years of dedicated work from a veritable army of Compact supporters throughout New England.

This tribute reflects that with the success of the Dairy Compact we recognize the commitment to and importance of our dairy farmers. The Dairy Compact holds great promise for the New England region to preserve the viability of agriculture and to protect a special way of life●

TRIBUTE TO COUDERSPORT, PENNSYLVANIA

● Mr. SANTORUM. Mr. President, this year marks the 150th anniversary of Coudersport, PA. Today, I rise to discuss the establishment, growth, and achievements of this town.

Coudersport was named for Mr. Coudere, a European investor in the Ceres Land Company which owned 175,000 acres in this area of Pennsylvania. Established in 1848, the town had only 48 buildings and about 200 residents. After it was approved as the seat of the Potter County government, the village slowly grew. Just before the Civil War, Coudersport's population nearly doubled. Anti-slavery sentiment ran strong in this town. Residents held fundraisers to benefit abolitionist causes. Reminders of the town's rich history still stand. Six of the original 48 buildings are still inhabited. Today, the population of Coudersport stands at 2,854, and it is still the hub of Potter County. Although Coudersport has changed with the times, it never lost its small town charm.

Mr. President, the people of this town are proud of their history and their traditions. I ask my colleagues to join me in congratulating Coudersport on its 150th anniversary.●

INNOVATION AND GLOBAL LEADERSHIP

● Mr. FAIRCLOTH. Mr. President, we talk a lot around here about innovation, competitiveness and global leadership. The vast majority of us agree that these values are important and worthy of concern.

Those of us who see the inherent limitations of government know that promoting innovation and U.S. economic competitiveness is largely about getting government out of the way and letting the free market work its will.

Unfortunately, playing out today is yet another episode of government doing things to business rather than getting out of the way. Microsoft Corporation, one of America's most successful companies, has come under attack by the Clinton Justice Department at the urging of its competitors.

The Justice Department's newly aggressive Antitrust Division is waging a slick, media-intensive antitrust campaign against Microsoft. The Justice Department claims to be acting in the name of promoting competition despite the fact that the computer industry is the most dynamic, open and competitive business sector the U.S. has ever witnessed. Prices are falling, innovation is thriving and consumers are empowered as never before.

But in their wisdom, Clinton antitrust lawyers and bureaucrats have decided that the heavy hand of government will improve innovation and help consumers.

Frankly, I am fearful that this is the government's first attempt to begin regulating America's high tech industry. In my opinion, this would be a disaster.

Despite the artful and high-minded rhetoric coming from Clinton Antitrust lawyers and their few industry cheerleaders, it is inconceivable to me that government regulation will improve innovation and consumer welfare.

And it is clear that the computer industry agrees. On April 30, 1998, for example, twenty-six computer companies wrote to Joel Klein, the Assistant Attorney General, Antitrust Division, expressing their ''strongest possible concern'' about the effect on the U.S. economy of the government's campaign against Microsoft. The companies who signed the letter ranged from such industry leaders as Intel Corporation, Compaq Computer Corporation and Dell Computer Corporation, to smaller companies such as Insight Enterprises, Inc. of Tempe, Arizona and Elsinore Technologies, Inc. of Raleigh, North Carolina.

I am concerned that, in addition to threatening the freedom to innovate and consumer choice, this aggressive pursuit of Microsoft may threaten U.S. global leadership in the software and computer industry. When Congress crafted the antitrust laws, the world was a different place. Most markets were not global. Capital was not mobile. Our focus was largely domestic. In today's economy we must concern ourselves with the global implications of policy decisions.

I respect that within clear and narrow limits, basic antitrust laws are necessary to preserve free markets. But from where I sit, the track record of the Antitrust Division is hardly stellar.

For example, in 1969 the Justice Department opened a case against IBM that lasted 13 years. But by the time the government dropped the case, IBM had experienced a serious erosion of its market share at the hands of new computer startup companies, including—ironically—Microsoft. The marketplace and consumers had their say, not government.

Mr. President, is this an outcome we want for Microsoft? Is the idea to sap Microsoft's vitality through litigation so that its competitors, whether domestic or foreign can play catch-up?

Another case involved the Schwinn Bicycle Company. Once a proud and successful American manufacturer of bicycles, it found itself the subject of an antitrust prosecution in 1967. The case opened the door to foreign companies, and a weakened Schwinn ultimately declared bankruptcy in 1992. Again, is this the model for Microsoft?

Business historian Alfred D. Chandler attributes an antitrust consent decree against RCA as precipitating the decline of the U.S. electronics industry. The subsequent rise of the Japanese electronics industry is now well known.

The push to regulate the software industry under the guise of antitrust law should concern us all. It is government regulation by any other name; and like the cases above, will prove shortsighted. Who can take comfort in the thought of a federal judge deciding which features will go into software products? We have tried this before and no one should welcome a repeat.

America is the leader in software and computer innovation because government has stayed out of the way. The creative process and innovative genius marked by the software industry is fragile. The heavy hand of government regulation, whether direct or at the hands of antitrust lawyers and judges, threatens the innovations of tomorrow and the U.S. global leadership of today.

Mr. President, somewhere today, there is a 22 year old, working in his garage on a new product. Ten years from now—he or she may be America's richest individual. We don't know. But what I do know is that I don't want to deny him or her the right to be creative. To start a company and to give the big companies a run for their money. But if we go down the road of regulating this industry, I am certain that we will call to a close a very prosperous era for the U.S. I don't think we want our vibrant economy washed away because some people at the Justice Department had nothing else better to do with their time.●

''WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION'' STATE OF MAINE COMPETITION WINNERS

● Ms. SNOWE. Mr. President, I rise to congratulate Old Orchard Beach High School of Old Orchard Beach, Maine, for winning first place at the Maine state competition of the ''We the People . . . The Citizen and the Constitution'' program, and for their strong effort at the national finals which took place here in Washington May 2 through May 4.

I am proud that these outstanding young men and women have represented my home state. Their participation in the national finals is a direct reflection on the tremendous amount of hard work and commitment that the Old Orchard Beach students have invested in this project. The outstanding members of this class are: Lauren Asperschlager, Lucy Coulthard, Chad Daley, Rose Gordon, Krista Knowles,

Nathan LaChance, Sarah Lunn, Sandra Marshall, Katie McPherson, Cindy St. Onge, Sam Tarbox, and Sharon Wilson.

Also deserving of recognition is their teacher, Mr. Michael Angelosante, whose dedication to his students has played an integral role in their success. John Drisko, the Congressional District Coordinator, and Maine State Coordinator Pam Beal also each have contributed a great deal of time and effort to help Old Orchard Beach High's team.

Mr. President, I am pleased that these students as well as others who competed from across Maine have increased their knowledge on the topic of our nation's governing document, the Constitution. One of the most critical components of a democracy is a knowledgeable citizenry. If our young people are to grow up to fully participate in their government, they must have a sound understanding of both the rights and responsibilities that come with citizenship in this great country.

This program, ''We the People . . . The Citizen and the Constitution'', is one innovative way in which we can help provide that understanding. Students, in a simulated Congressional hearing, answer questions, make arguments and defend positions on a variety of contemporary and historical constitutional issues. I am proud that my staff in Maine has been involved in this program over the years.

Again, I am pleased to congratulate the students of Old Orchard Beach High School. They are a credit to Maine and have made us proud.●

TRIBUTE TO MINNESOTA'S REPRESENTATIVES AT THE 1998 ''WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS''

● Mr. GRAMS. Mr. President, I rise today to pay tribute to a group of young Minnesotans whose hard work and dedication earned them the privilege of representing Minnesota at the 1998 ''We the People . . . The Citizen and the Constitution National Finals.''

Under the guidance of American Government teacher Barbara Hakala, this group of 30 students from Duluth Central High School tirelessly studied the history of our Constitution and the application of its principles in our time. The disciplined study demonstrated by these students helped them prevail in the Minnesota constitution competition, and for the second year in a row, Minnesota was represented in the ''We the People . . . The Citizen and the Constitution National Finals'' by a team from Duluth Central High School.

Mr. President, I would like to offer my sincerest congratulations to these young Constitutional scholars and recognize each of them individually. They are: Jennifer Anderson, Nicholas Beck, Toby Bjorkman, Annalisa Eckman, Joy Eskola, April Fritch, Thomas Garrett, Jennifer Gilbertson, Alison Gray, Nicholas Hern, Susan Herrick, Amy Houghtaling, Brent Kaufer, Erin Louks, Anthony Luczak, Amanda Masi, Ilona Moore, Dennis Olson, Kristina Olson, Barbara Przylucki, Carrie Rau, Mikel Roe, Amber Sorensen, Amy Steen, Carrie Taylor, Dzung Truong, Brandon Vesel, Stephanie Walczak, Mai Lor Yang, and Eric Zimmerman.

Once again Mr. President, I am pleased to report that Minnesota was represented by a fine group of young people at the ''We the People . . . The Citizen and the Constitution National Finals 1998.'' This group of students gives me, and all Minnesotans, a reason to be proud.●

RECOGNITION OF LLOYD M. PELFREY

● Mr. BOND. Mr. President, today I rise to recognize a truly unique leader and educator for his exemplary service to my home State of Missouri at the time of his retirement. Dr. Lloyd Pelfrey has been President of Central Christian College of the Bible (CCCB) in Moberly, Missouri, for the past twenty-five years. Dr. Pelfrey will be honored this year at the College's Commencement exercise this coming May 8.

CCCB first opened its doors in September of 1957. Lloyd started teaching at CCCB the same day it opened. He has held several positions including Professor of Old Testament, Academic Dean, Dean of Faculty, Executive President, Acting President and President. As the fourth President in the history of the school, he has served the longest of any other President of the College. He became an ordained minister in 1953 and co-founded the Missouri Christian Convention and the Missouri Operation for Vigourous Evangelism (MOVE), an organization which establishes new churches in Missouri. Lloyd serves on the National committee of the North American Christian Convention.

During his tenure at CCCB, Lloyd boasted several accomplishments including construction of the Memorial Building, increased awareness of the need for a Development Department as an integral part of the college, development of an Admissions Department, accreditation of the college with Accrediting Association of Bible College, first fundraising banquet with Paul Harvey as speaker and the implementation of a major capital campaign.

Commending Dr. Pelfrey for his many years of service to CCCB, I am glad to say that the State of Missouri is enriched with his wisdom and leadership. I join the many who congratulate and thank him for his hard work and wish him continued success in future years.●

NATIONAL EATING DISORDERS AWARENESS DAY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 197 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report

The legislative clerk read as follows:

A resolution (S. Res. 197) designating May 6, 1998, as ''National Eating Disorders Awareness Day'' to heighten awareness and stress prevention of eating disorders.

The Senate proceeded to the consideration of the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

The resolution (S. Res. 197) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 197

Whereas over 8,000,000 Americans suffer from eating disorders, including anorexia nervosa, bulimia nervosa, and compulsive eating;

Whereas 1 in 10 individuals with anorexia nervosa will die;

Whereas 1 in 4 college-age women struggle with an eating disorder;

Whereas 80 percent of young women believe they are overweight;

Whereas 52 percent of girls report dieting before the age of 13;

Whereas 30 percent of 9-year-old girls fear becoming overweight;

Whereas the incidence of anorexia nervosa and bulimia has doubled over the last decade, and anorexia nervosa and bulimia is striking younger populations;

Whereas the epidemiologic profile of individuals with eating disorders includes all racial and socio-economic backgrounds;

Whereas eating disorders cause immeasurable suffering for both victims and families of the victim;

Whereas individuals suffering from eating disorders lose the ability to function effectively, representing a great personal loss, as well as a loss to society;

Whereas the treatment of eating disorders is often extremely expensive;

Whereas there is a widespread educational deficit of information about eating disorders;

Whereas the majority of cases of eating disorders last from 1 to 15 years; and

Whereas the immense suffering surrounding eating disorders, the high cost of treatment for eating disorders, and the longevity of these illnesses make it imperative that we acknowledge the importance of education, early detection, and prevention programs: Now, therefore, be it

Resolved, That the Senate designates May 6, 1998, as ''National Eating Disorders Awareness Day'' to heighten awareness and stress prevention of eating disorders.

ORDERS FOR WEDNESDAY, MAY 6, 1998

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 6. I further ask unanimous consent that on Wednesday, immediately following the prayer, the

routine requests through the morning hour be granted and the Senate then resume consideration of H.R. 2676, the IRS reform bill.

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

Mr. GRASSLEY. I further ask unanimous consent that at 9:30 a.m., Senator ROTH be recognized to offer the so-called ''pay for'' amendment to the IRS reform bill.

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

PROGRAM

Mr. GRASSLEY. Mr. President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will resume consideration of H.R. 2676, the IRS reform bill. Senator ROTH will immediately be recognized to offer an amendment relating to offsets. It is hoped that the Senate will be able to make substantial progress on this legislation so that the Senate may finish this bill on Wednesday or Thursday of this week. Senators can, therefore, expect rollcall votes throughout the session on Wednesday.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator AKAKA and my remarks.

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

CHEECH AND CHONG DRUG POLICY

Mr. GRASSLEY. Mr. President, I spent much of the recent recess talking to constituents in my state about drug problems. It is clear to me after a field hearing, numerous town meetings, and many conversations that the public is deeply concerned about the drug issue. This impression is confirmed by recent pools. Again and again, the public have indicted an abiding concern about the presence of drugs in our society. Parents, community leaders, and young people have repeatedly indicated that the availability and use of illegal drugs is among the most important issues affecting them. They expect the government to help them in fighting back. They expect our policies and programs to support community efforts to keep drugs off the streets, out of our schools, and away from our kids. But what do they find?

I am sorry to say that the Clinton Administration is simply not making a convincing case that it is serious about the war on drugs. If I had doubts about this before, events of the last several days have removed them. I learned during recess that the Administration was planning to endorse needle exchange programs. I found it hard to believe that this could be true, but I learned otherwise. Indeed, on 20 April, Donna Shalala, the HHS Secretary, issued a statement saying that needle exchange programs were a good thing. That they stopped the spread of AIDS and did not encourage drug use. She encouraged communities to embark on programs giving needles to drug addicts. She did not go so far as to say that the Administration would back up this determination with federal dollars—a small blessing. But she has now put the authority of the Administration behind this idea. Exactly what is this idea? It is startling simple: The Administration has announced that it will now facilitate and promote others to facilitate making drug paraphernalia available to drug addicts in our communities.

It will now use the voice of the Federal Government to facilitate drug use. What next, handing out the drugs themselves to addicts?

This is voodoo science backing up Cheech and Chong drug policy. It is making the federal government a Head Shop.

How does the Administration justify such a decision? It hides its move behind junk science. Secretary Shalala's argument is ''The science made me do it.'' At best, this is a half-truth. While there is science, of a sort, that claims that needle exchange programs work, there is no consensus science that establishes this as remotely the case. Still, we are being asked to endorse this vast experiment on the public based on a trust-me argument. This is not acceptable. It is irresponsible and risky.

In order to understand what is at issue here, let me start at the beginning. One of the most effective delivery systems for illegal drugs is intravenous injection using needles. This is one of the most common methods for taking heroin and it also can be used in taking cocaine and methamphetamine. The addict uses injection because it means getting high quicker. The whole purpose of using needles is to facilitate drug use. Major addiction, which is risky business all by itself, also often leads to other, destructive behaviors. One of these is sharing the needles used for injection.

Basically, what this means is that a number of addicts pass around or get together and share the same needle for numerous injections. In the age of AIDS, this means that if any of the sharing addicts has HIV or AIDS, anyone who shares the needle is at great risk of infection. Now, addicts already know this. It is not a secret. There are also quick and easy ways to disinfect these needles. Addicts know these too. They are not secrets here either.

Despite this, addicts often don't bother with these easy steps. They don't bother even though they can do them with commonly available disinfectants in the comfort of their own preferred environment for injecting. Addicts are not the most rational of people when it comes to life decisions. Their lives are built around and based upon upon risky behavior. Our decisions on policy, however, should not be so cavalier.

Now we come to the logic of needle exchange. The argument is, that a significant, or overwhelming proportion of HIV-positive cases are the result of using infected needles shared among addicts. Arriving at this conclusion, the next step in the logic is that stopping the use of infected needles will stop the spread of HIV and AIDS. Having reached this point, the next step is to argue that we must, therefore, keep addicts for sharing dirty needles. And now, in this breathless chain of argument, we arrive at this conclusion: To ensure that drug-using addicts only use safe needles, we, that is the government using public money or some similar deep-pocket institution, must hand out clean needles to addicts on demand.

This is what the Secretary of Health and Human Services has now endorsed. But there is more to this story.

Let us start again at the beginning. Drug addicts, particularly heroin users, depend upon syringes as the best vehicle for administering their drug of choice. This means that, for addicts, needles are essential drug paraphernalia. Just like crack pipes or other devices used to administer the drug, needles are part of the necessary equipment.

During our last drug epidemic, one of the things that we learned we needed to do was to close the many ''Head Shops'' that specialized in selling drug equipment. We realized that pushing drug paraphernalia, making the equipment for drug use readily available, fostered drug use. It encouraged a climate of use. It was an indirect way for advertising drug use. Most states passed laws to prohibit the sale of drug paraphernalia.

Many States included needles as part of this. Doing so was one of the things that helped us stop the drug epidemic. It helped us establish with kids that consistent no-use message that is essential if we are to keep drugs off our streets and out of our schools. Now, enter needle exchange.

The Congress and most of the public have long opposed needle exchange. This is not because anybody wants to promote the spread of AIDS. Let's get that canard out of the way right up front. The concern is for whether or not handing out drug paraphernalia promotes drug use. Our past experience says yes, so it is a reasonable assumption that doing so in the present will cause a similar problem. Hence the opposition in many quarters to handing out needles. Thus, also part two of Secretary Shalala's announcement: Her claim that not only do needle exchanges stop AIDS, handing out needles will not, in her view, encourage drug use. Really?

Just how do we know this? Just how do we know that handing our needles will also stop AIDS? The short answer is, we do not know any such thing.

The response from HHS, from an anonymous source I might add, and from AIDS activists is that the science tells us so. As proof they quote in the HHS press release from Dr. Harold Varmus, Director of the National Institutes of Health, to the effect that needle exchanges can help. Well, so can chicken soup, but this is not the issue and is not what the law calls for.

Being concerned about issues of public policy and public health, the Congress has been concerned not to be stampeded into irresponsible policies.

In this light, it included specific guidance in law on using public money or government support for needle exchange. The intent was fairly clear: No money, no support. Full stop. It did provide for an exception if the science conclusively showed that needle exchange programs stopped AIDS and did not encourage use. That is a fairly high standard. And it should be. Otherwise, what we are doing is experimenting on the public, betting on a hope that things will turn out right. This may be a good strategy at the race track or at the roulette table, but it has no place in major policy.

Yet, this casino mentality is what the Secretary of HHS has now proclaimed. And she is gambling with the public health. Secretary Shalala has announced that, ''a meticulous scientific review has now proven that needle exchange programs can reduce the transmission of HIV * * * without losing ground in the battle against illegal drugs.''

In doing this, the chief health official of the country has endorsed a policy that is reckless and irresponsible. And she has done so on claims about scientific support for her position that is, at best, inconclusive. At the worst, science contradicts her arguments flatly. In either case, this is poor ground upon which to base such a significant change in public policy.

As Dr. James Curtis notes in an oped piece in the New York Times of 23 April, the idea of handing out needles to stop AIDS is ''simplistic nonsense that stands common sense on its head.'' Dr. Curtis, a professor of psychiatry at Colombia University and the director of psychiatry at Harlem Hospital, goes further. ''For the past 10 years,'' he writes, ''as a black psychiatrist specializing in addiction, I have warned about the dangers of needle-exchange policies, which hurt not only individual addicts but also poor and minority communities.''

The lack or contradictory nature of the science referred to by Secretary Shalala is also laid bare by Dr. David Murray of the Statistical Assessment Service. In an oped in the Wall Street Journal of 22 April, he notes just how thin the science is and yet how activists try to skip over this fact.

Even the drug czar opposed this decision. Thus, there is not even consensus within the administration on this policy. The reason for this lack of agreement is based on the fact that the science is not there to support the position. And the law is clear. It does not say the science must show that such programs ''might reduce'', or ''can reduce''. What it says is the science must show that they in fact do reduce AIDS and do not increase the chances for promoting illegal drug use. Even Secretary Shalala's press release hedges this with a ''can reduce'' comment.

The only bright spot in the Secretary's announcement, and that light is a pretty dim bulb, is that no federal money will be used to support this policy. But this is a dodge. Even the advocates for exchange programs recognize it as such. This statement puts the authority of the administration behind this program. It does so on the thinnest of evidence.

In my view, this decision is outrageous. I call upon Mr. Clinton to retract it. Whatever the outcome, it is clear that this administration simply doesn't get it when it comes to drug policy.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. AKAKA, is recognized.

IRS REFORM

Mr. AKAKA. Mr. President, I am pleased that the Senate is finally taking action to restructure the IRS. As my colleagues know, the IRS supports operations of the Federal Government by collecting approximately $1.5 trillion in taxes each year. With roughly 102,000 employees and a budget of $7.8 billion, the IRS has a wide variety of programs designed to help taxpayers understand and meet their Federal tax obligations.

Given the highly publicized criticism of the agency, let me begin by making a few comments relating to staff of the IRS. I am confident that the majority of the staff at the IRS, whose job it is to enforce federal tax laws, are diligent and competent in their responsibilities. Yet, we need to ensure that this professional staff lives up to a strict code of conduct, especially the supervisors and the regional directors. We must demand that taxpayer complaints about unfair treatment are promptly heard and that abusive IRS employees are dealt with appropriately.

No one disagrees that serious reform is needed at the IRS. We in Congress also need to recognize that the complexity of the tax code and the constant changes by Congress add to the taxpayer burden and compound the difficulty of administering the laws we enact.

The Senate Finance Committee hearings last week again highlighted serious allegations of abuse by the agency. I was pleased that IRS Commissioner Charles Rossotti raised an important issue that deserves Congressional attention—that of tax evasion. Commissioner Rossotti disclosed that the tax gap, or the amount that taxpayers owe to the Federal Government but fail to pay, is $195 billion annually. Previous estimates indicated that the figure was between $70 billion to $140 billion. I agree with many of my colleagues that we must work together to conduct a review of ''willful non-compliance.'' We also need to maintain public confidence in the ability of the IRS to fight tax evasion. This is one example among a host of serious issues that should be a part of IRS reform.

I am presently working with members of the Finance Committee to address an issue which involved IRS noncompliance with provisions of the Internal Revenue Code.

Late last year, I was contacted by an IRS compliance officer who described his efforts to ensure proper enforcement by the IRS of the Foreign Investors Real Property Tax Act. After being assigned in 1990 to a special IRS project involving tax compliance of non-resident aliens, the compliance officer identified an internal IRS recordkeeping problem at the Philadelphia center, which hinders IRS collection and enforcement efforts. The compliance officer tried to resolve the matter using the processes available to him in the IRS, but was unsuccessful. This particular problem stems from the absence of an independent process for redress or complaint at the IRS. This recordkeeping failure prevents proper tax assessment and collection, and has resulted in a significant revenue loss. If these facts are correct, and the revenue loss is so great, then personnel actions should be considered for those who are responsible.

I raise this issue to illustrate the point that we need greater oversight of the agency. As we work to improve service and responsiveness to taxpayers, we must also strive for an IRS that more effectively administers the tax laws.

Mr. President, again, I am pleased that the Senate is moving forward on this critical issue. We must find a way to achieve an effective enforcement agency while ensuring that IRS powers are used responsibly. I believe that the legislation we are considering will move us in this direction.

The bill incorporates many of the recommendations of the National Commission on Restructuring the Internal Revenue Service and is designed to enhance taxpayer rights and make the IRS more customer-friendly. I look forward to the debate in the coming days.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:17 p.m. adjourned until Wednesday, May 6, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 5, 1998:

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

NORMAN Y. MINETA, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM OF SIX YEARS. (NEW POSITION)

DEPARTMENT OF DEFENSE

HANS MARK, OF TEXAS, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, VICE ANITA K. JONES, RESIGNED.

DEPARTMENT OF TRANSPORTATION

CLYDE J. HART, JR., OF NEW JERSEY, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION, VICE ALBERT J. HERBERGER, RESIGNED.